

I

(Information)

COURT OF AUDITORS



ANNUAL REPORT

concerning the financial year 1979

accompanied by

the replies of the institutions

transmitted to

the authorities responsible for giving discharge

and to

the other institutions

on 28 November 1980

in accordance with Article 84 of the Financial Regulation of 21 December 1977

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Introduction

1. This is the third Annual Report of the European Court of Auditors. The report covers the 1979 accounts ⁽¹⁾ for all bodies for which the Court is responsible for audit except for the financial operations of the ECSC, on which the Court reports separately. Separate reports are also issued by the Court to the relevant discharge authorities on the accounts of JET (the Joint European Torus), the European Centre for the Development of Vocational Training (Berlin) and the European Foundation for the Improvement of Living and Working Conditions (Dublin), the European Schools and the Euratom Supply Agency. Summaries of the comments made by the Court in all these reports other than JET are, however, included in Chapter 12 of this report. A summary of the JET report is included in Chapter 8.

Presentation of the report

2. The Annual Report is presented in two parts. Part I includes comments arising from the accounts of the general budget of the Communities, including the budgets of the European Parliament, the Council, the Commission, the Court of Justice, the Economic and Social Committee, the Office for Official Publications and the administrative budget of the ECSC.

3. Part II of the report concerns the four European Development Funds. These Funds which provide aid to developing countries are managed by the Commission but do not form part of the general budget of the Communities.

4. Chapter I of the report includes general comments arising from the Court's work and a summary of budgetary and accounting problems which have arisen in several different sectors of the budget. Further details of these problems are contained in the individual chapters dealing with specific areas of the budget.

5. A statistical survey of financial information relating to the general budget of the Communities and to the European Development Funds is presented in Annex I to the report.

Production of the Annual Report.

6. The Annual Report of the Court of Auditors is produced in accordance with Article 206a of the Treaty establishing the European Economic Community and Article 83 of the Financial Regulation ⁽²⁾.

7. In conformity with the Financial Regulation, the Court's comments were sent to the institutions on 15 July 1980. The comments included in the whole of Parts I and II were sent to the Commission. Those included in Chapters 1, 10 and 11 of Part I were also sent to the European Parliament, the Council, the Court of Justice and the Economic and Social Committee.

8. The final text of this report was drawn up after the receipt of the replies from the institutions. These replies are published in Annexes II to VI. Any comments on them made by the Court are printed in italics at the end of the paragraph of the report to which they relate.

Remark of the Court on the comment of the Commission on paragraph 6

The Commission still appears to be unable to accept the difference between, on the one hand, the observations of the Court sent to the institutions on 15 July each year which are designed to elicit replies and, on the other hand, the report of the Court which is published in the Official Journal and is drawn up in the light of those replies.

⁽¹⁾ 1978 accounts for the European Schools.

⁽²⁾ OJ No L 356, 31. 12. 1977, p. 20.

Part I

CHAPTER 1 — GENERAL COMMENTS

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Summary of principal comments

	Paragraph reference
1.0. The principal comments included in this chapter are:	
(a) Provisional accounts only could be produced by 1 June for the accounts of the general budget and for the four European Development Funds.	1.2 to 1.7
(b) Appropriations amounting to 30 MEUA were transferred from the 1978 to the 1979 budget in excess of the final appropriations approved by the budgetary authorities.	1.10 and 1.11

- (c) The budget for differentiated payment appropriations was significantly in excess of the amount which could be utilized in the year. 1 095 MEUA carried forward to 1980 was therefore financed out of revenue for 1979, although it will not be paid until 1980. 1.18 to 1.22
- (d) Unauthorized carry-overs were included in the accounts of the European Parliament. 1.27
- (e) The balance of the year is materially mis-stated. 1.32
- (f) Significant delays are still experienced in closure of accounts. 1.36
- (g) Omissions from accounting regulations. 1.37 to 1.40

PRODUCTION OF ACCOUNTS

I

THE INCOME AND EXPENDITURE ACCOUNT OF THE GENERAL BUDGET FOR THE YEAR ENDED 31 DECEMBER 1979

II

THE ACCOUNTS OF THE FOUR EUROPEAN DEVELOPMENT FUNDS FOR THE YEAR ENDED 31 DECEMBER 1979

1.1. A statement entitled 'The income and expenditure account of the general budget for the year ended 31 December 1979' is shown on page 288 of Volume II of the 'Revenue and expenditure accounts and balance sheets relating to the implementation of the budget for the financial year 1979', Document COM (80) 233, produced by the Commission on 1 June 1980. These accounts were amended in Document COM (80) 565 FR, 'Adjustments to the revenue and expenditure accounts and balance sheets 1979', which was sent to the Court by the Commission on 20 October 1980. The amended accounts show the balance of the year as 455 906 430.98 EUA, being a surplus to be carried forward to 1980. All comments on the general budget which are included in this report are related to the financial information presented in the amended accounts as identified above. A reconciliation of the original and the amended accounts is shown in paragraph 1.4.

Provisional accounts produced on 1 June 1980

1.2. In accordance with Article 6 (3) of the Financial Regulation⁽¹⁾ the Commission must submit to the Council and forward to the European Parliament by 21 April the requests for non-automatic

carry-over of appropriations to the following financial year which have been duly made by all the institutions. On receiving the request the Council must consult the European Parliament, which normally gives its opinion within four weeks of receiving the Council's request. Unless the Council decides otherwise within six weeks from receipt of the request to carry over appropriations, the carry-over is deemed to have been approved.

1.3. The final date on which the Council may express a negative opinion on requests for carry-overs is therefore normally 2 June, one day later than the date on which the Commission is required to draw up the accounts of the general budget (?). When preparing the accounts the Commission includes as expenditure all requests for non-automatic carry-overs which it has submitted on behalf of the institutions to the Council and it is then necessary to amend the accounts subsequently to delete any carry-overs for which the Council withholds approval.

1.4. When drawing up the 1979 accounts at 1 June 1980, the Commission was unable to make adjustments for two requests for carry-overs amounting to 2 458 600 EUA, which were rejected by the Council:

Table 1

Section III: Commission:	
Chapter 25, Item 2550:	
Conferences, congresses and meetings organized by the institution	58 600 EUA
Chapter 100, Article 940:	
Expenditure resulting from the agreement between the EEC and UNRWA	2 400 000 EUA
	2 458 600 EUA

⁽¹⁾ As amended by Regulation 1252/79 of 25 June 1979, OJ No L 160, 28. 6. 1979, p.1.

⁽²⁾ Article 73 of Financial Regulation, OJ No L 356, 31. 12. 1977, p. 18.

In the accounts produced on 1 June 1980 appropriations carried forward to 1980 were therefore overstated by 2 458 600 EUA and the surplus for the year was understated by the same amount. An adjustment was made to correct this item in the amended version of the accounts sent to the Court on 20 October 1980:

Balance of the year (surplus) reported in the accounts produced on 1 June	453 447 830.98 EUA
Add: Appropriation carried forward for which the Council expressed a negative opinion	2 458 600.00 EUA
Amended balance of the year (surplus)	455 906 430.98 EUA

1.5. When presenting the accounts on 1 June 1980 the Commission stated that in the absence of a decision by the budgetary authority at the time of preparing the 1979 accounts the figures given for non-automatic carry-overs of appropriations were provisional and that a corrigendum to the accounts would be issued subsequently. The Court recommends that changes should be made in the budgetary timetable to ensure that decisions taken by the Council on appropriations to be carried over to the next financial year can be incorporated in the accounts produced by the Commission on the due date.

1.6. In accordance with Article 64 of the Financial Regulation governing the European Develop-

ment Funds, the accounts for each year are to be presented by the following 31 March. At 1 June 1980 the Commission had drawn up only a provisional set of accounts for the year ended 31 December 1979 for these four funds.

1.7. The Court finds it unsatisfactory that both the accounts for the general budget and for the European Development Funds were available in provisional form only by 15 July, the date on which the Court is required to submit its comments to the institutions. Since the decision of the budget authority is awaited for approval of the carry-overs of the Parliament, which are referred to in paragraph 1.27, the Commission noted in the amended version of the accounts that these carry-overs have only been entered on a provisional basis. At the time of drawing up this report, the accounts have therefore not been finalized.

IMPLEMENTATION OF THE 1979 BUDGET

Final appropriations

1.8. The total of appropriations authorized to be charged to the budget accounts in 1979 amounted to 14 488 MEUA compared with 14 447 authorized in the amending and supplementary budget No 3, as shown in the following table:

Table 2 — Final appropriations 1979

	(MEUA)		
	Amending budget No 3	Additional appropriations	Final appropriations
Commission	14 168	41	14 209
Parliament	144	—	144
Council	103	—	103
Court of Justice	19	—	19
Court of Auditors	13	—	13
	14 447	41	14 488

1.9. The total additional appropriations amounting to 41 MEUA shown in Table 2 are made up of 11 MEUA corresponding to income from work done for third parties ⁽¹⁾ and 30 MEUA transferred from 1978 appropriations carried forward.

⁽¹⁾ Article 91 (2) of Financial Regulation, as amended by Regulation No 1252/79. OJ No L 160, 28. 6. 1979, p. 2.

Transfer of appropriations from the 1978 budget to the 1979 budget

1.10. The amount of 30 MEUA was transferred from differentiated payment appropriations carried forward from the 1978 budget (Chapter 96: Cooperation with non-Member States) and added to the non-differentiated appropriations of the 1979

budget (Chapter 95: Exceptional measures to assist developing countries and non-Member States). Although transfers between titles and chapters of the budget may be made under Article 21 of the Financial Regulation ⁽¹⁾ they do not constitute an increase in the overall total of the budget. The transfer of 30 MEUA which was made from the budget appropriations of 1978 to the final appropriations for 1979, however, had the effect of increasing the total of expenditure authorized in the 1979 budget by 30 MEUA above the total specified in the budget as finally adopted.

1.11. In the opinion of the Court the transfer of appropriations carried forward from the 1978 budget to be added to the 1979 budget conflicts with the principle of annuality and results in the limit of total expenditure authorized in the 1979 budget being exceeded. The general principle of making such transfers is also contrary to the provisions of Article 6.2 (b) of the Financial Regulation ⁽²⁾ in accordance with which non-utilized payment appropriations may be carried over automatically to the next financial year only. The transfer of appropriations from one budget year to the next has the effect of prolonging the validity of the appropriation for a further year. The Court recommends that the transfer of appropriations to subsequent budget years should be prohibited.

Remark of the Court on the reply of the Commission to paragraph 1.11

After studying the Commission's reply the Court accepts that, in this specific instance, the difficulty to

which it drew attention was averted. However, it regards the general practice as something which should be avoided in the future.

Utilization of final appropriations 1979

1.12. Total appropriations authorized in the 1979 budget included commitments in respect of differentiated appropriations amounting to 3 682 MEUA.

Differentiated appropriations are used for the implementation of multiannual activities and consist of commitment appropriations and payment appropriations. Commitment appropriations cover, for the current financial year, the total cost of the legal obligations entered into for activities whose implementation extends over more than one financial year. Payment appropriations cover, up to the limit of the amount entered in the budget, expenditure arising from commitments entered into in the current financial years and/or preceding financial years ⁽³⁾. Only the sum of the amount paid in the year plus the amount carried forward is charged to the income and expenditure account for the year.

The utilization of both differentiated and non-differentiated appropriations of the 1979 budget is shown in Table 3.

⁽¹⁾ OJ No L 356, 31. 12. 1977, p. 9.

⁽²⁾ OJ No L 356, 31. 12. 1977, p. 4.

⁽³⁾ Article 1 of Financial Regulation. OJ No L 356, 31. 12. 1977, p. 2.

Table 3 — Utilization of 1979 budget appropriations

A. Amounts charged to the income and expenditure account from final appropriations

(MEUA)

	Final appropriations	Payments made	Payments as % of appropriations	Appropriations carried forward to 1980	Total charged to income and expenditure account 1979	Total charged as % of final appropriations
Commission						
Non-differentiated appropriations:	12 368	11 996	97.0	329	12 325	99.6
Differentiated appropriations:						
Payment appropriations	1 841	726	39.4	1 095	1 821	98.9
	14 209	12 722		1 424	14 146	99.5
Non-differentiated appropriations:						
Parliament	144	98	68.0	17	115	79.9
Council (including the Economic and Social Committee)	103	80	77.7	8	88	85.4
Court of Justice	19	16	84.2	1	17	89.5
Court of Auditors	13	9	69.2	1	10	76.9
	14 488	12 925		1 451	14 376	

B. Differentiated appropriations: commitments

	Final appropriations	Commitments entered into	Commitments as % of appropriations	Appropriations cancelled	Appropriations carried forward
Commission	3 682	2 897	78.7	154	631

UNDER-UTILIZATION OF APPROPRIATIONS

1.13. Under-utilization of appropriations is a serious matter since it calls into question both the basis on which budgetary estimates have been prepared and the financial management of the budget. Under-utilization often also indicates slow implementation of Community policies as authorized in the budget. Tables 3, 4, 5, and 6 illustrate the utilization of appropriations by all the institutions as shown in the accounts produced by the Commission on 1 June 1980⁽¹⁾ as amended by the adjustments sent to the Court in October 1980⁽²⁾. Further detailed comments on the utilization of appropriations in each section of the general budget are included in the relevant chapters of this report.

1.14. It is inevitable that the full amount of appropriations entered in the budget will generally not be utilized. A reduction below the estimated

amount of appropriations required for a particular policy may be welcomed in circumstances where more economical means of achieving particular objectives have been used. However in many cases the under-utilization of appropriations in the general budget demonstrates that original estimates of expenditure were substantially inaccurate and suggests that the impact of Community policies which have been authorized by the budgetary authorities was less than had been intended.

1.15. One consequence of significant under-utilization of appropriations in the general budget is that budgetary resources are allocated to sectors in which they are not fully utilized, whilst other sectors may be short of funds. A further effect is that Community revenue has been provided in 1979 at a level well in excess of that necessary to cover the payments actually made in the year.

Commission

1.16. The utilization of appropriations from the 1979 budget is shown in Tables 4 and 5.

⁽¹⁾ COM (80) 233.

⁽²⁾ COM (80) 565 FR.

Table 4 — Utilization of final appropriations for 1979 — Amounts charged to the income and expenditure account 1979

(MEUA)

	Final appropriations			Payments made						Appropriations carried forward to 1980			Total charged to income and expenditure account 1979			
	Non-differentiated appropriations	Differ-entiated appropriations payment appropriations	Total	non-differentiated appropriations		differentiated appropriations		Total	Non-differentiated appropriations	Differ-entiated appropriations payment appropriations	Total	Non-differentiated appropriations	Differ-entiated appropriations payment appropriations	Total	Total charged as % of final appropriations	
				Amount	Payments as % of appropriations	Amount	Payments as % of appropriations									
Commission Title 1: Staff expenditure (1) Title 2: Operational expenditure Title 3: Research, energy, etc. Title 4: Reimbursement of collection cost for own resources Title 5: Social Fund (Chapters 50-53 and 59) Regional fund (Chapters 55-56) Measures in connection with the EMS (Chapter 57) Titles 6, 7 and Chapter 88: EAGGF Guarantee Title 8: EAGGF Guidance (Chapters 80-86) Certain measures in the fisheries sector (Chapters 87 and 89) Title 9: Aid Title 10: Other Total Commission Other institutions (Table 6)	405	—	405	377	93.1	—	—	377	6	—	6	383	—	383	94.6	
	178	—	178	147	82.6	—	—	147	26	—	26	173	—	173	97.2	
	41	285	326	16	39.0	146	51.2	162	22	138	160	38	284	322	98.8	
	721	—	721	666	92.4	—	—	666	55	—	55	721	—	721	100.0	
	5	530	535	3	60.0	297	56.0	300	1	233	234	4	530	534	99.8	
	—	499	499	—	—	160	32.1	160	—	339	339	—	499	499	100.0	
	246	—	246	173	70.3	—	—	173	72	—	72	245	—	245	99.6	
	10 404	—	10 404	10 404	100.0	—	—	10 404	—	—	—	10 404	—	10 404	100.0	
	—	304	304	—	—	91	29.9	91	—	213	213	—	304	304	100.0	
	6	16	22	5	83.3	6	37.5	11	1	10	11	6	16	22	100.0	
354	188	542	205	57.9	26	13.8	231	146	162	308	351	188	539	99.5		
8	19	27	—	0.0	—	0.0	—	—	—	—	—	—	—	—	0.0	
	12 368	1 841	14 209	11 996	97.0	726	39.4	12 722	329	1 095	1 424	12 325	1 821	14 146	99.5	
	279	—	279	203	72.8	—	—	203	27	—	27	230	—	230	82.4	
	12 647	1 841	14 488	12 199	96.5	726	39.4	12 925	356	1 095	1 451	12 555	1 821	14 376	99.2	

(1) Staff expenditure of the Office for Official Publications is included in Title 2.

Table 5 — Utilization of final appropriations for 1979
 Commission: Differentiated commitment appropriations

(MEUA)

		Final appropriations	Commitments entered into		Appropriations cancelled	Appropriations carried forward
			Amount	Commitment as % of appropriations		
Title 3:	Research, energy, etc.	512	334	65.2	45	133
Title 5:	Social Fund (Chapters 50-53)	824	775	94.1	—	49
	Regional Fund (Chapters 55 and 56)	1 010	962	95.3	—	48
Title 8:	EAGGF Guidance (Chapters 80-86)	666	460	69.1	23	183
	Specific measures in the fisheries sector (Chapter 87)	56	22	39.3	—	34
Title 9:	Aid	576	344	59.7	48	184
Title 10:	Other	38	—	0.0	38	—
		3 682	2 897	78.7	154	631

Table 6 — Utilization of final appropriations for 1979 — Amounts charged to the income and expenditure account 1979

(MEU4)

	Parliament			Council			Economic and Social Committee			Court of Justice			Court of Auditors			Totals		
	Final appropriations	Total charged to income and expenditure account 1979	Total charged as % of final appropriations	Final appropriations	Total charged to income and expenditure account 1979	Total charged as % of final appropriations	Final appropriations	Total charged to income and expenditure account 1979	Total charged as % of final appropriations	Final appropriations	Total charged to income and expenditure account 1979	Total charged as % of final appropriations	Final appropriations	Total charged to income and expenditure account 1979	Total charged as % of final appropriations	Final appropriations	Total charged to income and expenditure account 1979	Total charged as % of final appropriations
Title 1: Staff expenditure	90	76	84.5	52	46	88.5	11	11	100.0	15	13	86.7	10	8	80.0	178	154	86.5
Title 2: Operational expenditure	34	28	82.4	31	26	83.9	6	5	83.3	4	4	100.0	3	2	66.7	78	65	83.3
Title 3: Expenditure resulting from institutions' special functions	12	11	91.7	— ⁽¹⁾	—	—	—	—	—	—	—	—	—	—	—	12	11	91.7
Title 10: Other expenditure	8	—	0.0	3	—	0.0	—	—	—	—	—	—	—	—	—	11	—	0.0
	144	115	79.9 ⁽¹⁾	86	72	83.7	17	16	94.1	19	17	89.5	13	10	76.9	279	230	82.4

(1) Title 3 of the budget of the Council comprises the budget for the Economic and Social Committee, which is shown separately in this table.

1.17. Tables 3 and 4 show that although 99.5 % of the total appropriations available were charged to the income and expenditure account of the Commission in 1979, only 39.4 % out of differentiated payment appropriations amounting to 1 841 MEUA was actually paid during the year. 1 095 MEUA was surplus to requirements and was carried forward to 1980.

Differentiated appropriations

1.18. The intention of the procedures described in paragraph 1.12 is that differentiated appropriations entered in the budget for the year can be reduced to a minimum necessary to meet payments falling due, without restricting the Commission's ability to commit expenditure on multiannual projects up to the level authorized in the budget. The budget for payment appropriations therefore consists simply of a forward estimate of payments to be made during the year under a programme of multiannual projects for which long-term commitments have already been entered into.

1.19. The principal sectors of the budget for which differentiated appropriations have been introduced are the research sector (under Title 3), the Social Fund and the Regional Fund (under Title 5), EAGGF Guidance (under Title 8) and aid to developing countries (under Title 9).

1.20. Tables 4 and 5 clearly show that the utilization of commitments for multiannual projects has been significantly higher than the utilization of payment appropriations. Although the Commission has been able to commit funds for projects which will be implemented over several years, payments in 1979 for the same projects could not be made at the rate anticipated in the budget. Progress in implementing these policies in real terms has therefore been slow:

Utilization of differentiated appropriations

	Payment	Commitment
Research	51.2	65.2
Social Fund	56.0	94.1
Regional Fund	32.1	95.3
EAGGF Guidance	29.9	69.1
Aid	13.8	59.7

1.21. It should be remembered that the low rates of payment indicated above have been recorded despite the fact that in 1979 the Commission introduced a scheme for payment of special advances to Member States to accelerate implementation of policies under the Social Fund, the Regional Fund and the EAGGF Guidance Fund.

1.22. The Court recognizes that in many cases delays in utilizing appropriations from these funds can be caused by practical difficulties encountered in the Member States, rather than in the administrative services of the Commission. Every effort should be made to overcome these problems. In the meantime the budget for payment appropriations should reflect more accurately the volume of payments which are likely to be made in the year.

Overbudgeting for differentiated payments led to an anomalous situation in 1979. Since the budget must be in balance, over-estimation in the budget of appropriations which will be utilized during the year requires the provision of a corresponding amount of revenue from the Communities' own resources. This revenue is provided despite the fact that the excess appropriations for expenditure cannot be utilized, at the earliest, until the following year. In 1979, 1 095 MEUA was provided to cover payment appropriations carried forward which could not be utilized until 1980, whilst at the same time additional revenue of 731 MEUA was provided in the third supplementary budget to cover expenditure in 1979. If the budget for payment appropriations had been closer to the actual sums paid in the year the total amount of revenue to be provided in 1979 would have been correspondingly reduced.

Non-differentiated appropriations

1.23. Utilization of non-differentiated appropriations was generally higher than of differentiated appropriations. Slow rates of payment were encountered in Research, the Social Fund and Aid, under which respectively only 39 %, 60 % and 57.9 % of appropriations available in the 1979 budget were paid in the year, and most of the balance remaining was carried forward to 1980.

1.24. Further details concerning the utilization of budget appropriations are given in each chapter of this report.

Other institutions

1.25. The utilization of budget appropriations by the other institutions is shown in Table 6. Further comments concerning the accounts of these institutions are included in Chapter 10 (Staff Expenditure) and in Chapter 11 (Operational Expenditure) of this report.

APPROPRIATIONS CARRIED FORWARD

1.26. A summary of the utilization of appropriations carried forward for the years 1973 to 1978 is given in Chapter 2 (paragraph 2.9).

Appropriations carried forward in the accounts of the European Parliament

1.27. The accounts of the European Parliament include appropriations carried forward to 1980 amounting to 2 681 000 EUA. These carry-overs should have been approved by the Council under the procedure described in paragraph 1.2 above. Since no formal request was submitted to the Council by the due date, 21 April, the Court considers that the carry-over of these appropriations has not been duly authorized. The total of appropriations carried forward is therefore overstated and the surplus for the year shown in the income and expenditure account of the general budget is understated by 2 681 000 EUA. The budget items concerned are shown below:

Item		EUA
1301	Mission expenses, staff	1 200 000
1420	Restaurants and canteens	25 000
2220	Technical equipment and installations	1 400 000
2253	Subscription to news agencies	21 000
2941	Scholarships for vocational training of conference interpreters	35 000
		2 681 000

Remark of the Court on the reply of the European Parliament to paragraph 1.27.

The procedure referred to in the reply of the European Parliament is that established in Article 6 (3) of the

Financial Regulation which states that requests for these carry-overs shall be,

- (i) *presented to the Commission, which in turn forwards them to the Council and to the European Parliament, and*
- (ii) *deemed approved if the Council has not expressed a negative opinion within six weeks.*

The resolution of the Council to which the Parliament refers makes no reference to the procedure for approval of carry-overs. The Court therefore concludes that carry-overs can only be deemed to have been approved if the provisions of Article 6 (3) of the Financial Regulation have been complied with.

ACCOUNTING PROBLEMS IN THE EAGGF GUARANTEE SECTION

1.28. Significant accounting problems have arisen in 1979 in the operation of the EAGGF Guarantee Section. (See also Chapter 4.)

1.29. The income and expenditure accounts produced on 1 June 1980 exclude expenditure of 203.5 MEUA incurred in November and December 1979, which was in excess of budget appropriations for the year and has been charged as expenditure of 1979 on appropriations for 1980. The Court considers that the accounts, as produced on 1 June 1980, do not properly show expenditure incurred in 1979. Furthermore, the excess of expenditure forecast for the year should have been incorporated and formally authorized in the amending and supplementary budget No 3 which was approved as late as 13 December 1979.

Remark of the Court on the Commission's replies to paragraphs 1.29 and 4.14 to 4.18

The Court notes the Commission's statement that the expenditure of 203.5 MEUA relates to 1979 but has been charged against budget appropriations of 1980. In the opinion of the Court the total expenditure of the general budget for 1979 is therefore understated in the accounts by 203.5 MEUA. The Court recommends that the discharge authority should require this amount to be charged exceptionally as expenditure in the accounts for the year ended 31 December 1979.

1.30. In 1978, 306.2 MEUA was charged to the accounts as anticipated depreciation of the value of

intervention stocks held at 31 December 1978. This amount approximated to the balance of unspent appropriations at the end of the year. No such depreciation has been charged in 1979. In the opinion of the Court, proper accounts of expenditure cannot be drawn up unless accounting policies are consistently applied.

1.31. Under the present regulations, certain types of income continue to be entered as negative expenditure. This practice is undesirable since it conceals the true amount of expenditure. (See paragraph 4.36.)

BALANCE OF THE YEAR

1.32. The balance of the year, as shown in the amended accounts, amounts to 455.9 MEUA. The real situation is, however, as follows:

Reported balance (surplus)	455.9 MEUA
<i>Less:</i>	
1979 expenditure of EAGGF Guarantee charged to 1980 (paragraph 1.29)	203.5 MEUA
	252.4 MEUA
<i>Add:</i>	
Excess appropriations carried forward to 1980: Parliament (paragraph 1.27)	2.6 MEUA
	255 MEUA

In addition to the above adjustments depreciation of intervention stocks to 306 MEUA was charged in December 1978. This should either have been charged in 1979 on realization of the stocks or a consistent policy should have been applied resulting in a further charge in respect of stocks held on 31 December 1979.

Remark of the Court on the reply of the Commission to paragraph 1.32

In the accounts presented by the Commission 203.5 MEUA of expenditure relating to 1979 has been omit-

ted from the income and expenditure account for the year and inconsistent accounting policies have been applied in 1978 and 1979. In these circumstances the Court cannot accept the Commission's view that the balance of the financial year has been calculated in accordance with the correct application of the principles of accountancy.

LEGAL DEVELOPMENTS

The judgment of the Court of Justice in the Como affair

1.33. In January 1980 an important judgment which has wide implications for the audit of Community funds was given by the Court of Justice relating to the audit of Community revenue arising in the Member States. The judgment of the Court of Justice in the Como affair⁽¹⁾ clarified certain aspects of the Commission's powers of control over the own resources of the Community. The case arose out of a disagreement between the Commission and the Italian Government as to the Commission's right to continue investigations into substantial frauds connected with the irregular diversion to home consumption of large quantities of imported butter without payment of agricultural levies. The events concerned were, at the time, the subject of preliminary judicial proceedings in Italy, and, as a consequence, certain documents essential to the Commission's investigations were subject to judicial secrecy. Furthermore, the Italian Government contested the Commission's right to carry out controls before the own resources had been duly established by the Member States.

1.34. The Court of Justice, while upholding the rule of judicial secrecy in the case involved, confirmed the Commission's power to investigate documents and events at all stages in the chain leading up to the making available of the Communities' resources including those which occur prior to the date of establishment. The Court of Auditors welcomes this aspect of the decision which should be an encouragement to the Commission to press ahead with effective investigations in the field of fraud and irregularity. It should be noted that the judgment related only to the controls carried out by the Commission and not to the powers of the Court of Auditors which are laid down in the Treaty of 1975.

⁽¹⁾ Judgment of 10 January 1980, Case 267/78, Commission v. Italian Republic.

INTEREST RATE SUBSIDIES

1.35. Under the Regional Fund and the European Development Funds, interest rate subsidies are granted on loans made by the European Investment Bank. The Commission normally pays to the Bank the whole of the subsidy covering the full period of the loan at the time when the loan is first granted. The amount payable is abated to compensate for the present value of payments which would normally have been made over the full period of the loan. The Court requests the Commission to consider whether interest rate subsidies should be paid annually as they become due, rather than making lump-sum payments as at present.

MISCELLANEOUS PROBLEMS

Delays in closing accounts

1.36. Significant delays are still experienced in the final closing of accounts. The Court recommends that further intensive efforts should be made to enable accounts to be closed more promptly. At 1 June 1980 the latest accounts of the various different sectors to be closed are as follows:

— EAGGF Guarantee: 1973	
— Social Fund: 1973	
— First European Development Fund (1959 to 1964)	} No accounts have yet been closed
— Second European Fund (1964 to 1970)	
— Third European Development Fund (1970 to 1975)	
— Fourth European Development Fund (1976 to 1980)	

Omissions from accounting regulations

1.37. Although a new financial regulation was adopted on 31 December 1977, no new implementing measures were issued. At present the Financial Regulation of 1977 is being applied by utilizing the regulation of 29 June 1975 ⁽¹⁾ for the implementation of the Financial Regulation of 25 April 1973 ⁽²⁾.

⁽¹⁾ OJ No L 170, 1. 7. 1975, p. 1.

⁽²⁾ OJ No L 116, 1. 5. 1973, p. 1.

On 5 August 1980 the Commission transmitted to all the institutions for consultation, proposals for new implementing measures for the Financial Regulation of 21 December 1977.

1.38. Since 1 January 1978 the budget and the accounts of the general budget have been expressed in EUA. In 1976 the Commission submitted to the Council a proposal for a procedure for applying the European unit of account (EUA) to the legal acts adopted by the institutions of the European Communities. No regulations have since been approved although the EUA was introduced for the general budget of the Communities from 1 January 1978. Since that date provisional measures have been introduced for conversions between national currencies and EUAs and for drawing up the accounts.

1.39. In the opinion of the Court it is unsatisfactory that neither the implementing measures for the Financial Regulation nor a formal regulation governing implementation of the EUA has been adopted. In the absence of formal regulations, provisional measures have been adopted by the institutions.

1.40. In accordance with Article 107 of the Financial Regulation ⁽³⁾, the European Parliament and the Council are to examine the Financial Regulation every three years in the light of a proposal from the Commission. Under Article 209 of the Treaty, the Council must consult the Court of Auditors on all proposals for financial regulations. The next review is due to take place in 1980. The Court recommends that the Commission, at the same time as proposing amendments to the Financial Regulation, should also make proposals for appropriate, revised implementing measures and for measures concerning the application of the EUA to the general budget of the Communities.

ACCOUNTING POLICIES

1.41. Accounting policies encompass the principles, bases, conventions, rules and procedures adopted in preparing and presenting financial information. To assist the reader in assessing the information presented in the accounts, a factual summary of the main accounting policies adopted in drawing up the budgetary accounts of the Communities is given below. Comments on certain accounting policies are included in Chapter 2 of this report.

⁽³⁾ OJ No L 356, 31. 12. 1977, p. 27.

Own resources

1.42. Own resources and financial contributions are entered in the accounts on the basis of amounts actually credited during the year to the accounts held by the appropriate national authorities in the name of the Commission (see also paragraph 3.18).

1.43. The difference between the amount of VAT own resources and financial contributions provided for in the budget and the actual amount receivable for each year is calculated by 1 July of the following year. The difference is then entered as an adjustment in a supplementary budget of that year.

Other income

1.44. Other income is stated on the basis of amounts actually received during the year.

Conversion to EUA

1.45. Own resources and financial contributions are converted into EUA at the rate of exchange ruling on the due date for payment. Other items of income and expenditure have been converted at a standard rate of exchange for the month in which they were received or paid. Gains and losses on exchange are included in account 951. 'gain on differences in exchange rates' ⁽¹⁾.

Commitments

1.46. Commitments are entered in the accounts on the basis of the commitments entered into on 31 December ⁽¹⁾.

Payments

1.47. Payments of a financial year are stated on the basis of items for which authorization reached the Financial Controller not later than 31 December

and for which payment was effected by the accounting officer not later than the following 15 January ⁽¹⁾ ⁽²⁾.

Balance sheet

1.48. See Chapter 2.

REPORTS AND OPINIONS PRODUCED BY THE COURT DURING THE YEAR

1.49. (a) The Court has published the following special reports and opinions during the year 1 December 1979 to 30 November 1980.

— OJ No C 84 of 3 April 1980

Opinion on a proposal for a Regulation to amend the Financial Regulation of 21 December 1977 and on proposals for amendments to, and a draft amendment of, related legislation.

— OJ No C 165 of 5 July 1980

Opinion on the proposal for a Council Regulation on monetary compensatory amounts.

Opinion on the proposal for a Council Regulation on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy.

— OJ No C 233 of 11 September 1980

Opinion on a proposal for a Council Regulation amending Regulation (EEC) No 1172/76 of 17 May 1976 setting up a financial mechanism.

Opinion on the proposal for a Council Regulation instituting supplementary measures in favour of the United Kingdom.

— OJ No C 258 of 6 October 1980

Special report on various measures affecting the management of the EAGGF Guarantee Section.

⁽¹⁾ Special provisions apply, however, to the EAGGF Guarantee Section.

⁽²⁾ Financial Regulation, OJ No L 356, 31. 12. 1977, p. 1.

(b) The Court has adopted the following reports, etc. during the year 1 December 1979 to 30 November 1980 which have not yet been published:

- Opinion on the proposal for a Council Regulation laying down special general rules for the supply of food aid of products other than cereals, skimmed-milk powder or butter oil to certain developing countries and specialized bodies.
- Special report on Community Food Aid.
- Special report on the acquisition and control over office supplies and equipment as applied by the institutions of the European Communities.
- Observations on its initial financial review of the computer centre of the European Communities.
- Special report on the application of Council Directive No 75/268 on mountain and hill farming and farming in less-favoured areas.

CHAPTER 2 — ACCOUNTING MATTERS

SUMMARY OF CONTENTS	Paragraph reference
Summary of principal comments	2.0
Examination of Commission systems of accounting and control	2.1 and 2.2
The ascertainment of the institutions' situation in respect of assets and liabilities	2.3 to 2.11
The presentation of the financial statements	2.12 to 2.18
Explanatory notes to the financial statements	2.15 to 2.17
A summary revenue and expenditure account of the Communities	2.18
Conclusion	2.19

Summary of principal comments

	Paragraph reference
2.0. The principal comments included in this chapter are:	
(a) The general accounts as operated by the Commission and the Communities' balance sheet as drawn up by the Commission still fall short of meeting the requirements laid down in the relevant legislation.	2.3 to 2.11
(b) The balance sheet item 'appropriations carried forward' reflects a concept relevant to budgetary accounting: for inclusion in the balance sheet it needs to be analysed into categories of liabilities.	2.8
(c) The surplus element included in the amount of appropriations carried forward ought to be considerably reduced; to the extent that it remains, however, its existence ought to be disclosed.	2.9 and 2.10
(d) Explanatory notes should be attached to the financial statements to explain their underlying accounting principles and to give supplementary information not included in the balance sheet or the revenue and expenditure account.	2.12 to 2.17.
(e) A summary consolidated revenue and expenditure account, presented together with a summary consolidated balance sheet and explanatory notes, would greatly increase the insight into the Communities' financial affairs. An example of such a revenue and expenditure account is attached.	2.12 to 2.14 and 2.18

- (f) The Court has not been able to satisfy itself that the balance sheet of the Communities as at 31 December 1979 adequately reflects the Communities' assets and liabilities at that date, as required by the relevant financial regulations.

2.19

EXAMINATION OF COMMISSION SYSTEMS OF ACCOUNTING AND CONTROL

2.1. During the first two years of the Court's work, systems of accounting and control in the audited bodies were examined by the Court's services for the different subject areas.

The examination of systems is a fundamental element in the approach which, in principle, the Court has adopted for its audit work. This approach is based on the concept that the internal administration should be self-controlling, and therefore the auditor needs to identify and evaluate all elements of internal management which make up the processes of authorizing, recording and verifying financial transactions.

The examination of each subject area in the past two years has necessarily been on a selective basis: the scope of the audit of the systems, notably accounting systems, and records has depended on the audit resources available.

In the case of the general accounts the system was examined and a description prepared on behalf of the Court in 1978. The budgetary procedures and accounts have been examined to a certain extent during the first two years of the Court's existence by the audit sectors concerned with each subject area.

2.2. At the end of 1979 the Court decided that the results of the examination which had been carried out in each subject area should be consolidated and completed. The purpose, in broad terms, was to provide a basis for the Court's future work in all areas. A special team was set up to carry out this audit investigation. The work started in January 1980 and will be completed later in the year.

As this investigation is still taking place while these observations on the 1979 accounts are being written, the Court is making no general comments on sys-

tems and related control aspects in this annual report.

THE ASCERTAINMENT OF THE INSTITUTIONS' SITUATION IN RESPECT OF ASSETS AND LIABILITIES

2.3. In its annual report on the 1978 accounts the Court specified in detail the provisions laid down in the Financial Regulation and the implementing measures pertaining to the general accounts and the balance sheet.

The Court concluded, after examination of the general accounts of the Commission and the balance sheet of the Communities as drawn up by the Commission, that these did not meet the requirements laid down in the regulations, i.e. that the general accounts should enable the institution's situation in respect of assets and liabilities to be ascertained and that the Communities' balance sheet should show their assets and liabilities. It was found that the Commission's general accounts 'are not geared to the objective laid down in the regulations, but serve principally to record money movements'. This practice has two consequences: 'The balance sheet includes numerous items which represent neither assets nor liabilities' and 'certain assets and liabilities of the Communities are not accounted for in the general accounts at all and consequently do not figure in the balance sheet'.

The Commission replied that it was prepared to comply with the requests of the Court of Auditors subject to a careful examination of the problems of internal organization and, probably, the staff needed.

2.4. The Court notes with satisfaction that certain improvements have been achieved in this respect:

- fixed assets are disclosed in the balance sheet (but only those of the Commission);
- loans for migrant workers are now shown in the balance sheet (although the repayment receivable regarding these loans is included incorrectly in loans borrowed instead of being shown as 'capital').

Remark of the Court on the reply of the Commission to paragraph 2.4

The amended version of the consolidated balance sheet published by the Commission in October 1980 shows the fixed assets of the Court of Auditors in addition to those of the Commission. The Court regrets that the same could not have been done for the other institutions.

2.5. These improvements are, however, too limited to give the general accounts and the balance sheet their character as required by the regulations. Much remains to be done; for instance:

- the assets in the balance sheet still include items held in suspense accounts (i.e. expenditure of the year not charged and therefore recorded as an asset). A major item of this nature in this year's balance sheet is the 203.5 MEUA expenditure made during 1979 for EAGGF, brought forward via the balance sheet to be charged in the 1980 revenue and expenditure account. (All the budget appropriations for 1979 were absorbed and therefore when additional payments were made above the budgetary ceiling they had to be debited to the balance sheet, see Chapters 1 and 4.) In paragraph 11.7 of its report on the 1978 accounts the Court criticized this practice of using the general accounts to circumvent the controls, in this case annuality, in the budgetary accounting system;
- receivables and payables are still not systematically recorded. As a specific receivable item the amounts of recoverable value added tax are not accounted for in the general accounts and consequently are not shown as an asset in the balance sheet, and
- the values of certain stocks are still not included (e.g. stocks of stationery and official publications).

Between November 1979 and July 1980, the Court did not have extensive consultations with the Commission on these and other accounting matters. But on the completion of the systems examination noted in paragraphs 2.1 and 2.2 the Court is confident that it will be able to assist the Commission with such matters.

Remark of the Court on the reply of the Commission to paragraph 2.5

The Court considers that the Commission alone is responsible for its own accounting practices and thus for initiating changes therein. Needless to say, the Court would have given its assistance had it been consulted by the Commission on any such amendments in 1979.

With regard to the amount of 203.5 MEUA, an item of expenditure which, although incurred in 1979, was excluded from the expenditure charged to the financial year and was brought forward to 1980 via the balance sheet, the Court would stress that, notwithstanding its comments in paragraphs 1.29 and 4.14 to 4.18 of this report, this particular comment refers to the presentation of information by means of financial statements and not to the constraints of budgetary law. In the case in question, the Court finds that an item of actual expenditure which arose during the year was improperly shown as an asset at the end of the same year.

The Court also notes that in its replies the Commission confuses clearance of the suspense accounts with presentation in the balance sheet of figures which derive from valuations rather than accounting entries. These are separate questions which have in common the effect of raising doubts as to the adequacy of the internal control and financial management.

The way in which certain stocks are managed does not depend upon amendment to the Financial Regulation.

Knowledge of the quantity and value of stocks could be obtained by intelligent use of data processing without an excessive amount of extra work and without the need for amendment to the Financial Regulation, whose implementing measures provide that stock accounts be kept (Article 76 (3))⁽¹⁾.

2.6. For the moment, the Court would like to draw attention to an additional important element

⁽¹⁾ OJ No L 170, 1. 7. 1975.

incorporated in the balance sheet, i.e. the credit item 'budget appropriations carried forward', which constitutes approximately 50 % of the balance sheet total of 4.600 MEUA. Basically the item budget appropriations carried forward represents:

- commitments on non-differentiated appropriations,
- certain non-differentiated appropriations that are uncommitted at the year end, and
- unspent payment appropriations arising from differentiated appropriations.

These items are charged to the revenue and expenditure account of the year and are recorded in the balance sheet as a liability. Payments made during the following year in respect of these items are charged to this balance sheet account. If any items remain on this account at the end of that year they are annulled and included in revenue.

2.7. In order to fully understand this balance sheet account, governed by the provisions of Article 6 of the Financial Regulation, it is necessary to be aware that it constitutes a major exception to the principle laid down in Article 5, i.e. that revenue and expenditure are to be accounted for on a cash receipt/payment basis. The only other exception is made in Article 5 itself, last paragraph, for expenditure paid after 31 December but not later than 15 January, provided that this expenditure is authorized and submitted to the Financial Controller by 31 December (payments pending).

Apart from the latter item, appropriations carried forward, as described in paragraph 2.6, is the only non-cash basis item recognized by the accounting system as it is defined by current legislation. Other types of accruals are in principle excluded and therefore do not appear in the balance sheet although exceptions may occur, e.g. the amount of revenue resulting from the third revision of the budget in 1979, which was received in 1980 but was taken into revenue for 1979 (appearing in the balance sheet at 31 December 1979 under 'Member States' amounting to 397 MEUA: see paragraph 3.18).

2.8. The item payments pending does not constitute a problem from the point of view of balance sheet presentation. It may be expected to represent real current liabilities. However, the item budget appropriations carried forward is more complicated as far as balance sheet presentation is concerned. That is mainly because it is compiled directly from the budgetary accounting system and therefore does not automatically constitute a liability as is required for presentation in the balance sheet. For balance sheet purposes the item should in principle be analysed at the year end into three broad categories of liabilities, plus a fourth from budgetary practice:

1. appropriations that exist in respect of items where the terms of the contract have been fulfilled (creditors);
2. appropriations that exist in respect of items where the contract is concluded but not yet performed (existing commitments);
3. appropriations for which no binding legal commitments towards third parties exist yet, but where it can be reasonably assumed that the appropriations will be spent in the following financial year (anticipated commitments); and
4. appropriations carried forward for which a historical analysis (see 2.9 below) shows that significant amounts will remain unused at the end of their period of validity (surplus element).

Categories 1 and 2 are in principle readily identifiable, both from each other and from the other two categories. In order to distinguish between categories 3 and 4, however, it will not suffice simply to look at the individual transactions; there has to be a global estimate of the amount that will remain available after actual utilization of the appropriations carried forward. This estimation should be based on historical data and on actual information available at the moment when drawing up the balance sheet.

2.9. As to the part of appropriations carried forward which remains unspent in the following financial year the Court made an analysis over the last six years.

Table 1 — Analysis of the cancellations of appropriations carried forward to the following financial year (all institutions)

	Total carried forward to following financial year MEUA	Of which relating to prior year MEUA	Balance MEUA	Of which cancelled in subsequent year MEUA	% cancelled
1973	1 980	748	1 232	91	7
1974	2 323	634	1 689	29	2
1975	2 124	886	1 238	291	24
1976	2 827	801	2 026	455	22
1977	2 565	894	1 671		
revalued	2 007	759	1 248	167	13
1978	2 129	601	1 528	199 ⁽¹⁾	13

⁽¹⁾ This amount breaks down as follows:

Commission	185 MEUA
Other institutions	6 MEUA
Cancellations resulting from revaluation of EUA at 1. 1. 1978	8 MEUA
	<u>199 MEUA</u>

This table illustrates that at the end of every financial year appropriations are being carried forward which will still not all be spent by the end of the next financial year.

pay more attention to the remaining 98 %, representing cancellations against automatic carry-overs. The analysis necessary for a separate presentation of these appropriations under liabilities in the balance sheet would in time lead to the disappearance of this category, whose existence is due to ill-conceived budgetary practices.

Remark of the Court on the reply of the Commission to paragraphs 2.6 to 2.9

In the above paragraphs, the view expressed by the Court is that the balance sheet at the end of the year should record the real facts of the situation. Community liabilities should therefore be divided into categories according to their nature and not simply by virtue of their treatment under the budgetary rules. In this respect, it is not correct to say that Articles 5 and 6 of the Financial Regulation stipulate that the whole of the budget appropriations carried forward must be entered as such under liabilities. The Commission's reply further states that the presentation envisaged by the Court would be inconsistent, as it could not be reconciled with the grounds submitted with applications for non-automatic carry-overs. The Court would point out in this connection that at the end of 1979 cancellations of appropriations from non-automatic carry-overs of the Commission for the financial year 1978 amounted to 4.3 MEUA, or about 2 % of the total appropriations for payment cancelled (185 MEUA). Thus the Court cannot see any practical inconsistency between the analysis of the appropriations to be carried over and the grounds submitted with applications for non-automatic carry-overs. The Court considers that in future the Commission should

2.10. Two comments can be made here regarding this element of unused appropriations carried forward. The first is that such a high percentage of unused appropriations carried forward casts doubt on the efficiency of financial management. (The procedures for allocating the budget appropriations must be doubted if the appropriations are not spent as expected and the end-of-year review of the appropriations to be carried forward must be likewise considered as deficient.) The second is that, given this situation, the balance sheet should reflect the fact that a part of the appropriations carried forward will not, in the end, be used.

Remark of the Court on the reply of the Commission to paragraph 2.10

The Court considers it necessary to point out that its comment refers to appropriations carried over to the following year, whereas the Commission's reply refers to appropriations brought forward from the previous year.

2.11. The Court emphasizes again that fundamental efforts are needed in order to bring the general accounts and the balance sheet into accordance with the requirements of the legislation. The comments made above are based on the current legislation and the Court refrains from commenting on this legislation, pending the systems examination taking place as referred to in paragraphs 2.1 and 2.2 and the imminent revision of the Financial Regulation.

Remark of the Court on the reply of the Commission to paragraph 2.11

The Court considers that the presentation of financial information (as opposed to the accounting procedures, which this chapter only deals with indirectly) could be improved by the Commission forthwith, without creating an insurmountable work-load and without changes in the legal framework. It largely depends on improved cooperation between the different departments of the Commission.

THE PRESENTATION OF THE FINANCIAL STATEMENTS

2.12. In its report on the 1978 accounts the Court considered that the published financial statements of the Communities do not enable the reader to gain a clear insight into the Communities' financial affairs. The Court noted that the financial statements lacked an explanation of the accounting principles applied and other explanatory notes needed for a full understanding of the figures presented. The Court also commented that it would be highly informative, and in compliance with generally accepted accounting principles, if financial statements were to show the corresponding figures of the preceding year, with explanatory notes in cases where the underlying basis of the figures has changed.

2.13. In making these comments on the Communities' published financial statements the Court was concerned with the overall picture of the Communities' financial affairs as presented by the revenue and expenditure account together with the balance sheet. Having regard to the voluminous, detailed and complex format of the revenue and expenditure account as at present issued by the Commission, the Court observed that it would be highly desirable to show a summary consolidated revenue and expenditure account for the Communities, presenting revenue and expenditure in a meaningful breakdown.

2.14. The Court continues to recommend that explanatory notes and a summary consolidated revenue and expenditure account are prepared. These together with a summary of the consolidated balance sheet would constitute a set of annual financial statements which, when including the previous year's figures, would enable the reader to gain a more immediate, overall insight into the Communities' financial affairs, i.e. revenue and expenditure of the year and the financial position at the year end.

Because the Court attaches great importance to the element of insight provided by the financial statements, to those who legitimately wish to be informed on a global level, it considers it useful to elaborate in this annual report on these two important elements. As far as explanatory notes are concerned, the Commission has given no follow-up at all to the observation made last year. As to the summary consolidated revenue and expenditure account, a table has been added to the revenue and expenditure account, showing a recapitulation for Titles 1 and 2, adding up the totals per institution per chapter in these titles.

Explanatory notes to the financial statements

2.15. Basically, there are two types of explanatory notes: notes explaining the accounting principles on the basis of which the financial statements in question have been drawn up and financial notes that provide supplementary financial information which is not included in the balance sheet or the revenue and expenditure account. These two types of notes are discussed in paragraphs 2.16 and 2.17 respectively.

2.16. Explanatory notes on underlying accounting principles are particularly important to enable a reader to have a sound understanding of the Communities' financial statements, since these are based on the provisions laid down in the Financial Regulation which contains a number of rather specific concepts and definitions. For instance, the uninformed reader, accustomed to reading financial statements that are drawn up in compliance with generally accepted accounting principles, should be made aware of the specific concepts underlying the calculation of revenue and expenditure as explained in paragraph 2.7. These significantly affect the figures reported in the balance sheet as well as the calculation of the surplus/deficit. Other examples are:

- fixed assets: the reader needs to be informed that the amount shown in the balance sheet represents the accumulated historical cost of fixed assets owned by the Commission at 31 December 1979;

- capital: it should be explained that the nature of this item in this case is expenditure charged to prior years for purchase of fixed assets;
- payments pending: this item will be understood only if the provision laid down in the last paragraph of Article 5 of the Financial Regulation is set out (see paragraph 2.7);
- exchange differences: it should be disclosed on what basis the various currencies are converted to the EUA for both revenue/expenditure and balance sheet items. This is particularly important in the case of the balance sheet of the Communities as at 31 December 1979 since the figures therein are based on 1 December 1979 exchange rates (with the exception of the figures for the Court of Auditors, included in the consolidation at 31 December 1979 rates). As the Court pointed out in its report on the 1978 accounts it disapproves of this practice. Although it may be convenient, for internal operational reasons, to apply monthly rates to currency conversions in the accounting system, this should not lead to the presentation of the Communities' assets and liabilities as at 31 December on the basis of exchange rates as at 1 December. The modification of the system so that exchange rates were altered on the last day of the year would not appear to imply any major technical difficulty because this conversion is dealt with on 1 January of the following year.

Remarks of the Court on the reply of the Commission to paragraph 2.16

In the Court's view there is no essential dichotomy between the exchange rates used for the closing balance sheets of one financial year and the opening balance sheets of the following year. They are separated only by a notional moment of time which, other than in exceptional circumstances (change in the currency in which the accounts are expressed) would not cause any change in the financial position; a balance sheet may therefore be drawn up using the exchange rates at the beginning of the following financial year.

As for the claim that adoption of the end-of-year exchange rate would lead to overruns, the Commission is confusing conversion of the financial position at the end of the year with conversion of the budgetary operations during the last month of that year.

2.17. Notes providing additional financial information which cannot be included in the balance sheet or revenue and expenditure account but are still needed for a complete insight into the Communities' financial affairs are at present nowhere to be found in the published financial statements. The following are examples of such additional information that can be given:

- exposure to losses on intervention stocks: one category of expenditure in the context of the common agricultural policy is where the Communities reimburse to Member States the losses realized on sale of goods from intervention stocks held by Member States. At the year end large amounts of intervention stocks are held, on which substantial losses will most probably be realized during the forthcoming year(s). In order to have a proper insight into the Communities' financial affairs at that date some indication is needed of the amounts involved, in so far as not all losses have been provided for;
- analysis of principal balance sheet items: the introduction of explanatory notes to the financial statements would also bring the advantage of making it possible to move certain details, such as analysis per (sub)heading from the balance sheet itself to the explanatory notes, thus improving the general overview without losing the necessary detail;
- commitments on multiannual contracts: the Communities have multiannual contracts. Estimated commitments for these contracts are detailed in the budget. However, apart from the current year there is no disclosure of the total amount of these commitments. It would be useful for the reader of the financial statements if a note were included indicating the amount expected to be committed;
- guarantees given to third parties: the Communities give guarantees on loans made by banks and governments and, on the other hand, receive guarantees from Member States and other governments. For a complete view of the Communities' financial situation, it would be necessary to give an indication of the total exposure in respect of guarantees;
- potential future deficit on pension rights: pension rights are acquired over a relatively long period of time and are borne in the Communities by retention of a fixed percentage from salaries, plus in principle twice the same amount at the Communities' cost, however, without creating a fund. Given a certain build-up of staff over the years, it is possible that a substantial deficit or surplus arises between the monies allocated for pensions, and payments.

This would be the case, for instance, if, after a period of growth, the Communities' staff would stabilize. If means are sufficient initially they may not be later. Consideration should be given to calculating the possible liability on an actuarial basis and if found to be material it should be disclosed.

Remarks of the Court on the reply of the Commission to paragraph 2.17

The very existence of intervention stocks entails a potential financial burden for subsequent Community budgets, resulting from the obligation upon the Community to finance the difference between their inventory value and their market value. The Court considers that, for the better information of the reader, the financial statements should take account of the existence of this potential burden in the explanatory notes. As the Commission prepares budget proposals on this matter, it has the necessary material to hand.

With regard to the pension scheme, it is precisely because there is no fund and because there is no valuation for accounting purposes of the rights acquired that some assessment of the future evolution of the scheme is needed. And if this assessment should reveal serious consequences for the Community in the medium or long term, it would be necessary to mention this in the financial statements, so that those responsible may be made aware of it in time.

A summary revenue and expenditure account of the Communities

2.18. In view of the suggestion made in last year's annual report to produce a summary consolidated revenue and expenditure account, and having regard to the numerous calls for more 'transparency', i.e. better insight into the Communities' financial affairs, to be provided by the financial statements, the Court thought it useful to draw up an illustrative example of what it thinks could be considered as such an overview of the Communities' financial transactions during a financial year.

The statement has been based on the figures contained in the present financial statements as published by the Commission at 1 June 1980. The fact that use is made of these figures does not imply that the Court confirms them.

It must also be emphasized that the format presented here is not the only possibility, nor would the Court pretend that it is the best one.

The Court wishes only to make a practical contribution to the discussion on the 'transparency' of the accounts, and leaves it to the reader to appreciate whether such a statement contributes to the insight into the Communities' financial affairs (see Table 2).

CONCLUSION

2.19. Having regard to the fundamental points raised in respect of accounting and financial reporting and the state of progress in improving these matters, the Court, although understanding the difficulties experienced by the Commission, has still not been able to satisfy itself that the balance sheet of the Communities as at 31 December 1979, of which a summarized version is attached (Table 3), adequately reflects the assets and liabilities as required by the relevant financial regulations. The Court expresses the hope that substantial improvements will be achieved in the near future to the Commission's accounting and financial reporting, along the lines set out above and the previous annual reports.

Remark of the Court on the reply of the Commission to paragraph 2.19

The Court of Auditors, after consideration of the amended revenue and expenditure accounts and balance sheets relating to the implementation of the budget for the financial year 1979, reaffirms its conclusions in respect of the documents submitted to it on 1 June 1980 in accordance with Article 77 of the Financial Regulation of 21 December 1977⁽¹⁾.

⁽¹⁾ OJ No L 356, 31. 12. 1977.

Table 2 — Consolidated revenue and expenditure account of the European Communities for the year ended 31 December 1979

(1 000 EUA)

	1979 Budget ⁽¹⁾	1979 Actual	1978 Actual
<i>Revenue</i>			
Own resources	11 950 863	12 070 305	6 674 219
Contributions	2 310 570	2 312 988	5 340 297
Own revenue	149 943	172 749	162 150
ECSC levies	5 000	5 000	5 000
Transfer of appropriations carried forward	30 000	—	—
Surplus of prior year	41 618	41 618	
	14 487 994	14 602 660	12 181 666
<i>Expenditure (by title)</i>			
1 Personnel	581 759	536 014	473 942
2 Administration	239 211	237 868	213 563
3 Specific projects	305 183	334 305	334 672
4 Repayments to Member States	721 130	721 130	668 763 ⁽²⁾
5 Social and Regional Funds, including EMS	1 006 500	1 278 373	1 067 539
6-7 EAGGF-Guarantee	10 384 100	10 387 088	8 679 251 ⁽²⁾
8 EAGGF-Guidance and Fishery	355 600	342 389	444 500
9 Cooperation with developing countries, non-Member States	524 936	538 805	379 339
10 Other expenditure	369 575	—	—
	14 487 994	14 375 972	12 261 569
Surplus (deficit)	—	226 688	(79 903)
<i>Surplus prior years</i>			
Arising from annulment of budget appropriations carried forward		199 219	166 582
<i>Extraordinary items</i>			
Exchange difference u.a.-EUA			(45 061)
Transfer of appropriations carried forward		30 000	
<i>Accumulated surplus carried forward</i> (= balance of the year)	—	455 907	41 618

⁽¹⁾ Final budget No 3 for 1979 plus additional appropriations but excluding transfers made between titles.

⁽²⁾ Adjustment made for relocation within the budget of agricultural expenditure.

Table 3 — Summary of the consolidated balance sheet of the European Communities as at 31 December 1979 (1)

		(1 000 EUA)	
		1979	1978
Fixed assets		189 505	—
Loans		1 472 253	1 611 135
Current assets			
Debtors — Member States		396 853	—
Advances to Member States		1 412 636	1 065 912
Other debtors:			
Inter-institution	222	—	—
Sundry	12 346	16 658	—
Cash and bank			
Cash	382	126	126
Treasury accounts	868 050	1 097 173	1 097 173
Call accounts	189 719	344 166	344 166
Deposit accounts	2 201	673	673
Imprest accounts	46 842	23 926	23 926
	1 107 194	1 466 064	2 548 634
		4 591 009	4 159 769
Capital			191 617
Accumulated surplus			455 907
Loans			1 470 141
Current liabilities			
1979 budget appropriations carried forward			1 450 686
Prior years appropriations carried forward			457 907
Payments pending			527 316
Other liabilities			37 435
			2 473 344
			2 507 016
			1 527 721
			601 171
			338 505
			39 619
			4 159 769

(1) Revenue and expenditure accounts and balance sheets for 1979, vol II, pages 257-259, amended by document COM(80) 565 FR 'Amended revenue and expenditure accounts and balance sheets relating to the implementation of the budget for the financial year 1979', sent to the Court on 20 October 1980. Figures for 1978 added, source: 1978 accounts.

CHAPTER 3 — REVENUE

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Summary of principal comments

	Paragraph reference
3.0. The principal comments included in this chapter are:	
(a) the absence of detailed rules for the implementation of Article 131 of the Act of Accession	3.4 to 3.6

- (b) the complexity of the agricultural levy system, the dangers inherent therein and the need to review the role of national intervention agencies in this regard 3.21 to 3.33
- (c) the controls operated in relation to German internal trade and the potential risks for own resources 3.39 to 3.47
- (d) conflicts arising from the dual nature of the Community transit system and suggestions for its improvement 3.54 to 3.61

DEVELOPMENTS IN 1979

3.1. In 1979 budgetary revenue of the Communities consisted of customs duties and agricultural levies (including sugar levies), resources accruing from value added tax, financial contributions from Member States and miscellaneous revenues such as deductions from staff remuneration, fines, etc. The year was notable for the introduction, after some years' delay, of receipts from value added tax (VAT) as an additional own resource. The object of these receipts is to replace financial contributions based on gross national product (GNP). However, in this respect 1979 must be regarded as a transitional year because three Member States (Federal Republic of Germany, Ireland and Luxembourg) had not intro-

duced the requisite common VAT measures and they continued to pay GNP contributions. This mixed system will not apply in 1980, when all Member States will assign VAT resources.

POINTS ARISING FROM THE ACCOUNTS

Revenue out-turn 1979

3.2. The following table compares the budgetary revenue of the Communities for 1978 and 1979 as shown in the accounts:

Table 1 — Total revenue 1978 and 1979

	1978 Out-turn	1979 (MEUA)	
		Final budget	Out-turn
Customs duties	4 390.9	5 045.5	5 189.1
Agricultural levies	1 872.7	1 706.0	1 678.6
Sugar levies	410.6	459.8	464.9
Value added tax resources	—	4 739.6	4 737.7
Financial contributions (GNP)	5 329.7	2 299.7	2 302.1
Miscellaneous revenue (including ECSC and Euratom contribu- tions)	177.8	154.8	188.7
Balance from previous year	—	41.6	41.6
Total	12 181.7	14 447.0	14 602.7

3.3. Total revenue (14 602.7 MEUA) was thus very close to the final estimate included in the amending and supplementary budget No 3 (which was not adopted until 13 December 1979). However, when compared with the original budget estimates (13 494.4 MEUA) the out-turn figures show:

- an increase of 9.3 % in customs duties, explained principally by a substantial unforeseen rise in imports subject to common customs tariff duties;
- a reduction of 1.6 % in agricultural levies, due to a falling trend in imports of the main cereals and rising world prices leading, in the second half of the year, to a reduction in rates of levy.

An increase of about 9.6 % in the VAT resources and financial contributions was necessary to balance the additional expenditure authorized in the amending and supplementary budgets. This involved an increase in the Community VAT rate from 0.7196 % in the original budget to a final figure of 0.7889 %.

Article 131 of the Act of Accession

3.4. As described in paragraphs 12.3 to 12.9 of Part I of the Court's report for 1978, the amounts due from Member States are payable in full, subject to an abatement, during 1978 and 1979, for Den-

mark, Ireland and the United Kingdom if the terms of Article 131 of the Act of Accession are met. This operation was applied for 1979 in much the same way it was for 1978, that is to say, the budget was adopted and implemented without regard to Article 131. That Article, as modified by arrangements agreed at the European Council of 6 December 1977, was then put into effect by means of financial clearing between the Member States outside the budget. In accordance with a declaration of the Council and the Commission recorded on the adoption of Council Regulation (EEC) No 1736/79 ⁽¹⁾ these adjustments were not applied to the financing of transactions arising from the setting-up of the European Monetary System (245 373 000 EUA, Chapter 57 of the budget). Instead the United Kingdom, which did not participate fully in the system and, therefore, did not benefit from it, was repaid its share of the financing involved.

3.5. Regarding the Article 131 operations the Court again feels it necessary to make the qualifications expressed in paragraphs 12.10 to 12.11 of Part I of its report for 1978, in particular the absence of published decisions by the Council or the Commission detailing the rules agreed upon for the application of that Article. Again the Court is unable to report that all revenue has been paid to the Community in a legal manner, inasmuch as Article 131 has not been observed.

3.6. The financial clearing operations carried out outside the budget to give effect to Article 131 are set out in the following table.

⁽¹⁾ OJ No L 200, 8. 8. 1979, p. 1.

Table 2 — Article 131: Clearing outside the budget

(1 000 EUA)

Member State	Commission's interpretation of Article 131 repayments due to Member States	Settlement		
		Amount borne by each Member State	Amount paid by Member States	Amount received by Member States
Belgium	—	40 693	40 693	—
Denmark ⁽¹⁾	—	—	—	—
FR of Germany	—	165 061	165 061	—
France	—	163 001	163 001	—
Ireland	6 400	4 193	—	2 207
Italy	—	91 868	91 868	—
Luxembourg	—	554	554	—
Netherlands	—	53 913	53 913	—
United Kingdom	625 501	112 618	—	512 883
Total	631 901	631 901	515 090	515 090

(1) Unlike Ireland and the United Kingdom, Denmark's share of the budget, before the application of Article 131, was below the ceiling calculated on either of the interpretations considered.

Value added tax and financial contributions

3.7. Article 4 of the Council Decision of 21 April 1970 provides that the VAT resources to be paid by each Member State to the Community should be calculated by applying a rate not exceeding 1 % to an assessment basis determined in a uniform manner throughout the Community. The rate is fixed within the framework of the budgetary procedure. The provisions seeking a harmonized base are contained in Council Directive 77/388/EEC ⁽¹⁾. This did not succeed in establishing a fully uniform basis of assessment. Some differences remain as between the Member States and, in accordance with Council Regulation (EEC, Euratom, ECSC) No 2892/77 ⁽²⁾, it will be necessary, for some time to come, to adjust the national bases to bring them into line with the theoretical uniform assessment basis.

3.8. Under this regulation Member States may adopt one of two methods for calculating the assessment basis. The first is based directly on the VAT

returns of taxpayers, and the second involves the application of data derived from national accounts statistics to the actual revenue collected.

3.9. The result of applying one or other of these bases cannot be known until after the end of the relevant year. During the budgetary year itself one-twelfth of the amount attributable to VAT in the budget estimate must be credited to the Communities on the first working day of each month. The regulation requires that the adjustments to align these payments with those based on out-turn figures be accounted for in the subsequent year, following the submission of the necessary data by the Member States. This, in turn, gives rise to a correction of the financial contributions of those Member States which had not yet converted to VAT resources, so as to restore the original balance, established in the budget, between VAT resources and financial contributions. As the requisite balancing payments ⁽³⁾ are not due before 1 August it follows that neither the Court nor the discharge authorities can take a view about the final out-turn until after that date.

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1.

⁽²⁾ OJ No L 336, 27. 12. 1977, p. 8.

⁽³⁾ The balancing payments are then included in an amending budget.

3.10. As 1979 was the first year in which VAT resources were received by the Community, there was no adjusting figure for the preceding year and the amounts credited in the 1979 accounts were, subject to what follows, confined to those provided in the estimates for that year. The difference (a loss) of 1.9 MEUA (see Table 1 above) between the two figures arises because the monthly sums demanded by the Commission are converted to national currencies at the conversion rates for the first working day after the 15th day of the preceding month while, for accounting purposes, they are reconverted into EUA using the latest rate quoted on the first working day of the month in which payment is due. The same explanation applies to the difference (a surplus) of 2.4 MEUA between the estimated financial contributions and the out-turn.

3.11. The net surplus of 0.5 MEUA is made up of individual national discrepancies varying from -1.8 MEUA to +2.4 MEUA.

3.12. This is the same point as that raised about the financial contributions in paragraphs 12.18 to 12.20 of Part I of the Court's 1978 report. It was there recommended that this anomalous situation could be avoided by using the actual exchange rates obtaining on the day on which the contribution is due. The Court is not convinced that the administrative difficulties advanced by some Member States (mentioned by the Commission in its reply to the observation) are insurmountable, and requests the Commission to re-examine the matter afresh.

3.13. Because the VAT resources in the 1979 accounts were based on estimates only, no on-the-spot audits were carried out by the Court on such resources in 1979. However, it undertook a programme of information visits to Member States involved in order to brief itself on the systems in operation and prepare for a full audit in 1980 of the final figures in respect of 1979.

Balance from 1978

3.14. Before 1978, budget balancing was carried out by means of financial contributions which were adjusted in the light of the final financing requirement. For 1978 and subsequent years, the financial contributions, and the VAT resources replacing them, are fixed in the budget and it follows that any variation in the other elements of the budget can give rise to a surplus or a deficit. The surplus arising from 1978 was 41.6 MEUA. In accordance with

Article 27 of the Financial Regulation of 21 December 1977, this sum was entered as revenue in the budget for 1979.

Consequences of amending and supplementary budget No 1

3.15. Following the dispute between the Council and the Parliament about the adoption of the original 1979 budget on 14 December 1978, three Member States (France, Denmark and the United Kingdom) limited their payments on account of VAT for February and March 1979 to those resulting from the draft budgets. This procedure is applied automatically to payments for January each year. The shortfall thus occasioned was regularized on 1 April 1979 in anticipation of the adoption of amending and supplementary budget No 1 on 25 April 1979.

3.16. The Financial Controller of the Commission refused to approve the proposal of the authorizing officer to waive the interest involved, which amounted to 550 468 EUA. However, the Commission, acting under the financial regulations, overruled the Financial Controller on the grounds that:

- the budgetary dispute had raised difficult legal problems which were only settled by the adoption of the amending and supplementary budget No 1, and
- the regularization had taken place before the supplementary budget.

3.17. Following the adoption of amending and supplementary budget No 1 on 25 April 1979 Member States should have adjusted their VAT or GNP contributions in accordance therewith on 1 May. Claiming that there was not sufficient time to complete the necessary administrative procedures, five Member States were late in bringing the adjustments to account. The delays involved ranged up to 30 days. The interest due (108 000 EUA, approximately) was waived. The Court would be interested to know on what grounds.

Amending and supplementary budget No 3

3.18. Following the adoption, on 13 December 1979, of amending and supplementary budget No 3, which increased the VAT and GNP contributions by

a total of 396.9 MEUA, seven Member States paid adjusting sums (amounting to 197.1 MEUA) on or after 2 January 1980, the due date. Two Member States had paid in advance of the due date.

The total of 396.9 MEUA was booked by the Commission to the credit of the 1979 financial year. A strict application of Article 5 of the Financial Regulation would have required booking the amounts received on or after 1 January to the 1980 financial year. This would, however, have entailed a serious disruption of the financial balance for both 1979 and 1980, and would have defeated the clear intention of the budgetary authorities. The Court does not recommend any adjustment of the accounts on the present occasion. It recommends, however, that the relevant regulations be amended at the earliest opportunity to ensure that adjustments to revenue brought about by amending and supplementary budgets adopted in the month of December can be booked to the accounts of the financial year for which those budgets are adopted.

POINTS ARISING FROM ON-THE-SPOT AUDITS

General

3.19. The systems of assessment and centralization of own resources were further examined during a series of on-the-spot audits in the Member States in connection with the 1979 accounts. Enquiries covered not only customs duties as in the previous year, but also agricultural levies and sugar levies.

Agricultural levies

3.20. These levies are designed to afford protection to Community produce by bringing prices of imported agricultural produce up to the levels prevailing in the Community. In sectors and Member States where the representative rates of exchange used for the common agricultural policy differ significantly from market rates, the levy is increased or reduced by the application of positive or negative monetary compensatory amounts (MCAs), supplemented, in the case of third country trade, by the

application of a monetary coefficient to the levy. Rates of levy and MCA change frequently in line with fluctuations in world prices and exchange rates. To afford a measure of certainty to persons who intend to import agricultural products over an extended period, arrangements can be made to fix the rates of levy and MCA in advance. Nevertheless, at the time of importation, these rates may be subjected to a complicated series of adjustments to take account of special market conditions.

Complexity of levy system

3.21. The system which has to be operated by the national customs and intervention agencies who are normally responsible for administration is thus a very complex one and is expressed in difficult Community legislation. It is perhaps not surprising that the detailed implementing rules set out in national provisions tend to differ one from another. This initial obstacle to a harmonized approach is supplemented by the frequency of adjustments of levy rates. Some rates change every few days, and at very short notice. Sometimes they are notified in arrears. In this situation the possibilities for error are multiplied, and the work of the national administrations is made very burdensome. Subject to the observations set out below, the Court found that the national arrangements were generally satisfactory in the difficult circumstances. There were errors of calculation but they were not systematic. Nevertheless, the Court is of the opinion that the inherent risks are serious and recommends that the Commission should strive to achieve the maximum simplification of the present complex structures consistent with the essential economic and financial aims of agricultural policy.

Accounting for levies and MCAs

3.22. According to the Council Decision of 21 April 1970, agricultural levies and MCAs levied on trade with third countries are own resources of the Communities. Under current Community practice, MCAs granted on imports (by certain Member States whose currencies have been devalued) are deducted from the import levies chargeable and only the net total is brought to account as own resources. Similarly, MCAs levied by those Member States on exports are deducted from the export

refunds payable, the net total being charged as export refunds. The Court considers this practice to be a departure from sound accounting principles in that the resulting entries distort the totals of revenue and expenditure and confuse their classification. It strongly recommends a change in the relevant Community regulations. (See also Chapter 4 of this report.)

3.23. In the Netherlands and the Federal Republic of Germany weaknesses were noted in the accounts resulting in MCAs which should have been treated as own resources being booked as 'negative' EAGGF expenditure. Further, this had the effect that the refund of 10 % of customs etc. duties paid to those Member States for collection costs was wrongly calculated. The Member States concerned have since taken steps to rectify the situation.

Bulk cargoes

3.24. The Court examined the special problems associated with the application of agricultural levy to bulk cargoes, such as grain. The levy in such cases is normally assessed on weight. It is important therefore, in circumstances where levies can exceed 1 million EUA on a single cargo, that particular attention be paid to the control of weights. In the cases examined it was found that the physical installations for weighing and storage on the quayside were satisfactory and that the weighing equipment was checked regularly. The operators of these installations (generally the port authorities) are concerned, from a commercial point of view, to carry out weighing operations correctly, since their handling charges depend on quantities passing through the silos. There is a common interest between them and the Customs. However, the Court is of the opinion that too much reliance is placed by the Customs authorities on this community of interest with the result that there can be a hiatus in the sequence of checking operations.

3.25. For example, at the two ports visited by Court officials (in the United Kingdom and Italy) it was found that the customs procedures for balancing the ships' manifests and customs declarations against the actual amounts of grain offloaded from

ships received very low priority and in some cases were more than a year in arrear. At one of these ports, in Italy where physical control of movements in port areas is not normally carried out by the Customs authorities but by a separate service attached to the Ministry of Finance, the final clearance operation was further impeded by lack of coordination between the agencies involved.

Intervention agencies

3.26. The structure and functions of agricultural intervention agencies of the Member States which have a role to play in the administration of the own resources deriving from trade in agricultural produce vary significantly from one Member State to another. In some cases they are public corporations set up under public law, in others, though operating under public law, they have the status of semi-private commercial undertakings. In the absence of Community provisions regarding collection and enforcement, it falls to the Member States to endow these agencies with the legal powers necessary to protect Community financial interests.

3.27. In France it was learned that the intervention agency concerned with sugar does not possess statutory powers of enforcement. Where it becomes necessary for recovery to be made it has recourse to the ordinary processes of commercial law. In the course of examining the accounts of this agency it was noted that certain sums established on account of sugar storage levy, had been deducted from the totals made available to the Commission in the period May 1979 to July 1980. The sums so retained (about 166 000 EUA) represented the amounts of levy which certain sugar manufacturers had failed to pay to the agency. The agency officials concerned were aware of the Community rule requiring Member States to make available own resources established as due, except where such sums could not be collected for reasons of *force majeure*. However, they explained that the agency had no free funds with which to credit the Commission's account.

3.28. Following a request addressed to the French authorities by the Commission, the sum involved was made available on 5 August 1980. The Court trusts that the Member State involved will take steps to ensure that institutional problems of this kind will not, in future, interfere with the timely making

available of own resources, the responsibility for which devolves on the Member State itself, and not on its individual agencies.

3.29. In Belgium the intervention agency is responsible for the assessment and collection of agricultural levies on the basis of information supplied by the Customs services of the port where the goods are imported. Some years ago the inspection services of the Commission, acting in association with those of the Member State concerned, discovered weaknesses in the routine accounting controls of the agency. These weaknesses were exacerbated by a serious lack of coordination between the intervention agency and the Customs services, as a result of which inaccuracies in the details supplied by the latter often went unnoticed.

3.30. Following the strengthening of the control procedures, the Commission requested the responsible Ministry to carry out a detailed audit of the period from 1971 to 1975 as a consequence of which additional sums equivalent to about 4 MEUA were made available to the Community. An extensive audit of subsequent periods is at present being carried out by the Belgian authorities, but it is not expected to be completed until the end of 1980.

3.31. The Court examined the reinforced system operated by the agency since 1978, and suggested further improvements.

3.32. The responsible Ministry informed the Court that, from 1 January 1980, a computer system had been introduced which would improve the controls still further. It was hoped shortly to supplement these controls by a system of routine *a posteriori* checks. The Court will keep the matter under review.

3.33. The observations in paragraphs 3.19 *et seq.* illustrate the problems which can be caused by a division of responsibility between intervention agencies and Customs services. While, as a general rule, better coordination will help to meet these problems in the short term, the Court is of the opinion that a more fundamental examination should be undertaken by the Commission and the Member States of the structures and functions of the various bodies involved with a view to establishing standardized procedures and administrative norms which could be followed by all the Member States.

Unilateral exemptions from customs duties

3.34. In its 1977 report (Part I, paragraphs 12.15 to 12.17) the Court referred to certain unilateral exemptions from the Common Customs Tariff. Following initiatives by the Commission most of these have been or will shortly be withdrawn, apart from those relating to military equipment referred to below.

3.35. The more important problem relates to the exemption by Member States of imports of certain military equipment, and this is unresolved. It was pointed out in the 1977 report that the Member States invoke Article 223 (1) (b) of the EEC Treaty (Protection of Member States' security) in justification for the exemptions. They reject the Commission's view that collection of a customs duty does not jeopardize the protection of the essential interests of national security.

3.36. Requests made by officials of the Court to inspect import documents relating to the equipment in question have been refused by the national authorities concerned on grounds of national security. The Court has not found it possible, therefore, to quantify the considerable sums which must be involved, or to verify directly the nature of the equipment and material to which the exemptions are applied. It was noted, however, that in Italy the concession applies to a very wide range of goods imported for the use of the armed forces and even extends to transport and communications equipment imported for the use of the Guardia di Finanza, which, under Italian law, has the status of a military body. In some other countries the concession is applied more restrictively.

3.37. Article 223 (1) (b) is not the most suitable vehicle for the administration of an exemption of this nature involving, as it does, the waiver of substantial amounts of own resources. It is in the interests of the Community and of the Member States themselves that a more satisfactory solution should be found which, while avoiding any risks to national security interests, would permit the application of the present tariff or, alternatively, place the exemptions on a firmer Community footing. Although it is not for the Court to express a preference for one or other of these solutions, it considers that any exemptions granted should be limited to strategic materials and should not extend to goods of the kind mentioned in paragraph 3.36.

Industrial disputes

3.38. During the year under review Ireland and the United Kingdom experienced prolonged industrial disputes which had a bearing on customs duties and agricultural levies. The Irish case involved a postal strike. It was ascertained that the centralization and making available of resources once established were unaffected, but there were inevitable, though unquantifiable, delays in correspondence and procedures which meant that establishment was later than it should have been. The United Kingdom case resulted in a cessation of data processing at the central accounting office. During most of the year, therefore, although duties continued to be assessed, it was not possible to ascertain exact monthly totals from accounting sources. The Member State's monthly payments had to be based on estimates, which were adjusted after the end of the dispute. Because of the backlog that had built up, some of the later months had not been regularized by the end of the year. The adjustments carried out disclosed that, while, for the period as a whole, the estimates were reasonably accurate, in seven individual cases the provisional monthly estimates were lower, in some cases substantially lower, than the final figures, and were higher in three cases. The delay in rectifying the provisional figures ranged up to three months. The Commission has claimed interest under Article 11 of Council Regulation (EEC, Euratom, ECSC) No 2891/77 ⁽¹⁾.

German internal trade

3.39. Own resources derived from customs duties and agricultural levies are a direct result of trade between Community Member States and third countries. It follows that any goods entering the Community from third countries should give rise to own resources unless duty and/or levy is not chargeable by virtue of a zero rate of duty or levy in the tariff, an exemption in the context of a trade agreement or an autonomous Community suspension.

3.40. However, there are other instances where goods may enter the Community from a third coun-

try without payment of a duty or levy. Protocols to the Treaty of Rome provide for special treatment to be afforded to goods imported into the Community in certain circumstances. Examples are the protocol on the treatment of goods imported into France from Morocco and Tunisia and the protocol on German internal trade. In the former case the protocol clearly states that goods imported into France are not in free circulation in the Community if they are re-exported from France to another Member State. But such a stipulation is not present in the protocol on German internal trade, and, as a consequence, goods originating in the German Democratic Republic which arrive in the Federal Republic of Germany are legally in free circulation in the Community. This produces the potentially anomalous situation that goods from the GDR imported directly into a Member State other than the Federal Republic of Germany are liable to customs duties and/or agricultural levies, whereas the same goods imported first into the Federal Republic of Germany and then into another Member State would not be so liable. The protocol on German internal trade thus represents a potential threat to the Community's own resources. However, mechanisms exist to discourage the re-export of goods originating in the GDR from the Federal Republic of Germany to other Member States, and these mechanisms have been the subject of investigations by the Court.

3.41. German internal trade is closely controlled by the Federal authorities. Goods coming from the German Democratic Republic cannot enter the Federal Republic of Germany without an import licence. An import licence is issued only after the Federal authorities have scrutinized the contract governing the purchase of the goods, and have satisfied themselves that the goods are being sold at prices consonant with those prevailing on the internal market of the Federal Republic of Germany. The purchase of certain sensitive goods is further controlled by quota limits, expressed either in value or quantity terms. The quotas are set by the Federal authorities, who take account of the national economic situation, market trends and the various industrial and commercial interests whom they are bound to consult. Examples of goods subject to quota limits are:

- agricultural products,
- iron and steel products,
- aluminium,
- ceramics, china and glass,
- clothing and textiles.

⁽¹⁾ OJ No L 336, 27. 12. 1977, p. 1.

Some 30 % of all goods coming from the German Democratic Republic are subject to quota.

3.42. On arrival in the Federal Republic of Germany, goods from the GDR are subject to customs clearance procedures broadly similar to those applying to goods from other third countries. A customs entry is submitted, and checks are made to ensure that a valid import licence is available and that, where applicable, the quota limits for the goods in question have not been reached. Checks carried out at the frontier are supplemented by further controls based on the accounts of the firms involved in German internal trade. Goods in transit through the Federal Republic of Germany (for example, for re-export outside the Community) are controlled by either a national transit system or, increasingly, by the Community transit system. Warehousing of goods coming from the German Democratic Republic is not normally permitted, and then usually only for goods to be exported outside the Community. Goods entered for home use in the Federal Republic of Germany may, after clearance, be subject to certain end-use controls. Value added tax is charged in the Federal Republic of Germany on goods arriving from the German Democratic Republic, but a special abatement is granted to compensate for consumption taxes levied by the GDR not drawn back at the frontier.

3.43. There are no arrangements for administrative assistance between the Federal authorities and those of the German Democratic Republic in checking the accuracy of declarations on the origin of the goods. Nor is it the general practice in the Federal Republic of Germany to require origin certificates for goods subject to German internal trade arrangements. Serious frauds have occurred in which goods not of GDR origin have been presented as originating in the German Democratic Republic in order to benefit from the special arrangements. The Federal authorities have accordingly stepped up their controls on goods in particularly sensitive categories (for example textiles), but the Court considers the control of origin to be an aspect of the German internal trade arrangements to which the Federal authorities could usefully pay more attention.

3.44. By and large, goods from the GDR sold to the Federal Republic of Germany remain on the Federal German market. This arises partly from the

fact that the purchases are made expressly for the domestic market, and partly from the controls and disincentives which exist to discourage re-exports to other Member States of the Community. These barriers to re-export are of three kinds. First, there is the insistence that the goods be sold at domestic prices. Second, a number of goods are subject to export prohibitions. Third, on re-export from the Federal Republic of Germany traders would have to make good the value added tax benefit granted on arrival of the goods in the Federal Republic of Germany.

3.45. Furthermore, the protocol of the Treaty of Rome permits Member States to take measures to prevent any difficulties arising from German internal trade. This provision could be interpreted as permitting the charging of duties or levies on goods originating in the GDR entering other Member States via the Federal Republic of Germany. The Court's investigations indicate that only France systematically avails itself of the right to take protective measures. It was not clear whether the competent authorities in the other Member States were aware of the possibility of difficulties arising or of the countermeasures available to them under the Treaty.

3.46. The value of the goods which enter the Federal Republic of Germany under the arrangements for German internal trade is not inconsiderable. In 1978 the value of such goods amounted to 1 527 MEUA⁽¹⁾. This represented nearly 1.6 % of total imports from all sources by the Federal Republic of Germany and 25 % of its imports from Eastern European countries. It also amounted to 0.8 % of total intra-Community trade for that year. In the same year, goods to the value of DM 44 million (17 MEUA), purchased from the German Democratic Republic, were exported to other Member States of the Community⁽²⁾.

⁽¹⁾ Source: Eurostat, monthly external trade bulletin, 3-1979.

⁽²⁾ Source: Written question 283/79, OJ No C 105, 28. 4. 1980, p. 1.

3.47. This last statistic suggests that the barriers erected to prevent the outflow of goods subject to the German internal trade arrangements are reasonably effective, representing as it does just over 1 % of the goods entering the Federal Republic of Germany from the German Democratic Republic. But there is nevertheless cause for concern insofar as this figure represents a potential loss of own resources. Also, depending as they do largely on the play of market forces, these measures could lose some of their effectiveness if there were to be any significant change in the relative economic positions of the Member States of the Community. In such an event Member States would have to have recourse to the protective measures envisaged by the protocol in order to minimize the consequences for their economies and for the Community budget.

THE COMMUNITY TRANSIT SYSTEM — ROAD

Purpose of the system

3.48. The purpose of the Community transit system is to permit goods to cross internal Community frontiers with the minimum of formalities and without payment of customs or other charges until they reach their destination. It is applicable to all goods. Two versions of the procedure are used⁽¹⁾, the 'internal' and 'external'. The former is used for goods in free circulation in the Community, on which no customs duties are at stake (although they may be liable to other charges, for example, value added tax or monetary compensatory amounts), while the latter covers all goods not in free circulation and certain goods which, although in free circulation, are to be exported with the grant of export refunds.

Procedures

3.49. Control of goods placed under the transit procedure is both documentary and physical. A set of 'T' forms accompanies the goods from the customs office where the movement begins (office of departure) to the office where it ends (office of destination). Forms accompanying goods under the external procedure are stamped T1, while those used for the internal procedure are stamped T2. The person responsible for the transit operation, or his agent, completes the appropriate set of T forms and presents them with the goods to the Customs at the office of departure. Customs officials carry out any physical checks necessary and stamp the T forms, retaining the top copy (the others travel with the goods). The goods may be sealed.

3.50. When the goods cross an internal Community frontier⁽²⁾ the carrier presents the goods and the T forms to the Customs, and lodges with them a transit advice note (used to determine the country in which the goods are lost if they fail to reach the office of destination). The goods are not examined unless irregularity is suspected (e.g. because of broken seals).

3.51. On arrival of the goods at the office of destination the transit operation is concluded. The goods may then be placed under another customs procedure (for example, entry for free circulation/home use, warehousing, etc.). Any duties payable are accounted for at this stage. The customs record the arrival on the T forms, stamp them, retain the second copy and return the third copy to the office of departure. Receipt there of copy No 3 enables the operation to be formally concluded and the guarantee (see next paragraph) to be discharged, though the principal to the operation remains responsible for any irregularity which may later be discovered.

⁽¹⁾ These comments are concerned only with the standard procedures applicable to goods carried by road; the modified procedures governing sea, air and rail transport are not examined here.

⁽²⁾ Agreements concluded with Austria and Switzerland apply the Community transit system in those countries (with minor modifications). Thus for practical purposes 'internal' frontiers include the borders with Austria and Switzerland.

Guarantees

3.52. The charges to which the goods are liable during the operation are secured by a guarantee entered into by the principal. It may be individual to one operation or comprehensive, covering a number of movements. The former are lodged with the office of departure and give unlimited cover. The latter are lodged with designated guarantee offices and are attested by a guarantee certificate produced at the start of each operation; comprehensive guarantees are calculated as a function of the volume and nature of the principal's operations, and normally cover a fixed proportion of the charges at risk over a period. Guarantee houses also issue flat-rate guarantee vouchers which may be accepted by the customs authorities of the Member States for individual transit operations; these have a ceiling value of 5 000 EUA (7 000 EUA from 1 July 1980).

Regulations

3.53. The Community transit system is based on two main Community Regulations ⁽¹⁾. These regulations are directly applicable in the Member States, who are charged with the day-to-day operation of the system. To this end each Member State issues detailed administrative instructions to its customs services covering all aspects of the transit system. The Court has examined these instructions, and has inspected on a test basis their implementation in the Member States during the course of audit visits to customs offices. These investigations lead to the following comments and recommendations.

Comments and recommendations

3.54. The transit system has two distinct functions. First, it encourages the free movement of goods in the Community by simplifying as far as possible all customs procedures at the frontiers.

Second, it safeguards the duties and taxes (including the Community's own resources) to which the goods covered by the system are liable. The dual nature of the system gives rise to the following dilemma. Increased freedom of movement of goods — e.g. to remove internal Community barriers to trade — calls for the relaxation of controls. Except where they are designed to remove mere formalities, relaxations of controls on goods subject to Community customs charges put revenue at risk. Thus the pursuit of one Community aim — the completion of the Customs Union — could endanger the implementation of another Community policy — the financing of the Community budget from own resources.

3.55. This problem arises, in the opinion of the Court, because the transit system attempts to reconcile within one framework two different situations: first, that of intra-Community trade in those goods in free circulation on which Community moneys are not at stake, and, second, that of goods which need to be controlled until the charges due are levied or, as the case may be, the export refunds and/ or MCAs are paid. The Court recognizes the difficulty of striking a balance between the two aspects of the system, but wishes to point out the risks inherent in the pursuit of trade facilitation to the detriment of revenue protection. It is possible that further relaxation of intra-Community controls will depend on a clearer separation of the two functions and a differentiation of the treatment accorded to goods in the two categories (cf. paragraph 3.61 below).

3.56. This general point apart, the Court wishes to draw attention to certain features of the transit system as it operates at present which would perhaps benefit from reappraisal.

3.57. The physical security of the goods is assured essentially by inspection at the offices of departure and destination and by sealing of the consignment while in transit. However, Article 18 of Council Regulation (EEC) No 222/77 provides only that goods should be sealed 'as a general rule', and in practice the interpretation of this provision in Member States differs widely. Although the Court understands why sealing is not always possible (for example the construction of the vehicle concerned may not lend itself to sealing), it feels that more could be done to harmonize the use of this important back-up to the documentary controls.

⁽¹⁾ Council Regulation (EEC) No 222/77 and Commission Regulation No 223/77 (OJ No L 38, 9.2.1977, p. 1), which replaced earlier regulations.

3.58. An essential feature of the system is the return of the copy No 3 of the T form to the office of departure, thus enabling the operation to be cleared and the guarantee to be discharged.

The Court has found that frequently the return of this form is unreasonably delayed. The reasons for the failure to return the form can range from postal delays to the total loss of the consignment en route. Without the copy No 3 the office of departure has no way of knowing whether the consignment has arrived safely or not. Subsequent enquiries initiated by the offices of departure into the non-return of copy No 3 do not always follow a systematic pattern, or are sometimes simply allowed to lapse. Greater care on the part of offices of destination in returning copies No 3 and a more systematic approach in some Member States to the management of enquiries into their non-return would do much to improve the situation. The Court would be interested to know whether the establishment of central offices to deal with the dispatch and receipt of copies No 3 (as has been done in some Member States) has improved the situation and whether the Commission plans to encourage their extension throughout the Community.

3.59. The correct application of the system depends heavily on the use of customs stamps to authenticate T documents. The advantage to be gained by the fraudulent use of stolen or forged stamps is clear. The Court notes with satisfaction that in most Member States the utmost care is taken over the custody of these stamps. But cases of fraud

occur none the less and it may be that in the longer term an alternative method of authentication should be sought.

3.60. Guarantees do not always cover the full amounts of duty and tax at stake on a consignment. Although, strictly speaking, this should not endanger own resources, which are paid to the Community on the basis of debts established and not of money collected, some Member States do not consider own resources to be established in disputed cases until full payment has been made (cf. paragraph 12.39 (b) of Part I of the Court's Annual Report for 1978). The Commission's comments would be welcomed.

3.61. As was explained in paragraph 3.55, a common T form is used for the external and internal procedures, being differentiated only by the inscription T1 or T2 at the time of completion. The Court is concerned at the risk to own resources of the attribution of the wrong designation by the person completing the form; this fear was confirmed by impressions gained during on-the-spot audits in the Member States. The Court considers this to be an instance where technical progress has been pursued to the detriment of revenue security, and suggests that a clearer distinction should be made between the two sets of form (e.g. by printing them on differently coloured paper). The forms could also usefully incorporate a note reminding the carrier of his obligation to present the goods at the office of destination; investigation has shown that some users of the system are ignorant of this obligation.

CHAPTER 4 — EUROPEAN AGRICULTURAL GUIDANCE AND GUARANTEE FUND, GUARANTEE SECTION

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Summary of principal comments

4.0. The audit of the EAGGF Guarantee Section was essentially concerned with (i) the budgetary management for the financial year 1979 and the repercussions during the past year of earlier budgetary management, following clearance; (ii) certain aspects of the intervention measures in the milk products sector.

(a) 1979 budgetary management:

- | | |
|--|-----------------------|
| (1) the dual nature of the budgetary management of the common agricultural policy, with global advances and detailed expenditure, stretches the rule of specificity, but should not infringe that of annuality | 4.1 to 4.3 |
| (2) the monetary units continued to vary and the nomenclature to be unclear in the 1979 budget and accounts | 4.4 to 4.9 |
| (3) the appropriations for 1979 were altered belatedly and were insufficient to meet the total burden of financing, leaving a deficit of 203.5 MEUA | 4.10 to 4.13 and 4.18 |

Paragraph
reference

- | | |
|--|---------------|
| (4) the appropriations for 1980 were misapplied to finance 1979 expenditure, either temporarily (799.6 MEUA) or permanently (203.5 MEUA) | 4.14 to 4.18 |
| (5) the use of advances by the Member States was either insufficient or excessive, the latter implying financing by the Member States themselves | 4.19 to 4.22 |
| (6) the treasury accounts of the Commission and the Member States have not been reconciled | 4.23 to 4.25 |
| (7) the present procedure for the granting of advances is liable to cause confusion between financial years and thus lead to appropriations being exceeded | 4.26 to 4.30 |
| (8) adjustment of appropriations by transfer is made late, and detailed commitments and charging up of payments are submitted and approved without sufficient appropriations being available | 4.31 to 4.35 |
| (9) it is not possible to draw up a complete expenditure account of the Guarantee Section due to the use of negative appropriations and the adjusting of expenditure against revenue | 4.36 and 4.37 |
| (10) the co-responsibility levy was insufficient to cover the commitments of the milk market development programme in 1979, and the mode of entering these commitments in the accounts creates problems for the future | 4.38 to 4.42 |
| (11) the budgetary accounting of the deductions to finance the register of olive cultivation infringes the rules against allocation and contraction | 4.43 and 4.44 |
| (12) the expenditure chargeable to the financial year, taking into account expenditure anticipated or deferred, exceeds the amount entered in the revenue and expenditure account | 4.45 |
| (b) Clearance of accounts: | |
| (1) the decisions taken in 1979 and the work in progress do not indicate any likelihood of making up the delays already mentioned | 4.46 to 4.48 |
| (2) the system of verification and the decision-making process are in part responsible for clearance being late and lacking finality | 4.49 to 4.51 |
| (3) insufficient regard is had for classifying new items of expenditure for the Communities as exceptional | 4.52 and 4.53 |
| (4) failure to use the clearance system properly has rendered the decision giving discharge practically meaningless | 4.54 and 4.55 |
| (c) Frauds and irregularities: | |
| (1) the application of the Regulation on the prevention and suppression of frauds and irregu- | |

- larities and on the recovery of sums wrongly paid has not produced results as satisfactory as in previous years 4.56 to 4.62
- (2) in spite of the important role assigned to it in the prevention of frauds, the scrutiny by the Member States provided for under Directive 77/435 has by and large not yet been put into effect 4.63 to 4.66
- (d) Community preference in the citrus fruits sector: although the system of the Community has managed to keep the prices of imported products at a suitable level, it has not prevented withdrawal operations in Southern Europe, probably because of the basic structure of the market 4.67 to 4.72
- (e) Management of the milk sector:
- (1) the programme for supplying milk to schools and the measures for selling butter at reduced prices to the armed forces were implemented differently in several Member States and the results have not yet been evaluated 4.73 to 4.86
- (2) measures for the disposal of skimmed-milk powder on the internal market and for its export were adjusted too late to changes in the condition of the market and consequently entailed excessive expense for 1979 4.87 to 4.96

GENERAL INTRODUCTION

The system of budgetary management of the EAGGF Guarantee Section

4.1. The system introduced by the Regulation of 21 April 1970 of the financing of the common agricultural policy ⁽¹⁾ has special characteristics which depart considerably from the rules of the general budget. With regard to Guarantee, these special provisions have been reproduced in essence in a special title of the Financial Regulation applicable to the general budget (Title VIII) and supplemented by implementing regulations.

4.2. The main characteristic of this system is budgetary management at two levels: extensive and detailed.

The extensive budgetary management is carried out within the framework of the appropriations of the Guarantee Section, entered in Titles 6 and 7 of the budget and in Chapter 88 relating to fisheries. Within the limits of these appropriations the Commission decides upon the advances to be granted to the Member States in their national currency, blocks the corresponding appropriations in budgetary units of account (EUA) by means of a provisional global commitment, and effects payment by transfer to the account opened for this purpose at the Treasury or some other financial institution. The financial resources thus placed at the disposal of the Member States enable them to ensure that payment is made by the paying agencies of the expenditure financed by the Guarantee Section in accordance with the regulations and management decisions applicable to each common market organization ⁽²⁾.

The detailed budgetary management is based on the statements made each month by the Member States

⁽¹⁾ Council Regulation (EEC) No 729/70 of 21 April 1970, OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ Commission Regulation No 380/78 of 30. 1. 1978, OJ No L 56, 27. 2. 1978, p. 1.

and broken down by type of expenditure, according to the budgetary nomenclature. This expenditure, converted into budgetary units of account (EUA) is then subject to commitment by chapter, article and item, within a period of two months following the statement, and charging as a payment, in principle within the same period. The adjustments required between the chapters and articles are governed by a special transfer procedure within the Guarantee Section, pursuant to Article 101 of the Financial Regulation⁽¹⁾. These transfers, made without the intervention of the budgetary authority if they are between articles and with the approval of the Council alone if they are between chapters, can be effected until the expiry date for closure of the accounts of the Guarantee Section, i.e. until 31 March of the following financial year.

4.3. This system therefore considerably stretches the budgetary rule of 'specificity', i.e. classification by chapter and article. It has no effect on authorization, since the paying agency acts on the basis of a global advance of funds, and is not in fact applied until after the expenditure has been effected, when it is charged to a budget heading. The budgetary rule of annuality on the other hand, applies to both the extensive management and the detailed management, which means that both must be reconciled in the annual accounts, which are settled on the basis of the payments made up to 31 December by the paying agencies.

Monetary units

4.4. With regard to agriculture, the financial year 1979 was characterized by the use of three different monetary units: the unit of account (u.a.), convertible at the 'green rates' for the application of the common agricultural policy; the ECU, which succeeded it as from 9 April 1979; and the European unit of account (EUA) used for the budget. The expenditure in national currency in the Member States can be calculated by converting the amounts used for the common agricultural policy at the green rates of the u.a. or the ECU. This expenditure is then converted into EUA when it is entered in the budget, since the appropriations of the EAGGF Guarantee Section, are expressed in EUA.

4.5. Recourse to these various units makes it essential to know exactly what effects it has on the budget, i.e. what differences result from the use of

these different exchange rates. Unfortunately the financial year 1979, when the diversity of monetary units in use was at its height, was judged the appropriate moment to delete the chapter 'Expenditure resulting from the application of different exchange rates' from the budgetary nomenclature. The result is that it is no longer possible to measure this effect, which the Court finds regrettable. The Court pronounced itself in favour of separately identifying this financial effect in its opinion of 22 May 1980 on the proposal for a Council Regulation on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy.

Budgetary nomenclature

4.6. The budgetary nomenclature must be sufficiently clear and stable to allow the course of budgetary expenditure to be followed and to enable first the budgetary authorities and then the audit bodies to accurately determine for what purpose the expenditure was made. This is unfortunately not the case with the EAGGF Guarantee Section.

The amendments made once again in the budget for the financial year 1979 to Chapters 62, 68, 69, 71 and 78 show a continuing tendency to instability and have not assisted progress towards greater clarity in the headings.

4.7. It is frequently the case that it is impossible from a simple reading of the accounts to determine the fate of certain appropriations. Item 6200 for example (Refunds on milk and milk products), relating to the financing of exports to non-member countries of the various milk products, is allocated a final appropriation of 1 808 MEUA. A number of different products are involved, and are in fact governed by different rules, but none of the documents recording the implementation of the budget gives the slightest indication of how this considerable sum (nearly one-fifth of the EAGGF, Guarantee Section) was divided among them.

In the same way, it is not possible to separate the expenditure on each of the two different types of measure brought together under Item 6217 (Public storage and special disposal measures for skimmed milk). It includes, in particular, expenditure relating to the sale for export to non-member countries of skimmed-milk powder purchased from the intervention agencies and intended for animal feed, which should rather be classified under refunds. The same applies to Item 6221 (Public storage and special disposal measures for butter stocks).

⁽¹⁾ Financial Regulation of 21 December 1977, OJ No L 356, 31. 12. 1977.

By means of the heading 'Expenditure resulting from the application of different exchange rates' it was possible in the 1977 and 1978 budgets to identify the expenditure connected with the existence of green rates and different budgetary rates, which amounted to 1 153.2 MEUA in 1978. In 1979 the item in question was deleted. While it is true that the difference between the two rates has diminished since the application, from 9 April, of the ECU to the common agricultural policy, some budgetary expenditure is still attributable to it.

The instability of the nomenclature has the further disadvantage that it creates difficulties upon clearance of the accounts in charging to a particular heading expenditure which frequently was made on the basis of a different nomenclature than that of the current financial year.

The accounts for the financial year

4.8. The Court examined all the supporting documents relating to budgetary management, i.e. the management of advances, their entry in the budget,

the detailed commitments and charging as payments. An on-the-spot audit at the Commission departments proved necessary, because the documents forwarded quarterly in accordance with Article 79 of the Financial Regulation were not all originals. In future, the Court must be able to have at its disposal supporting documents with all the approvals, signatures and stamps giving them probatory force.

4.9. As the Court showed in its previous Annual Report, the financial year 1978 was characterized by an excess of appropriations available, which were used up artificially at the end of the year in order to avoid cancelling them or carrying them over, by means of 'anticipated depreciation' of the stocks. The financial year 1979, on the other hand, was characterized by insufficient appropriations, which the departments responsible have tried to make good by various, at times debatable, methods.

The following table (drawn up by the Court) gives a general presentation of the 1979 EAGGF accounts, appropriations, advances, expenditure of the Member States, charging up of payments, on the basis of Titles 6 and 7 of the general budget and Chapter 88 relating to fisheries.

Table 1 — Summary of accounts 1979

(MEUA)

1	2	3	4
Appropriations of the financial year	Cash position of Member States at 1. 1. 1979 27.8	Expenditure declared by Member States for:	Charging up of payments for:
Budget 9 602.1	Advances to Member States for:	— January 778.0	— January 778.0
Amending and supplementary budget No 3 802.0	— January 928.3	— February 802.02	— February 802.2
	— February 827.6	— March 925.4	— March 916.7
	— March 829.5	— April 813.0	— April 807.4
	— April 857.0	— May 1 129.1	— May 1 120.9
	— May 992.7	— June 1 013.7	— June 1 007.6
	— June 1 036.4	— July 1 025.5	— July 1 023.7
	— July 959.2	— August 868.5	— August 868.5
	— August 955.1	— September 693.7	— September 693.7
	— September 1 032.0	— October 869.7	— October 869.7
	— October 755.7	— November 699.9	— November 699.9
	— November 242.4	— December 809.7	— December 606.2
	9 415.9	— 2nd Category (December and amendment of 20. 2. 1980) 215.7	— 2nd Category (December and amendment of 20. 2. 1980) 215.7
	Special advances for:		
	— April Netherlands 44.3		
	— April Belgium 20.2		
	— May Belgium 21.9		
	— May Denmark 14.3		
	— May Italy 44.1		
	— June Netherlands 32.8		
	— September Denmark 9.6		
	187.2		
	Total appropriations made available (cash + advances) 9 630.9	Total expenditure declared by Member States 10 644.1	10 410.2
	Corrections to advances following exchange differences on balances 4.0	Amendments relating to clearance of accounts	Amendments relating to clearance of accounts
		— 1971/1972 11.9	— 1971/1972 11.9
		— 1973 { -32.3	— 1973 { -32.3
		+14.3	+14.3
		- 6.1	- 6.1
Total appropriations of financial year 10 404.1			Total charging up of payments against appropriations of the financial year 10 404.1
Appropriations of previous financial year			Charging up of payments against appropriations of previous financial year
Non-automatic carry-over 30.4			— March 8.7
			— April 5.6
			— May 8.2
			— June 6.1
			— July 1.8
			30.4
Total appropriations available 10 434.5	Global commitments, payments 9 634.9	Total expenditure of Member States 10 638.0	Total charging up of payments 10 434.5
	Difference 799.6:		Difference 203.5:
	Global provisional commitment 20. 12. 1979		Budget deficit charged to financial year 1980

MANAGEMENT OF THE ADVANCES

Determining the appropriations

4.10. Together with the non-automatic carry-over of appropriations from 1978 ⁽¹⁾ a total of 10 434.5 MEUA was allocated to the expenditure of the Guarantee Section in 1979. The utilization of these appropriations in the course of the year was marked by four phases, described below, which resulted in the budgetary appropriations being exceeded.

First phase: utilization and exhaustion of the initial appropriations

4.11. The cash in hand of the Member States at 1 January 1979 amounted to 27.8 MEUA. This sum was globally committed against the appropriations of the financial year, without the Commission having first cancelled it under the financial year 1978, as required by Article 100 (2) of the Financial Regulation. To it were added the monthly advances, representing the initial appropriations available (9 603.7 MEUA).

Two features became apparent from the very beginning of the financial year: (1) Already in January, the volume of each advance was higher, often considerably so, than one-twelfth of the annual appropriations. This level could obviously not be maintained throughout the year. (2) The first six months' expenditure in the Member States was at the level of the advances paid, and the appropriations available represented no more than 4 171.1 MEUA, i.e. 43.4 % of the total.

All signs therefore pointed to a shortfall of appropriations for the end of the year, given the rise in prices and the high cost of the measures for disposing of the stocks of milk products.

4.12. This situation should have moved the Commission to act by July at the latest, by submitting a request for a supplementary budget. In fact, the shortfall in appropriations was announced much too late, on 12 October 1979 at the 202nd meeting of the EAGGF Committee, at a point when the appropriations available had been reduced to 244 MEUA, the difference between the initial appropriations and the advances paid. This amount was clearly insufficient to meet financing requirements until the end of the year.

One reason given was 'the unforeseeably high expenditure on exporting milk products'. The weakness of this argument should have caught the attention of the members of the committee. While there do exist expenses which are undeniably irreducible, there are others which can be influenced by the decisions of the Commission. Refunds on the export of milk products fall within this category insofar as the Commission can, by manipulating the rates, encourage or slow down this type of export. The Commission implicitly recognized this itself: in 1979 its representative stated to the management committee responsible that exports of milk products had been encouraged in order to reduce excess stocks. The example of milk powder (see paragraphs 4.87 to 4.96 of this report) suggests that this increase in expenditure does not necessarily constitute a satisfactory use of Community funds.

4.13. The Commission submitted a supplementary preliminary draft budget to the budgetary authority on 16 October 1979, i.e. after the deadline of 1 September set by Article 1 (5), third subparagraph, of the Financial Regulation. The decision on advances apart from premiums ⁽²⁾ for the month of November, that was taken on 17 October 1979, indicated that, for financing requirements reckoned at 654.15 MEUA, a sum of 239.3 MEUA would be made available to the Member States. This sum, plus 3.1 MEUA for the advance for premiums ⁽²⁾, i.e. 242.4 MEUA, practically exhausted the last available appropriations.

The rest was to be paid later, after approval of the supplementary budget.

There was therefore a danger of liquidity problems in the Member States, given the time needed to complete the procedure of a supplementary budget. At the 204th meeting of the EAGGF Committee, on 13 November 1979, it was stated that the needs of the Member States 'would be covered on a *pro rata* basis from the appropriations becoming available'.

⁽¹⁾ The whole of this carry-over of 30.4 MEUA made under Item 6240 (Financial contribution by the Guarantee Section to premiums for non-marketing of milk and premiums for conversion) was used during 1979 for the payment of premiums. Since 60 % of the premiums were financed by the Guarantee Section and 40 % by the Guidance Section, and since the uncommitted differentiated appropriations of the Guidance Section were available for the following financial year, a non-automatic carry-over had been decided upon for the uncommitted appropriations of the Guarantee Section from 1978. There are no carry-overs to the financial year 1980.

⁽²⁾ Premiums for the non-marketing of milk and for conversion, calculated separately.

The Commission's inefficiency thus led directly to the budget being managed under abnormal conditions in the last months of the year.

At this stage the total advances paid to the Member States from the beginning of the financial year amounted to 9 630.5 MEUA, while the appropriations available were 9 632.5 MEUA, leaving appropriations of 1.6 MEUA. If the calculation is made on the basis of actual expenditure, i.e. taking into account exchange differences, which in 1979 were not entered in the accounts until the end of the financial year, the total paid amounted to 9 634.9 MEUA. Thus in November, the budget appropriations had already been exceeded by 2.4 MEUA.

Second phase: anticipated use of the 1980 appropriations

4.14. To ease the shortage of appropriations, for which the relief of a supplementary budget was slow in coming, the Commission, in reliance on Article 7 (2) of the Financial Regulation, decided to grant an advance of 2 126.2 MEUA 'to cover the expenditure of the paying authorities and agencies until the end of January 1980'. This advance was charged against the appropriations of 1980.

On the basis of this formula the Member States used the sums thus made available to them from the appropriations of the coming financial year to effect current or pending payments related to the 1979 financial year. The Commission therefore found itself in the paradoxical position of encouraging additional payments at a time when it had no appropriations available and approval of the supplementary budget was not certain. The Member States, for their part, were justified in not stopping payments for 1979, since no limit had been assigned to them.

4.15. The procedure followed to implement this advance appears dubious. The Commission decision is dated 5 December, as are the proposal for global commitment and the payment order. The payment order was approved by the Financial Controller on 6 December, but the proposal for commitment only on 11 January 1980. The advance was made available to the Member States on 10 December. Under these circumstances, the Court questions the validity of the payment made.

Third phase: use of the supplementary appropriations of 1979

4.16. On 13 December 1979, supplementary and amending budget No 3 for the financial year 1979 was voted, increasing the appropriations of the Guarantee Section by 802 MEUA. It thus became possible theoretically to rectify the situation on the basis of the appropriations of the financial year.

This was done (but only within the Community administration and without the Member States being informed) in the following manner: a proposal for a provisional global commitment of 803.6 MEUA was issued on 20 December 1979. The approval of the Financial Controller was given on 28 December 1979. Thus the whole of the supplementary appropriations (802 MEUA) and of the remaining appropriations (1.6 MEUA) was globally committed for 1979, and therefore could be charged as detailed payments until 31 March 1980. At the same time, the Commission decommitted the advance paid against the 1980 appropriations, an amount corresponding to the previous commitment, namely 803.6 MEUA. The approval of the Financial Controller was given on 11 January 1980. This procedure shows that the decision to make an advance for January 1980 was indeed intended to cover, in part, the financing requirements of the months of November and December 1979.

4.17. The Court is uncertain as to the validity of this procedure which amounts to amending a previous decision on advance payment and taking a new one on the basis of the appropriations of a different financial year, without respecting the same formalities, in particular consultation of the EAGGF Committee. In the absence of a formal decision by the Commission to make an advance, the 799.6 MEUA applied to the last advance of the financial year⁽¹⁾ may be considered as having been made available to the Member States by a procedure contrary to the provisions of the Financial Regulation and of Regulation No 729/70. The same applies for the subsequent charging as detailed payments, for the same amount.

Further, the 1.6 MEUA representing the remaining appropriations of 1979 appear to have been mistakenly decommitted. The payment order for the advance of 2 126.3 MEUA of 10 December bore a reference to the financial year 1980 only. The 1.6 MEUA was therefore not included and there was no reason to decommit it.

⁽¹⁾ Of the 803.6 MEUA committed globally, 4 MEUA were reserved to cover cumulative exchange rate differences charged as payment at the end of the financial year. Only 799.6 MEUA remained available for the expenditure of the Member States.

In sum, the consequence of these operations was that the Member States remained with the amounts advanced to them on 10 December, as appropriations of the financial year 1980, which they used without distinction in payment of their 1979 (November and December) and 1980 (January) expenditure.

Fourth phase: acknowledgement of exceeding the budget appropriations of the financial year 1979 and carry-over of the deficit to the financial year 1980

4.18. The consequences of this management were drawn upon closing the accounts of the financial year. The total expenditure of the Member States was 10 638 MEUA. The total appropriations available during the financial year, and commitments charged as detailed payments, were 10 434.5 MEUA. The difference of 203.5 MEUA is the amount by which the budget appropriations of the financial year were exceeded. A payment order for this amount, i.e. 203 483 472.63 ECU exactly, was made for charging the excess expenditure of the financial year 1979 against appropriations of the financial year 1980 under Item 6200 (Refunds on the export of milk products).

This decision contravenes Article 203 of the Treaty establishing the European Economic Community which lays down the rule of the annuality of the budget, and Article 205 which states: 'The Commission shall implement the budget ... on its own responsibility and within the limits of the appropriations.'

These rules in respect of the management of advances also apply both to global provisional commitments which, according to Article 96 of the Financial Regulation, should remain within the limits of the appropriations entered in the Guarantee Section, and to the ensuing payments which, according to Article 4 (2) of Regulation No 729/70 represent 'appropriations' made available to the Member States. The fact that the expenditure to be covered by these appropriations is considered as compulsory under the Treaty or the instruments adopted in accordance with the latter, does not mean that this expenditure may exceed the total appropriations set by the budgetary authority.

Remark of the Court on the reply of the Commission to paragraphs 4.14 to 4.18

Articles 5 and 7 of the Financial Regulation, referred to by the Commission in paragraphs (c) and (e) of its reply, do not authorize the Commission to disregard the constraints of the budgetary law. By its very terms this constraint limits expenditure to the appropriations available and the latter constitute a ceiling on the payment of advances for a given financial year.

Under these circumstances it is a fallacy to suggest that this fundamental constraint could be affected by one whereby 'under the current CAP rules those carrying out operations under the CAP have a right to payment upon completion of those operations'. The Commission's own powers of management allow it sufficient initiative and room for manoeuvre to be able to contribute effectively to limiting the cost of this policy, without having to touch upon the wider problem of institutional powers, i.e. of coordinating budget decisions with agricultural decisions. Had it acted differently in regard to the disposal of stocks of skimmed-milk powder, the Commission could have remained within the budgetary appropriations in 1979 (cf. paragraphs 4.87 to 4.96 following).

Utilization rate of Community funds by the Member States

4.19. The changes in the Community accounts have repercussions in the accounts of each Member State.

These repercussions, and the manner in which the provision of Article 4 (2) of Regulation No 729/70 that the Member States shall ensure that the funds are used without delay and solely for the purposes laid down has been applied, may be analysed with the help of Table 2.

Table 2 — Rate of utilization of advances

Member States	Monthly average for the year						As at 31. 12. 1979		
	Average funds available for one month		Average balance remaining after month's expenditure		Average utilization rate ⁽¹⁾		Total advances ⁽³⁾ made available	Expenditure declared	Utilization rate at 31. 12. 1979
	MEUA	National currency (thousands)	MEUA	National currency (thousands)	% (1)-(3) (1)	% (2)-(4) (2)	MEUA	MEUA	% (8) (7)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Belgium	86.3	3 457.5	19.7	793.6	77.0	77.2	790.4	800.9	101.3
Denmark	62.6	444.1	- 1.7	- 12.4	102.7	102.7	767.7	780.9	101.7
FR of Germany	256.4	580.3	50.8	128.2	80.2	77.9	2 462.9	2 512.8	102.0
France	242	1 407.9	33.6	195.1	86.1	86.1	2 458.1	2 516.6	102.4
Ireland	53.2	35.6	4.0	2.7	92.5	92.4	573.9	591.7	103.1
Italy	175.8	199.2 ⁽²⁾	65.8	74.5 ⁽²⁾	62.6	62.6	1 305.7	1 321.2	101.2
Luxembourg	1.9	77.6	0.8	33.2	57.9	57.2	13.5	13.6	100.7
Netherlands	118.5	325.5	- 12.0	- 32.3	110.1	109.9	1 542.5	1 570.7	101.9
United Kingdom	59.7	39	16.0	10.6	73.2	72.8	525.9	535.7	101.9
Total	1 056.4		177.0		83.2		10 440.6	10 644.1	101.9

(1) Discrepancies can exist between the two amounts because of exchange differences.

(2) Thousand millions.

(3) Including commitment of 799.6 MEUA and results of clearing accounts of 6.1 MEUA.

4.20. Comparison of the average rates of utilization of Community funds with the rates of the previous year (cf. 1978 Annual Report, paragraph 2.16) reveals a change in the relative positions of the Member States. While the average monthly rate of utilization rose to 83.2 % from 77 % of the previous year, the number of Member States who permanently benefited from a positive cash balance from funds drawn on the EAGGF increased considerably. In addition, two Member States instead of one had several times to effect expenditure in excess of the funds drawn on the EAGGF increased considerably, itself abnormal and serves to raise the general average utilization rate. The rate of utilization among the other Member States varies from 57.9 % to 92.5 %. These figures reflect the tendency of the Member States to artificially inflate their requests for advances in the months preceding the shortage of budget appropriations.

The average notwithstanding, individual Member States did at times have negative cash balances:

the Federal Republic of Germany on 1 January, France in July, Ireland in July, August and October, Italy in March and April, Luxembourg in July, the United Kingdom in August, the Netherlands and Denmark more frequently.

4.21. Unlike the previous year, all the utilization rates at 31 December are higher than 100. This abnormal situation is due to the budget deficit at the end of the financial year and reflects the fact that the Member States used, admittedly in varying measure, the appropriations of the financial year 1980 to cover the expenditure of the financial year 1979.

4.22. These events should have led the Commission to periodically re-evaluate the actual requirements of the Member States for the rest of the year in the light of expenditure incurred. Such a re-evaluation would provide a sound basis for estimating more accurately the advances to come. It would have been particularly useful in 1979.

Discrepancies between the accounts of the Commission and those of the Member States

4.23. On-the-spot examination of the accounts of the Commission revealed that the figures in their statements of the cash position submitted by the Member States together with their monthly requests

for advances were different from those calculated by the Commission for each Member State.

By way of example, the following table shows for the cash balances at 31 December 1979 the figures supplied by the Member States and those appearing in the Commission accounts.

Table 3 — Difference between the cash position given by the Member States and by the Commission

(in national currency) (millions)

Member States	at 31 December 1978			at 31 December 1979		
	According to Member State ⁽¹⁾	According to Commission	Difference	According to Member State ⁽¹⁾	According to Commission	Difference
Belgium	163.7	169.2	- 5.5	- 417.2	- 417.2	0
Denmark	85.3	61.4	+ 23.9	- 66.2	- 90.0	+ 23.8
FR of Germany	- 7.1	- 38.0	+ 30.9	- 128.9	- 146.4	+ 17.5
France	⁽²⁾	237.3	⁽²⁾	- 364.5	- 340.2	- 24.3
Ireland	2.8	3.3	- 0.5	- 11.9	- 11.8	- 0.1
Italy	⁽²⁾	- 8 895.7	⁽²⁾	⁽²⁾	- 1 813.6	⁽²⁾
Luxembourg	119.2	2.4	+ 116.8	38.1	- 5.2	+ 43.3
Netherlands	- 52.8	- 50.4	- 2.4	- 78.1	- 76.0	- 2.1
United Kingdom	0.3	0.9	- 0.6	- 6.4	- 6.1	- 0.3

⁽¹⁾ Excluding the advance for the following January and including the corrections made by the Commission.

⁽²⁾ Certain Member States did not submit a final statement of the cash position.

4.24. The causes of this discrepancy are complex and require research over several of the past financial years.

One of them is the fact that certain corrections to the accounts, which are made by the Commission and sent to the Member States around May by letter, are not always taken into consideration by the Member States. During this exchange of information, the sums in dispute are placed in a suspense account.

On the other hand, certain corrections made by the Member States are not taken into account by the

Commission. This was the case this year with Italy. As it had always done previously, this Member State in November 1979 sent an amended statement of expenditure for the financial year 1978. The Commission was unable to acknowledge these corrections, due to the new provisions of Regulation No 380/78. As the Court had mentioned in its previous report (1978 Annual Report, paragraph 2.9), the exact amount of expenditure by Italy can only be known a year late. Its national accounting rules provide for a final approval procedure. For various reasons, this procedure cannot be completed until the last quarter of the following year, on the basis of a statement of cash accounts drawn up by the provincial treasuries from the payments actually made. Its national system therefore leads Italy, notwithstanding the provisions of Regulation No 380/78, to

submit an amended statement which can only be taken into consideration upon clearance of the accounts.

4.25. The discrepancies between national and Community accounts in the matter of cash holdings should not in principle be rectified at the time of the clearance decisions. The latter are concerned only with verifying that the expenditure of past financial years is chargeable to the budgetary headings, not with verifying the statements of cash holdings, and are in any case made very much later. On the other hand, insofar as the aim is to draw present consequences from the discovery of past errors, in other words to recover or pay back cash funds which were excessive or inadequate in the light of the new, cleared accounts, the act of clearance can be a cause of part of these discrepancies, as paragraph 4.49 below explains.

In general terms, it does not appear acceptable that there should continue indefinitely to be differences between the account of a Member State that the Commission keeps in its central accounts and the account opened by the same Member State by virtue of Article 1 of Regulation No 380/78. It is for the Commission to take the necessary measures, in conjunction with the national authorities concerned.

Remark of the Court on the reply of the Commission to paragraphs 4.23 to 4.25

Until the clearance decision has been taken, the Commission has no efficient means of checking and, where necessary, adjusting the accounts opened by the Member States to receive the funds needed for guarantee expenditure. In this respect, the provisions regarding the account referred to in Article 1 of Regulation No 380/78 appear inadequate.

Comments on the procedure for granting advances

4.26. The succession of faults found in the management of the 1979 appropriations — late adjust-

ment of budget appropriations, confusion of advances chargeable to two successive financial years, carry-over of 203.5 MEUA to 1980 — raises the question of the actual working of the system of advances itself, as based on Council Regulation (EEC) No 729/70 and Commission Regulation No 380/78.

4.27. (a) The Member States are charged with ensuring proper management of the Community funds made available to them and that these funds are used without delay and solely for the purposes laid down. They must justify their applications by submission of statements of their cash position and estimates of their future expenditure in accordance with the terms of Article 3 of Regulation No 380/78. This should mean that the Member States are formally responsible for the factual basis of their applications and that the Commission for its part can verify and if necessary question the grounds given. Consequently its decision to grant the funds will be final, as part of its general responsibility in the implementation of the budget. Convention, however, appears to have sanctioned both excessive flexibility in the submission of the applications, which are often made at the last resort in the EAGGF Committee, and the abusive practice of granting funds as a matter of course, which leads in particular to the pro rata reduction of all applications when there is a shortage of funds.

4.28. (b) Internal financial control has not helped to regulate the system of advances better, and one may well ask why. Normally, the Financial Controller first intervenes after the decision of the authorizing officer on the proposal for commitment. The purpose of his approval is described in general terms in Article 34 of the Financial Regulation but, as far as the EAGGF Guarantee Section is concerned, he is limited by Article 96 to establishing that the global commitments correspond to the amount of the advances decided by the Commission and that they are within the limits of the total amount of appropriations of the Guarantee Section. In practice, the Financial Controller gives 'advance approval' at the meeting of the EAGGF Committee, and thus prior to the decision on the advance taken by the Commission. The example of 1979 shows that this practice led to the premature involvement of the Financial Controller, robbing of all significance the approval of the proposals for commitment and subsequent payment orders, which was then given as a pure formality.

4.29. (c) The complexity of the legislative rules, and their ambiguity on certain points, has led the Commission to interpret them to its own convenience, which is by no means the strict interpretation.

By Article 5(2) of Council Regulation (EEC) No 729/70, the Commission is to decide 'at the beginning of the year' on an advance payment not exceeding one-third of the appropriations entered in the budget. Article 7 of the Financial Regulation for its part provides that the advances intended to finance the expenditure of the Guarantee Section may (as an exception to the general rule that the appropriations cannot be committed before the budget has been finally adopted, with effect from 1 January) not only be decided and committed, but 'paid' from 10 December onwards.

It is by no means clear that these two provisions are compatible, either as to the dates or the situation to which they refer: whether the budget has been finally adopted or not. At all events, they cannot be read so as to allow advances chargeable to the coming financial year to be used to cover the expenditure of the present financial year.

The possibility of confusion was introduced by Regulation No 2697/70 ⁽¹⁾ as amended, replaced by Regulation No 380/78 (Commission regulations) which set up a system designed to ensure continuous cash facilities of at least one month for the Member States on the basis of estimates of expenditure covering three months running, without taking the precaution of distinguishing in good time between the advances chargeable to one financial year and another.

The very terms of the decisions on advances sanction this confusion in stating that they are 'intended to cover the financing requirements of the paying authorities and agencies until the end of the quarter as provided by Article 3(2)(b) second indent, of Regulation No 380/78'. Thus the regular decision on the advance in December, in reliance on Article 7 of the Financial Regulation, states simply that it is 'to cover the expenditure of the authorities and agencies until the end of January'. The notification to the Member States by telex is no more precise.

On the other hand, the proposals for provisional global commitment and the payment orders, which are the acts of the authorizing officer translating the decision on advances into budgetary terms, neces-

sarily refer to the financial year charged. Those that followed the Decision of 5 December 1979, in effect from the 10th, expressly referred to the financial year 1980, although they concerned an amount which it was clear to all was intended in part to cover the expenditure of 1979.

Thus the mechanism used, which amounts to considering solely as a cash advance what is in reality the global grant of funds chargeable to the budget of a specific financial year, contains within itself the risk of exceeding the appropriations available, which in fact materialized in the management of the 1979 appropriations.

4.30. In conclusion, the Court cannot emphasize too strongly the need to revise the legislative provisions governing the management of the advances, which constitutes the central system of financing of the Guarantee Section. Whatever solution is envisaged by the Commission, upon whose initiative this reform depends, it should ensure effective supervision of the available Community cash funds in the Member States and reconcile the desire for continuity in financing with the need to respect the limit of budgetary appropriations.

MANAGEMENT OF DETAILED APPROPRIATIONS

Adjustment of detailed appropriations

4.31. The transfers decided by the Commission and the Council pursuant to Article 101 of the Financial Regulation amounted to 1 022.4 MEUA in total, i.e. 9.8 % of the total EAGGF Guarantee Section expenditure. Only one part of these transfers, 170.5 MEUA, altered the distribution of appropriations between the chapters and thus between the various markets. Changes began to mount with the adoption of the supplementary budget in December 1979 and resulted in a new distribution of the expenditure between the markets at the end of the financial year.

Table 4 gives the broad outline of these changes.

⁽¹⁾ OJ No L 285, 31. 12. 1970, p. 63.

Table 4 — Transfers

Chapters	Initial appropriations	Supplementary budget	Appropriations after supplementary budget	Transfers	Final appropriations
Cereals	1 874.2	-300.0	1 574.2	- 8.6	1 565.6
Rice	41.4	0	41.4	+ 1.3	42.7
Milk and milk products	3 717.6	+742.0	4 459.6	+31.4	4 491.0
Oils and fats	522.9	+ 70.0	592.9	+13.4	606.3
Sugar	1 004.6	0	1 004.6	-64.8	939.8
Beef and veal	488.3	+220.0	708.3	+39.5	747.8
Pigmeat	84.9	+ 10.0	94.9	+ 9.4	104.3
Eggs and poultrymeat	41.2	+ 25.0	66.2	+13.3	79.5
Fruit and vegetables	326.5	+ 90.0	416.5	+25.0	441.5
Wine	119.4	- 25.0	94.4	-33.1	61.3
Tobacco	262.0	- 50.0	212.0	+13.5	225.5
Fisheries	20.0	0	20.0	- 3.0	17.0
Other CMO	112.5	0	112.5	+ 7.7	120.2
Non-Annex II	176.2	+ 60.0	236.2	+16.0	252.2
ACA	1.2	0	1.2	- 0.1	1.1
MCA	809.2	- 40.0	769.2	-60.9	708.3
Total	9 602.1	802.0	10 404.1	0	10 404.1

Note: This table does not show the carry-over of appropriations from the financial year 1978.

4.32. The Commission proposed a preliminary draft supplementary budget on the basis of the appropriations initially adopted in the 1979 budget. The distribution of these appropriations between the budgetary headings had however been altered by the initial series of transfers already decided upon. The presentation was not in the spirit of Article 1 (5) of the Financial Regulation, which provides that the supplementary budget shall be adopted in the same form and according to the same procedure as the initial budget and must be substantiated by reference to the existing budgetary appropriations.

Even admitting that the budgetary authority had been regularly informed of the transfers already adopted in accordance with Article 101, Article 12, which lays down the conditions for the presentation of the initial preliminary draft budget, requires that it be provided with an accurate and up-to-date statement of existing appropriations, so that a decision can be taken with full knowledge of the facts.

Remark of the Court on the reply of the Commission to paragraph 4.32

It is true that, when the budgetary authority adopts a supplementary or amending budget, it must do so by

reference to the initial appropriations, but the appropriations requested can only be justified in the light of the transfers already made. Retaining the current practice means having the budgetary authority adopt in the supplementary budget appropriations which have already lapsed.

4.33. The Court must again point out that on the occasion of its last series of transfers requiring the agreement of the Council, the Commission submitted its proposals outside the statutory time-limits, which meant that the Council could not take a formal decision before 31 March as required by Article 101 of the Financial Regulation.

Besides the fact that this practice is irregular, it has the serious disadvantage of creating legal uncertainty as to the exact distribution of appropriations between the various items as long as the Council has not rectified the situation by adopting or refusing the transfers or the Commission has not expressly concluded that approval is deemed by the absence of a Council decision.

The Commission in its reply to a similar comment in paragraph 2.5 of the Court's Annual Report for the financial year 1978 ⁽¹⁾ acknowledged that it was very difficult to comply with the deadlines laid down by Article 101 of the Financial Regulation since it does not know what appropriations have been used until it receives the Member States' statements, which are to be sent by 20 February. It is for the Commission to alter the time-limit for submission of changes in second category expenditure, which was set by itself in Regulation No 380/78, to accord with the provisions of the Financial Regulation.

Detailed commitments and charging as payment

4.34. The audits carried out have revealed the following anomalies:

- (a) Although by Article 97 of the Financial Regulation detailed commitment should be made within two months and charging as a payment should in general be carried out within the same period following receipt of the monthly statements of expenditure forwarded by the Member States, it was found that some of these operations were carried out over periods ranging between 67 and 174 days. The lapse in time from the date of expenditure in the Member States is even greater due to the persistent lateness with which the Member States submit their monthly statements and in certain cases amend them. The Court would like to know the cause of these delays.
- (b) Expenditure was committed in detail and charged as a payment under many items despite the insufficiency of the appropriations available. A distinction should be made between the two methods adopted to rectify this situation, i.e. to decommit additional appropriations and enter them under the headings concerned:
 - (1) by effecting transfers within chapters: since a Commission decision is sufficient in this case, the irregularity was innocuous;
 - (2) by effecting transfers from one chapter to another: since a Council decision is required in this case, the irregularity was more serious since it anticipated a decision by another authority.

The sums involved amounted to 849.8 MEUA in the first case and 770.2 MEUA in the second, i.e. a total of 1 620 MEUA. The most important examples concerned Item 6 200 (Refunds on milk and milk products) with 337.8 MEUA and 220.1 MEUA respectively, Item 6 500 (Refunds on beef and veal) with 70.8 MEUA and 24.3 MEUA, and Item 6 822 (Premiums for the processing of fruit and vegetables) with 163 MEUA and 20.2 MEUA.

Problem of 'qualified' approvals

4.35. In the above cases, the insufficiency of appropriations available should have led the Financial Controller to withhold approval. As to the expenditure for January, February, October, November and December, committed in detail and charged as payment, the Financial Controller, aware that the appropriations had been exceeded, qualified his approval in such a manner as to make his financial control conditional, and thus divest it of its absolute character.

The practice does not comply with Articles 34 and 43 of the Financial Regulation which require the Financial Controller to examine the regularity and conformity of the proposals for commitment and payment orders, with reference to the provisions applicable and the principles of sound financial management. Articles 35 and 44 of the same regulation treat the lack of available appropriations as a special case, since in that instance refusal on the part of the Financial Controller to grant his approval cannot be overruled.

It is true that the approvals granted in respect of the detailed commitment and payment operations under the EAGGF Guarantee Section do not have the same weight as in the general situation considered in the Financial Regulation since they involve the entry *ex post facto* of expenditure already made. This situation once again shows that many aspects of the Financial Regulation are unsuitable for the special financing rules of the Guarantee Section. It is not, however, for the Financial Controller to subjectively interpret such absolute rules, but rather for the Commission to propose the necessary amendments.

Remark of the Court on the reply of the Commission to paragraph 4.35

Approval does not cease to be obligatory for the stage of commitment and payment in detail simply because a prior approval was given when the global advances were made to the Member States.

⁽¹⁾ OJ No C 326, 31. 12. 1979, p. 11.

Moreover, there is no article in the Financial Regulation which authorizes 'qualified approvals'. If there are insufficient appropriations, then until such time as this can be remedied by a transfer, the solution is to refuse approval on the grounds of insufficiency of appropriations, and not to grant approval subject to the necessary appropriations being made available later by transfer or other means. Where it concerns transfers from one chapter to another, the practice in question amounts to presuming the existence of a Council decision that has not yet been taken.

Negative appropriations and adjusted expenditure

4.36. The budgetary rule of universality is in principle applicable to the general budget of the Communities, in respect of which Article 3 of the Financial Regulation states that 'all revenue shall be used to cover all expenditure'. This general principle results in two further rules: the rule against contraction, by which all revenue and expenditure must be entered in full in the budget and in the accounts; and the rule against allocation which prevents a certain receipt being assigned to cover a specific item of expenditure.

The exceptions to these principles, which are specifically stated in the Treaties, are restated in an exhaustive list in Article 22 of the Financial Regulation.

4.37. A number of provisions relating to the EAGGF Guarantee Section depart from these rules. They result in the collection of revenue which is not entered in the accounts as such, but is adjusted at some stage against expenditure and by the same token allow its re-use amounting to allocation. This applies to

- (a) monetary compensatory amounts collected,
- (b) co-responsibility levy,
- (c) recovery of sums wrongly paid,
- (d) security retained for failure to complete operations guaranteed thereby,
- (e) corrections charged as under-expenditure when clearing the accounts.

Some of these accounting operations are expressly mentioned in the Financial Regulation: (e) by Article 99, and (c) by Article 22 (1) (b) and (2) (a). Others are mentioned only in the budgetary nomenclature or by other Council regulations: (a) (b) and (d).

Sometimes the actual amounts of the revenue appear as negative appropriations (estimated revenue) and as negative expenditure (revenue) under specific headings in the budget and in the accounts: this is the case with the co-responsibility levy. Sometimes negative amounts appear under such headings but are themselves the balance of adjustments made at a previous stage: this is the case with monetary compensatory amounts.

Sometimes the adjustments are made by the Member States themselves and do not appear in their statements of expenditure: for example, recoveries or security retained.

The principal outcome of these practices is to understate the real expenditure of the EAGGF Guarantee Section for a given financial year and make it practically impossible to draw up a complete account thereof.

Management of the co-responsibility levy and programme

4.38. The financial contribution of milk producers provided for by Regulation (EEC) No 1079/77⁽¹⁾ of 17 May 1977 and the expenditure to promote the expansion of markets for milk products pursuant to Article 4 of the same Regulation are entered under Articles 628 and 629 respectively of the budget. In accordance with Article 4, the utilization programmes give rise to periodic communications from the Commission to the Council.

The allocations of the initial 1979 budget more or less as follows:

Article 628	Financial contributions by milk producers	- 30.9 MEUA
Article 629	Measures to expand the market	+ 30.9 MEUA

The budgetary presentation would seem to imply that there is a set-off between these two Articles within Chapter 62. The changes in the budgetary entries during 1979 did not bear out this initial balance.

⁽¹⁾ OJ No L 131, 26. 5. 1977, p. 6.

4.39. Changes under Article 628 'Financial contributions by producers'

Table 5 — Changes under Article 628 'Financial contributions by producers'

(MEUA)

	Initial budget 15. 12. 1978	Transfer authorized 1. 10. 1979	S and AB No 3 (*) 13. 12. 1979	Appropriations before adjustment 9. 4. 1980	Transfer authorized 9. 4. 1980
base movement	- 30.9	- 30.9 - 40	- 30.9 - 65.1	- 96 - 40	- 136 + 41.8
new amount		- 70.9	- 96.0	- 136	- 94.2

(*) Supplementary and amending budget No 3.

The Commission estimated the revenue of Article 628 of the initial budget on the basis of the levy rate of 0.5 % of the target price of milk applicable to the milk year 1978/79, i.e. theoretically until March 1979. Taking into account the possibility introduced by Council Regulation (EEC) No 1001/78 ⁽¹⁾ of fixing the amount of the co-responsibility levy between 0 and 4 % the Commission did not consider itself authorized to provide for revenue beyond 31 March 1979.

Consequently, the retention of a levy of 0.5 % for the year 1979/80 — decided on 25 June 1979 ⁽²⁾ —

necessitated reassessment of the revenue. The first transfer of - 40 MEUA on 1 October 1979 recorded a rate of receipts equivalent to about 8 MEUA per month and brought the appropriation to - 70.9 MEUA. The supplementary and amending budget No 3 of 13 December 1979 fixed the appropriation at - 96 MEUA. In so doing, as was shown under paragraph 4.32, it did not take into account the transfer previously requested. This irregular practice gave rise in one particular case to a considerable overestimate of the appropriations which should have been corrected by a transfer of 9 April 1980 in order to take into account the actual amount of the revenue obtained, i.e. - 94.2 MEUA.

⁽¹⁾ OJ No L 130, 18. 5. 1978, p. 11.⁽²⁾ Regulation No 1271/79 of 25. 6. 79, OJ No L 161, 29. 6. 1979, p. 11.

4.40. Changes under Article 629 'Expenditure to promote the expansion of markets for milk products'

Table 6 — Changes under Article 629 'Expenditure to promote the expansion of markets for milk products'

(MEUA)

	Initial budget	Transfer authorized 1. 10. 1979	S and AB No 3 (*) 13. 12. 1979	Appropriations before adjustment 9. 4. 1980	Transfer authorized 9. 4. 1980
base movement	+ 30.9	+ 30.9 + 40	30.9 + 116.1	+ 147 + 40	+ 187 - 76.7
new amount		+ 70.9	+ 147.0	+ 187	+ 110.3

(*) Supplementary and amending budget No 3.

The initial estimate of Article 629 was simply the same figure as that entered as revenue. The Commission had, however, at the time of drawing up this budgetary estimate, already sent two communications to the Council ⁽¹⁾ ⁽²⁾ on 'the programme for using the co-responsibility fund' until 31 March 1979. The expenditure of the milk year 1978/79 not chargeable to the financial year 1978 should normally have been covered by the appropriations of the financial year 1979: the programme communicated by the Commission to the Council, however, provided for expenditure of about 200 MEUA and according to its estimates at the time less than 45 million had been charged to 1978. One may wonder what was meant by a programme with no assurance of cover in the budget.

The third communication of 16 March 1979 ⁽³⁾ confirmed implementation of this programme and provided for a supplementary programme, should the levy continue to be collected after 30 March 1979 — which proved to be the case following the decision of 25 June 1979.

But the transfer of 1 October 1979 was simply the same figure as in Article 628 and did not take into consideration the programme contained in the third communication. It was not until after the supplementary and amending budget that a significant increase of appropriations resulting from the addition to the transfer of 40 MEUA of 1 October 1979 made it possible to raise the appropriations available to 187 MEUA. On 13 December 1979, however, at the very point when a level of appropriations had been achieved which theoretically would cover the commitments betokened by the programme, it was already possible to foresee that real expenditure would be lower. A new transfer was in fact necessary on 9 April 1980 in order to bring the budgetary entry back to the level of actual expenditure, i.e. 110.3 MEUA.

4.41. Examination of the changes under Articles 628 and 629 during the financial year 1979 shows that from the time of the amending and supplementary budget No 3, the figures in the two Articles ceased to correspond: in the financial year 1979 the expenditure on expanding the market exceeded the revenue from the financial contribution of producers. The Court's remarks on the reply of the Commission to paragraph 2.20 of its 1978 Annual Report are thus confirmed: the cost of the programme was carried over to the following financial years.

4.42. The appropriations of Article 629 can be divided into two categories according to the type of measures they finance. The first simply add to existing measures (supply of school milk, Item 6292 ⁽⁴⁾; special disposal measures for butterfats, Item 6293). The second prove to be genuinely new measures (market development measures, publicity campaigns, and market research, Item 6291; improvement of milk quality, Item 6294).

The Commission regulations establishing these latter measures provide that they shall be implemented in the form of contracts concluded between the beneficiary and the Commission. In this case, the occasion for expenditure is the signing of the contract, which is an independent act which cannot generate 'expenditure necessarily resulting from the Treaty' under the terms of Article 203. Furthermore, when signing the contract, the Commission commits Community finances and it must be verified that the appropriations are available. It does not seem that the approximately 400 contracts concluded to date have been the subject of separate commitment proposals, or the approval of the Financial Controller.

The latter simply gave his approval to the model contracts. There is thus no mechanism to guarantee that the commitments entered into by the Commission can actually be covered by the budget, or even that they are entered in the accounts. Moreover, the fact that the Regulations relating to these measures leave it to the intervention agencies to effect payment of advances, and then pay the balance after verifying performance of the contract, leads the Court to wonder as to the extent of the checks which the Commission has to make at the time of clearance.

Remark of the Court on the reply of the Commission to paragraphs 4.38 to 4.42

Although the co-responsibility levy is justified in principle, there is nothing in the budgetary and financial law as it now stands, that would allow the levy to be entered as negative appropriations (cf. Special Report of the Court of Auditors published in OJ (EEC) No C 258 of 6 October 1980, paragraphs 26 and 27). The new presentation of the chapter of the budget on expenditure in the milk sector is a step towards improved budgetary clarity, as the co-responsibility levy is separated before being deducted from the total expenditure of this sector.

⁽¹⁾ 1st communication of 4. 11. 1977, Doc. SEC (77) 3912.

⁽²⁾ 2nd communication of 25. 4. 1978, Doc. COM (78) 182 final.

⁽³⁾ 3rd communication of 16. 3. 1979, Doc. COM (79) 113 final.

⁽⁴⁾ Cf. paragraph 4.77.

Register of olive cultivation

4.43. Entering in the accounts the expenditure relating to the census of the capacity of the various olive plantations in Italy and France, known as the 'register of olive cultivation' operation, poses specific problems. Regulation No 154/75 ⁽¹⁾, amended by Regulation Nos 984/76 ⁽²⁾, 646/77 ⁽³⁾, 1794/79 and 2276/79 ⁽⁴⁾ provided that the register of olive cultivation was to be financed by deductions from the amount paid to olive producers as production aid (the deduction was, for example, 1 % for the period 1973/74 and 1.47 % for 1979/80).

However, the deductions, which at 31 December 1979 amounted to 7.43 thousand million lire and 250 000 FF and from which a payment of only 130 million lire had been made (trial with a view to choosing the method of establishing the register of olive cultivation in Italy), were not placed in reserve. They were considered as expenditure which had not been incurred and it was planned to re-enter in the following budgets the amounts corresponding to the deductions not expended. At the beginning of 1979 this involved an amount of 6.5 MEUA charged to Item 6310.

4.44. The register of olive cultivation is intended, in principle, to have results similar to those of the co-responsibility levy; to charge to the producers a part of expenditure related to the common agricultural policy. It therefore involves the same exceptions to the principles of non-allocation and non-contraction.

Its entry under the EAGGF Guarantee Section, however, is open to criticism, principally in view of its purpose.

What the register of olive cultivation does is to finance administrative expenditure aimed at improving statistical knowledge and supervision of the olive-oil sector. This is therefore not intervention expenditure which, normally speaking, is the only type of expenditure falling to the EAGGF Guarantee Section. If the Community wishes to continue to finance this expenditure it should seek other means of doing so.

SUMMARY OF THE EXPENDITURE OF THE FINANCIAL YEAR

4.45. In the revenue and expenditure account drawn up on 1 June 1980, the total expenditure of the Guarantee Section, taking into account the corrections upon clearance chargeable to the financial year, was shown as 10 434.5 MEUA (10 434 530 739.03 EUA), i.e. 72.6 % of the total expenditure of the general budget, including the expenditure against appropriations carried over from the previous year.

The total amount of expenditure taken into account corresponds exactly to that of the final appropriations resulting from the adoption of the amending and supplementary budget No 3 and consequently does not give rise to any cancellation or carry-over.

However, to give a true summary of the expenditure chargeable to the financial year, there should be added the expenditure which would normally have come under the 1979 management if it had not been:

- either effected in advance in order to use up the appropriations of the previous year (anticipated depreciation of stocks operated in 1978 and not repeated in 1979, for 306.2 MEUA);
- or carried over to the following year (excess expenditure by the Member States for 1979, for 203.5 MEUA).

CLEARING THE ACCOUNTS

Decisions in the financial year 1979

4.46. During the financial year 1979 two different types of decision were taken by the Commission in respect of clearance operations and were the subject of an entry in the accounts.

Firstly, Decision No 79/886 of 12 October 1979 ⁽⁵⁾ recognized as chargeable to the Community an amount of 11.9 MEUA for the financial years 1971 and 1972, for which the accounts were closed in 1975. This Decision is the result of the Judgment of the Court of Justice of 7 February 1979 ⁽⁶⁾ in

⁽⁵⁾ OJ No L 272, 30. 10. 1979, p. 34.

⁽⁶⁾ Judgment of 7 February 1979, Case 18/78, Federal Republic of Germany v. Commission, annulling Commission Decisions Nos 76/141 and 76/147 (cf. Annual Report of the Court for the financial year 1978, paragraph 2.25).

⁽¹⁾ OJ No L 19, 24. 1. 1975, p. 1.

⁽²⁾ OJ No L 113, 30. 4. 1976, p. 21.

⁽³⁾ OJ No L 81, 30. 3. 1977, p. 12.

⁽⁴⁾ OJ No L 262, 18. 10. 1979, p. 11.

which the Commission Decisions on the clearing of the accounts for the financial years 1971 and 1972 concerning the Federal Republic of Germany had been annulled in so far as they left amounts of 17.93 and 12.05 million DM relating to butter operations (social butter) to be borne by the Federal Republic of Germany. The amount of 11.9 MEUA was charged as a payment to Item 6 223 (Special measures for absorbing surpluses of butterfats) at the rate for 20 August 1979 (rate of month $t - 2$) and made available to the German authorities.

4.47. Secondly, the Commission adopted nine decisions on 12 October 1979 ⁽¹⁾ to clear the accounts of each Member State for the financial year 1973, i.e. five years beyond the date set by Article 5 (2) (b) of Regulation (EEC) No 729/70, namely the end of the year following a given financial year. The amounts are as follows, divided between the Member States:

Table 7 — Distribution by Member State of the clearance decisions

(MEUA)									
B	DK	FRG	F	IRL	IT	LUX	NL	UK	Total EEC
+0.031	+0.468	+6.233	+ 4.702	+0.748	+2.595	+0.058	+1.249	+2.032	+18.116
-0.989	-0.028	-7.401	-12.807	-0.778	-2.083	—	-9.578	-2.464	-36.129
-0.958	+0.440	-1.168	-8.105	-0.030	+0.512	+0.058	-8.329	-0.432	-18.013

The Commission therefore charged an overall amount of -18 MEUA to the financial year 1979 at the rate for the month of August (rate of month $t - 2$ in relation to the clearance decision), to meet the changes arising from its decisions. It performed the charging-up operation in detail as required, by individual budget headings, and redefined the headings when necessary: for example, some budget headings of the financial year 1973 were split into two or more headings as from one of the following years.

These changes, both for 1971/1972 and 1973, were incorporated into the amounts entered under each item of the revenue and expenditure account published on 1 June 1980, without being separately identified. The sole mention of the changes is a reference at the foot of page 101 which only gives the balances. The Court feels strongly that the details of the changes made and the amended accounts of the years which have been cleared should appear as an annex to the revenue and expenditure account.

Remark of the Court on the reply of the Commission to paragraph 4.47

It is not sufficient to put the details of the changes made and the amended accounts of the years which have been cleared into the EAGGF Guarantee Section financial report for the year in which the clearance decision was taken. This information should appear in the notes to financial statements for the relevant year — as explanatory notes annexed to the balance-sheet and revenue and expenditure account (cf. paragraph 2.17).

Clearance in progress

4.48. The progress of the work of clearing the accounts for the financial years after 1973 is shown in the following table:

⁽¹⁾ Decisions Nos 79/893 to 79/901, OJ No L 278, 7. 11. 1979, pp. 9 to 25.

Table 8 — State of clearance work

Financial years	Dates of stages of clearance			Estimated date of closure	Estimated delay
	End of preparatory work and on-the-spot inspection	Correspondence with the Member States	Summary document		
1974-1975	July 1979	1st quarter 1980	End 1980	End 1980	5 and 4 years
1976-1977	End 1980	1st quarter 1981	2nd quarter 1981	End 1981	4 and 3 years
1978-1979	2nd quarter 1981	End 1981	2nd quarter 1982	End 1982	3 and 2 years

This table shows that the periods required for clearance are still excessive. The periodic claims of the Commission to have made up ground do not always reflect the situation in practice.

accounts of a given financial year. It is not to undertake successive amendments to the entries in accounts long since closed, which is the result produced by repeated delays.

Risk of errors due to delays

4.49. The less than satisfactory situation described above has the major disadvantage of increasing the risk of error in calculating the sums available in the Member States. Thus the accounts of the Federal Republic of Germany for the financial year 1973, which were cleared by Decision No 79/895, no longer accord with those of the financial year 1972 after the amendment made to the latter by Decision No 79/886. In that Decision, the Commission failed to take into consideration the effects of the amendment introduced for a single budget item on the accounts of the financial years 1971 and 1972 as a whole. This error (of 29 982 138.4 DM) affects the total amount available after clearance of the accounts of the financial year 1973.

Secondly, the value of the provisions of Article 8 (b) of Regulation No 1723/72 of 26 July 1972 ⁽¹⁾ according to which the clearance decisions of the Commission involve determination of the amount of financial resources remaining available in each Member State at the end of the year cleared, is considerably reduced.

The aim of this Article is in fact to establish, by the end of the following financial year, the exact

Lack of finality in the clearance decisions

4.50. Examination of the decisions taken by the Commission shows that the clearance operation, which should, once completed, settle exactly the amounts borne by the Community, is sometimes only one stage in a procedure which could, in theory, never end.

Like any decision, a clearance decision may be directly appealed against by those whom it concerns (the Member States), and in this way the clearances relating to the financial years 1971 and 1972 were contested by three Member States. The Court of Justice ruled in favour of one of these States and the Commission therefore had to amend its decision on the accounts of this State.

At present, it appears that the decision on the accounts for the financial year 1973 is the subject of legal proceedings brought directly by the Federal Republic of Germany ⁽²⁾, Belgium ⁽³⁾, and Italy ⁽⁴⁾.

Furthermore, a judgment by the Court of Justice or even a judgment by a national court can indirectly call a clearance decision into question if it rules that

⁽¹⁾ OJ No L 186, 16.8.1972, p 1.

⁽²⁾ Case 819/79.
⁽³⁾ Case 820/79.
⁽⁴⁾ Case 1 251/79.

one of the aspects of the management of the financial year concerned was invalid (regulation, administrative act, etc). With regard to the financial years 1971 and 1972, on 28 July 1978 by Decision No 78/710/EEC ⁽¹⁾, the Commission had to take account of the effects of a judgment of the Court which invalidated an administrative act of the Commission.

4.51. Apart from these necessary amendments, however, of more serious concern is the fact that many decisions are adopted by the Commission with certain reservations. This was the case with four ⁽²⁾ of the nine clearance decisions relating to the financial year 1973. In some cases, the Commission stated its unqualified rejection of only part of the amounts in question, the rest being refused provisionally as it 'cannot at this stage be accepted for financing in view of the need to give the matter further study'. In other cases, the Commission adopted its decision 'without prejudice to the results of inquiries at present in progress' in certain sectors (particularly the fruit and vegetable sectors).

This situation is incompatible with the very idea of clearance which implies that subsequent revision is impossible. It particularly affects the period for keeping supporting documents, which by Article 4 of Regulation No 1723/72 is until 31 December of the year following that during which a clearance decision has been taken.

Scope of the budgetary powers of the Commission with respect to clearance

4.52. The clearance decisions generally mean a refusal to charge certain global amounts to the Community. These amounts are broken down into numerous detailed amendments which can be entered either as reductions or increases against the corresponding budget headings. It should be borne in mind, however, that large increases ought to be exceptional.

Although expressly provided for in Article 99 of the Financial Regulation which mentions both 'over-expenditure' and 'under-expenditure', the former is an exception to the rule in Article 202 of the Treaty establishing the EEC, whereby the appropriations authorized may only be used to cover the expenditure regularly committed and paid in respect of the

financial year for which it has been granted. The rules governing this expenditure must therefore be interpreted and applied strictly.

4.53. According to Article 5 (2) (b) of Regulation No 729/70, the Commission is to clear the accounts on the basis of the annual accounts of the paying authorities and agencies. Article 1 (1) and (2) of Regulation No 1723/72 which implements this Regulation, provides that the documents in question must reach the Commission by 31 March of the year following the financial year in question and it defines these documents in great detail.

Accordingly, it should not be possible in the clearance procedure to correct amounts upwards so as to charge to the appropriations of one financial year the expenditure relating to a previous year, unless they result clearly and explicitly from comparison of the information which led to charging against the original financial year (monthly statements by the Member States) with that regularly submitted by the Member States in the form and within the time-limits laid down by Regulation No 1723/72. Any correcting upwards which is not based on the above process, but which results, for example, from statements and assessments made afterwards by the Commission during its audit operations, and which would mean that expenditure not appearing in the accounts submitted within the time-limits by the Member States would be chargeable to the Community, should be considered as irregular and contrary to the principle of budgetary annuality. As far as the Court is aware, the clearance decisions relating to the financial year 1973 were not all taken within the confines of this restrictive interpretation.

Need for a consistent overall approach to the audit of the implementation of the budget

4.54. The Court already suggested in its previous annual report ways in which to arrange the clearance methods so as to give the clearance decision, which is a sovereign act taken by the Commission within the framework of its responsibility to implement the budget, its full significance.

The Court would ask once again what is to prevent the organization of audit controls either from the stage when the item of expenditure is incurred or in any case from the time when the normal time-limit for sending the documents for clearance expires? This procedure would have a threefold advantage:

⁽¹⁾ OJ No L 238, 30.8.1978, p. 25.

⁽²⁾ Decisions Nos 79/893/EEC, 79/896/EEC, 79/898/EEC and 79/900/EEC.

- (1) of basing the audit on checks that include examination of the event giving rise to expenditure, even if, as must be the case, such checks are carried out by sampling;
- (2) of speeding up the procedure, since accounting cross-checks between the information inspected on the spot and the amounts declared by the Member States could be carried out afterwards when all the information is available;
- (3) of ensuring easier access to the supporting documents which are sometimes buried in a forest of internal and external national audit procedures, and are difficult to locate after a certain lapse of time.

The speeding up of the clearance procedure which would ensue would allow the Member States to change their procedures more quickly and to avoid the persistence of errors or discrepancies in management.

Remark of the Court on the reply of the Commission to paragraphs 4.48 to 4.54

As it is universally agreed that the accounts need to be cleared as quickly as possible, the Commission should provide the departments concerned with the means to do so, particularly in respect of staff.

4.55. Improvements of the kind mentioned above are absolutely essential to re-establish a consistent overall approach to the audit of the implementation of the budget by returning to the logical sequence of the stages of drawing up the revenue and expenditure accounts, the clearance of these accounts, and discharge. The discharge on the implementation of the budget granted by the Assembly should constitute a final act which definitively adopts the accounts of a financial year and gives (or does not give) discharge in respect of its management to the Commission on the basis of the revenue and expenditure account, the results of the clearance and the comments of the Court of Auditors.

FRAUDS AND IRREGULARITIES

Application of Regulation (EEC) No 283/72 ⁽¹⁾, in 1979

4.56. The prevention and suppression of frauds and irregularities is based on Regulation (EEC)

No 283/72 of 7 February 1972 which leaves it to the Member States to adopt the necessary legal provisions, provided that they inform the Commission thereof and communicate to it the irregularities discovered, the procedures instituted and the results obtained.

The Commission's role is thus primarily to check that the Member States have sent the information in the correct manner. It may request special inquiries. It must be in a position to assess any irregularities or negligence on the part of the national administrations so as to avoid the charging of irregular payments to Community funds. It should thus be possible to assess the effectiveness of this Regulation by examining the financial results of its application.

4.57. The Commission's information on national legislation, as provided for under Article 2 of Regulation (EEC) No 283/72 is incomplete: a study of the material sent by the Member States to the Commission showed that the information provided is not always up-to-date. The Commission needs to know, however, what bodies are responsible in the individual Member States and what procedures are applicable, in order to assess whether the national systems are suitable for ensuring the detection and prevention of frauds and irregularities. In reply to the same comments made by the Court in its 1978 Annual Report, the Commission stated that 'this important work could not yet begin because of other priority activities to combat irregularities'. Nevertheless, the Court considers that detailed knowledge of the national systems is essential if irregularities are to be effectively combated. It would therefore inquire again of the Commission what steps it has taken to ensure that its documentation is systematically updated and put to use.

4.58. In its 1978 Annual Report, the Court noted that the information supposed to be sent quarterly, pursuant to Articles 3 and 5 of Regulation (EEC) No 283/72, was late and inadequate; the situation appears to have worsened since: delays of over three months were found, and one Member State, Belgium, had failed to send anything within the prescribed deadlines.

The Court wishes to know whether the Commission has taken steps to obtain these quarterly reports from the Member States, and to eliminate the causes of these delays.

4.59. The number (116) and the amount (2 094) of the irregularities notified in 1979 are comparable with those of 1978.

⁽¹⁾ OJ No L 36, 10. 2. 1972, p. 1.

Table 9 — Irregularities notified and recoveries made

(MEUA)

Year	Cases notified		Recoveries	
	Number	Amount	Number	Amount
1973	51	1 307	40	654
1974	89	4 361	71	977
1975	130	3 037	99	1 284
1976	226	5 331	127	2 277
1977	150	8 322	67	2 042
1978	113	2 173	61	988
1979	116	2 094	61	1 210

Over a third of the files dealt with expenditure relating to premiums for the non-marketing of milk and the conversion of dairy herds, which is funded jointly by the Guarantee and Guidance Sections. This undoubtedly reflects the problems that some farmers have in complying with a multiannual plan. The number of irregularities notified that relate to the Guarantee Section alone has fallen considerably. They mainly involve milk products, beef and veal, and pigmeat. Distribution by country is as follows:

Table 10 — Number of cases notified

Member State	1978	1979
Belgium	0	1
Denmark	11	11
FR of Germany	48	36
France	9	32
Ireland	1	2
Italy	1	3
Luxembourg	0	0
Netherlands	3	6
United Kingdom	40	25
Total EEC	113	116

The information available at the Commission is unfortunately not of sufficient quality to determine whether these findings reflect a differing frequency of irregularities, a differing degree of effectiveness in the national supervisory systems or a difference in the rate of recourse to the Community information procedures.

4.60. The same uncertainty pertains as regards the follow-up of procedures instituted by the Member

States to recover sums wrongly paid. This is not done by the Commission in a systematic way, and here again it is in no position to assess the efficiency and diligence of the Member States.

This lack of knowledge makes it impossible for the Commission to apply correctly the provisions of Article 8 (2) of Regulation (EEC) No 729/70 on the sharing of responsibilities between the Member States and the Community. Even assuming that it has all the information necessary, a clear interpretation of this Article is still lacking. In reply to the comments made by the Court in 1979, the Commission 'confirmed its intention of resuming the examination of this problem as soon as this is administratively possible'. It would not appear that this intention has had any practical results since then.

4.61. Another difficulty of interpretation deserves mention: one Member State, considering that Regulation (EEC) No 283/72 strictly refers to payments and expenditure, did not report on the irregularities relating to the levy of intra-Community monetary compensatory amounts. The Commission discovered this difficulty several years after it had come into being, a delay which the Court finds regrettable. It would be of advantage to know what steps the Commission has taken to remove this difficulty.

4.62. In summary, the Court considers that the Commission's application of Regulation (EEC) No 283/72 does not enable the extent of the irregularities or the effectiveness of the Regulation in detecting and suppressing them to be assessed. The consequences for the Community finances are of necessity negative.

Implementation of Directive 77/435 of 27 June 1977 (1) on the scrutiny of commercial documents

4.63. It soon became apparent from the application of Regulation (EEC) No 283/72 that many irregularities are detected thanks to the scrutiny of the commercial documents of firms: accounts, correspondence and other documents relating to their business activity. Those Member States which had a system of inspection of commercial documents notified a higher proportion of irregularities than the others. It is for this reason that Directive 77/435/EEC of 27 June 1977 required all the Member States to take steps to systematically scrutinize the commercial documents of undertakings receiving payments from, or making payments to, the EAGGF Guarantee Section.

(1) OJ No L 172, 12. 7. 1977, p. 17.

The Member States must carry out a scrutiny of a representative sample of the undertakings within the system of financing of the EAGGF Guarantee Section which may not be less than half the undertakings of which the receipts or payments amount to more than 100 000 u.a. per year. Provisions must be introduced to simplify the task of inspection: for the keeping of commercial documents for three years, for the supply of documents and extracts thereof to the persons responsible for the scrutiny, for the seizure of commercial documents upon suspicion of irregularity.

These provisions were supposed to have been enacted in every Member State before 1 July 1979 and the Commission should have been informed thereof immediately. The majority of the Member States, however, have not informed the Commission. Whether the reason is delay in drafting the national provisions or failure to communicate them, the Directive has not been observed. The Court asks the Commission what steps it has taken to rectify this situation.

4.64. Directive 77/435 applies to the undertakings receiving or making payments within the financing system of the EAGGF Guarantee Section. The following appear to be outside its scope: undertakings forming part of a producers' organization; those which are supplied by direct beneficiaries; those which process the products and resell them to an exporter who receives export refunds. The Court understands that it is necessary to set limits to the field of investigation, but hopes that the effect will not be to exclude from the audit real beneficiaries who might be sheltering behind an umbrella organization. The Court would like to know the Commission's position on this matter.

4.65. The Member States should not include as inspections under the Directive, the controls required by other regulations, for example Regulation (EEC) No 1725/79 of 26 July 1979⁽¹⁾ on skimmed-milk powder. The Court asks the Commission what directions have been given to the Member States on this subject.

4.66. The Commission is assured of information on the application of the Directive by the inclusion of a special chapter in the annual report that the Member States are required to submit under Article 4 (3) of Regulation (EEC) No 729/70 and by regular 'discussions' with the Member States. Proper implementation of the Directive by the Member States implies that the Commission receive detailed information on the working of the programmes of scrutiny in the Member States. The Court asks the Commission what steps it has taken to ensure the supply of this information.

(1) OJ No L 199, 7. 8. 1979, p. 1.

COMMUNITY PREFERENCE IN THE CITRUS FRUITS SECTOR

4.67. In the citrus fruits sector, the system of protection⁽²⁾ at the external frontiers of the Community, combined with premiums⁽³⁾ for the marketing of European products, should ensure real Community preference and avoid too frequent recourse to withdrawal operations.

Having noted that in 1977/78 and 1978/79 the period of heaviest withdrawals, both for large citrus fruits (oranges) and for small citrus fruits (clementines, mandarins, satsumas), was from 15 January to 15 February 1979, the Court concentrated particularly on the management of the citrus fruit market during this period, making a detailed analysis (generally on the basis of weekly information and sometimes, in the case of market prices, on the basis of daily information).

4.68. The Court found that, at the same time:

- in Italy, relatively large quantities of citrus fruits were withdrawn;
- in France and in the Netherlands products were imported which were almost exclusively from non-member countries (99 %);
- market prices remained relatively firm in the import markets of these latter countries (largely above the reference price for small citrus fruits, and for oranges also, although it was found that on rare occasions small quantities of oranges from specific non-member countries fell below the reference price);
- countervailing charges were introduced after it had been ascertained that the average price had fallen below the reference price and were withdrawn after it had risen again, each time with an administrative delay of several days.

(2) Protection at the frontiers (Regulation No 1035/72, Article 23 *et seq.*): annual fixing of a reference price below which imports of products from non-member countries may only be made after payment of a countervailing charge which is not withdrawn until entry prices have exceeded the reference price for a certain length of time.

(3) Intra-Community marketing premiums (Regulation No 2511/69, Articles 6 and 7): annual fixing of a premium granted for each intra-Community export of Community oranges, mandarins, clementines and lemons (in 1979: from 5 to 9 u.a./100 kg and, on average, 7 u.a./100 kg).

It was also found, as can be seen from the following table, that even in the worst case (lowest selling prices, cf. line 7), citrus fruits from Italy could have been marketed in Northern Europe with a higher gross return (selling price + marketing prem-

ium, cf. line 9) than the vast majority of transactions in these markets (cf. line 6).

4.69. The data on which these findings are based are given in general terms in the table below:

Table 11 — Comparative levels of imports and withdrawal

	January		February	
	Oranges	Small citrus fruits	Oranges	Small citrus fruits
<i>Withdrawal</i>				
1. Average price in u.a./100 kg	11.59	14.97	11.91	14.53
2. Volume Italy	16 713 t	36 495 t	34 000 t	8 053 t
<i>Imports</i>				
3. Volume France — Netherlands	99 000 t	75 441 t	95 000 t	63 000 t
4. Volume France	71 000 t	58 000 t	69 000 t	50 000 t
5. Volume Netherlands	28 000 t	17 441 t	26 000 t	13 000 t
6. Average market price Rotterdam u.a./100 kg	25	30	25	35
7. Average lowest market price Rotterdam u.a./100 kg	20	25	20	30
8. Reference price u.a./100 kg	16.28	19.74	16.28	19.74
9. Marketing premium u.a./100 kg	7	7	7	7

4.70. The Court concluded from these findings that:

- the system of protection at the external frontiers of the Community has functioned properly, since countervailing charges were put into effect quite quickly whenever there were low-price imports, allowing prices and the rates on the import markets to recover;
- the internal market, on the other hand, did not react normally since strong demand in certain areas of the Community, where imports continued to fetch good prices, was not sufficient to attract produce from other areas with an apparent surplus, where withdrawals were made at the expense of the Community. This was in spite of the existence of a mechanism designed to neutralize the costs of access to the various Community markets.

4.71. The Court does not consider that this situation could have been avoided by adjusting the reference or withdrawal prices or the level of the marketing premium.

The reference prices could only be raised at the risk of occasioning higher prices for imported products, and it should not be forgotten that the citrus fruit market is not self-sufficient, and relies largely on produce from non-member countries for a regular supply upon reasonable terms.

The withdrawal prices cannot be reduced too far since they are one of the factors guaranteeing the individual incomes of the producers.

The marketing premium is already a financially attractive factor at its present level. Added to the

high prices prevailing in the Northern European markets, it should have provided an incentive for producers, faced with the choice of withdrawing their products at a low price or marketing them at very high prices in Northern Europe, to opt for the latter solution. The necessary transport costs by their nature cannot be higher than those of their competitors in non-member countries.

4.72. The Court wonders whether these distortions in the market are not due rather to external factors which partition the Community market and make the Northern European markets inaccessible to Italian produce.

It would also appear that marketing standards are less rigorous for products which do not leave Italy ⁽¹⁾, so that when the domestic market can no longer take the products, this to some extent encourages producers to withdraw their products, which do not always conform to EEC standards, rather than export them.

If the findings above are correct, then the remedies would appear to lie primarily in the structural field (cf. paragraphs 5.25 to 5.31 below).

SPECIAL MEASURES FOR THE DISPOSAL OF MILK PRODUCTS

SUPPLY OF MILK TO SCHOOLS

4.73. The programme for selling milk and a number of milk products at reduced prices to pupils in schools was introduced by Council Regulation No 1080/77 ⁽²⁾ and Commission Regulation No 1598/77 ⁽³⁾. All the Member States, including Italy have, since the school year 1979/80, made use of the opportunity offered to them of an additional supply of milk, yoghurt or cheese to schools. The beneficiaries may be schoolchildren attending a school of any grade or category. The choice of milk products

and of the categories of school to receive the supply is the responsibility of the Member States (Regulation No 1598/77 Articles 1 (2) and 2 (2)).

4.74. In the words of the preliminary draft budget for 1979 the purpose of the programme, which forms part of the measures for providing outlets for milk products, is to achieve an additional consumption of 300 000 tonnes of milk. The Community subsidy is added to existing national programmes in such a way that they are integrated with the Community action. The Community share, originally financed as a normal service, is now, following a Commission decision of 25 July 1978, met as to two-thirds from the co-responsibility levy paid by milk producers. The cost of the programme in 1978 was 18 319 MEUA (about 22 million ECU); it is estimated at 48.85 million ECU in 1979 and the estimate for 1980 is 59.70 million ECU.

The Community contribution for whole milk was 8.674 u.a./100 kg in the 1977/78 milk year (about 10.5 ECU) and 13 u.a./100 kg (about 15.7 ECU) for 1979/80. The financial share taken by the Member States had to be at least 50 % for 1977/78, 33 % for 1978/79 and 25 % for 1979/80.

4.75. The checks carried out by the Court in 1979 revealed a number of irregularities and discrepancies reflecting uncertain or erroneous interpretations of Community rules. In this connection, a number of remarks must be made on which pupils should benefit from the programme, the amount and quality of the products to be issued and the checks which should be applied to them, the fixing of selling prices and the economic influence of the level of the Community subsidy and, finally, the problems of budgetary classification and of the financing of the Community share.

4.76. The Court notes a real uncertainty about the qualification for being included in the programme and also about the numbers qualifying. Regulation No 1598/77, Article 1, defines as possible beneficiaries 'schoolchildren attending a school of any grade or category including nursery schools'. It has not been possible to discover exactly what choices among the possible beneficiaries have been made by the various Member States. This gap shows how little it is possible at present to check on the use made of the programme. Numerical annual statements broken down by category of beneficiary would form the basis for any check and ought to be provided by Member States. It is regrettable that Regulation No 1598/77 does not impose any obligation of this kind on them.

⁽¹⁾ Special Report of the Court of Auditors published in OJ (EEC) No C 258, 6. 12. 1980, paragraph 49.

⁽²⁾ OJ No L 131, 26. 5. 1977, p. 8.

⁽³⁾ OJ No L 177, 16. 7. 1977, p. 22.

4.77. The amount of milk to be provided is 0.25 litre per pupil per school day under Regulation No 1080/77, Article 2 (4). The absence of any precise details seems to have resulted in different methods of calculation among the Member States: some take this quantity as a strict limit, others as an average.

The Annex to Regulation No 1598/77 gives a list of the milk and the milk products which may be provided under the programme. Each Member State may choose the products to be issued to the pupils in its schools according to taste and local distribution arrangements. Some of the products must contain a minimum proportion of whole milk in their weight; this would require a technical control but the Court has not always found that it is carried out.

In the absence of legal provisions on the point, practice differs among the States as to whether the milk products are to be consumed in the forms described in the Annex to Regulation No 1598/77 or whether they may be incorporated in cooked dishes served in school canteens, e.g. cheese omelettes.

The Court noted that, in the Member States it visited, checks at the level of individual schools were too few and fragmentary to gain a clear picture of the execution of the programme. It is obvious that such checks would cause extra work for services already undertaking many duties and not always provided with the necessary staff. Regulation No 1598/77 does, however, require, in Article 6, that Member States should verify the quantities distributed and ensure that they are used only for their intended purpose.

4.78. The Commission is informed quarterly by Member States of the quantities distributed as provided for in Article 5 of Regulation No 1598/77; it is vital that these statements continue to be forwarded on a regular basis and that some cases of delay which were noted be eliminated. It is most desirable that a check on the results of this disposal programme be made soon after the end of the school year. But to assess the effectiveness of the programme it would also be necessary to know the items making up the selling price, in particular national subsidies and any charge to the pupil. Article 5 of Regulation No 1598/77 obliges Member States to supply this information, but it does not seem that it has been supplied so far.

The Commission needs to receive all the necessary information from Member States at the end of each school year so that it can judge the effectiveness of the programme, the results and the cost of the operation. Only on these conditions will it be possible to take informed decisions on the programme. It is vital, now that the programme has been in operation for three years, that such an assessment be made.

From this point of view the process of clearing accounts (which, because of its usual delays, has not yet begun to tackle this category of expenditure) could not, in any case, take more than *ex post facto* action against a misapplication of the regulations and could in no way provide material for an assessment of the results of the measure. The Commission would therefore be wrong to rely solely on this administrative and accounting aspect of the management of the programme.

4.79. From the point of view of budgetary clarity it is unsatisfactory that the Community share of the cost is entered in two places, being divided between ordinary appropriations (Item 6231) and revenue from the co-responsibility levy (Item 6292). It would be better to use one item even if the funds have a double origin. After all, the method of dual financing established in 1978, two-thirds by the revenue from the co-responsibility levy and one-third by ordinary appropriations, does not seem to be a permanent necessity. There is no reason why the process of transferring the cost to funds from the co-responsibility levy should not be continued up to 100 %, as one of the reasons for the levy is precisely to help increase outlets for milk products.

SPECIAL MEASURES FOR THE DISPOSAL OF MILK PRODUCTS

SUPPLY OF BUTTER TO ARMED FORCES

4.80. Another special disposal scheme for milk products, the supply of butter to armed forces, is based on:

- Regulation No 1282/72 of 21 June 1972⁽¹⁾ which authorizes the supply of butter at reduced prices out of public stocks;

⁽¹⁾ OJ No L 142, 22. 6. 1972, p. 14.

- Regulation No 192/75 of 17 January 1975⁽¹⁾ which provides for export refunds for butter bought on the open market by the armed forces of one Member State stationed in another Member State.

Effectiveness of the supply of butter at reduced prices out of public stocks

4.81. The Commission's staff have calculated, on the basis of a substitution rate of 5 %, that the supply of intervention butter to armed forces is, together with similar assistance to social institutions, the cheapest outlet for intervention butter.

However, in establishing the overall effectiveness of a scheme it is necessary to take account of a number of associated costs which are to be added to the aid itself (141 u.a. per 100 kg or 1410 u.a. per tonne).

The costs may be calculated as follows:

Table 12 — Delivery of butter from public stocks: calculation of associated costs

Article	Type of cost (1978/1979)	u.a./tonne
1	Payment to Member State for the cost of taking into stock	9.95
2	Payment to Member State for the cost of taking out of stock	4.55
3 (*)	Payment to Member State for the cost of storage (0.276×60 days)	16.56
4 (*)	Financing (intervention price 2 357.2 u.a. per tonne at 8 % for two months)	31.43
	Total per tonne for two months (*)	62.49

(*) Although the storage period depends on the quantities of butter available and the Member State concerned, a period of two months has been taken as an example.

The table does not take into account any financial depreciation.

The calculations above show that it costs 62.49 u.a. to supply armed forces with one tonne of 'fresh'

(here two months old) intervention butter. As 8584 tonnes were supplied to armed forces under the scheme in 1979, the additional cost may be estimated at 536 414 u.a. This is an order of magnitude, not an amount based on actual figures.

Given the permanent surpluses of butter and the apparent intention of the Commission and most Member States to supply butter which is as fresh as possible under aid to direct consumption, the Court questions whether the additional costs are justified. It suggests that the Commission should consider whether it would not be more economical to introduce direct aid for purchases on the open market. Aid of this kind already exists in the form of export refunds for purchases of butter by armed forces stationed in another Member State (Regulation No 192/75). Moreover, the recipient of the aid (armed forces) is normally subject to close internal control.

The condition of the butter market, with regular offers for intervention, suggests that direct aid for the quantities concerned would not stimulate production. In the circumstances most of the additional cost could be saved.

Checking by intervention bodies on the use of the butter by armed forces

4.82. Neither Regulation No 1282/72 nor Regulation No 192/75 requires national authorities to check on the use of the butter by the armed forces and to verify that they do not dispose of it irregularly. In effect, the intervention bodies rely on the military authorities for this check. Whatever the internal checks carried out, there is no guarantee that the intervention bodies would be informed of any irregularities discovered by the military authorities. The Court considers that evidence of proper use by the armed forces should be obtained. This could be achieved by means of an annual certificate issued by the military administration responsible or the audit body, showing amounts purchased, in stock and used.

Transfer from one Member State to another of reduced-price butter out of public stocks

4.83. Article 8 of Regulation No 1282/72 provides, in the case of such transfers, for the application of monetary compensatory amounts at a lower

⁽¹⁾ OJ No L 25, 31. 1. 1975, p. 1.

rate. However, some Member States do not apply MCAs to butter which is transported by the armed forces themselves. On the other hand, they are applied if the butter is transported by an agent of the forces. As MCAs are not applied in all cases it is not possible to align selling prices in each Member State: in other words, the intervention price less the aid (141 u.a./kg) is not the same when expressed in national currencies. There are thus different prices for butter within the same Member State. Although the sums involved are not great, the Commission should look into the problem and inform the Member States of what interpretation should be adopted of Article 8.

4.84. The NATO Treaty⁽¹⁾ also has an effect on the payment of MCAs. Under Article XI (4) of the Treaty, member countries of the Organization may import supplies for their armed forces into the territory of another member duty-free. If MCAs are regarded as duties for the purpose of Article XI (4), then a military unit could request payment of MCAs where they exist but invoke the Article in order to avoid paying them in another Member State. Such an interpretation would be detrimental to Community finances. In the Court's opinion, even if there is no cause to expect major financial consequences from these transfers, it would be useful for the Commission to look into the problem and indicate to Member States the way in which MCAs should be applied to the import and export of agricultural products by the armed forces of Member States who are members of NATO.

Guarantees given for refunds fixed in advance

4.85. Export refunds may be paid for the supply of butter to the armed forces of one Member State stationed in another Member State. The supply does not require an export licence. However, if the rate of the refund is fixed in advance by an advance-fixing certificate, security is required before the certificate is issued.

The armed forces usually make their purchases by means of an invitation to tender for an estimated quantity which will be called on over a set period (usually one year). Under Article 10 of Regulation

No 2044/75⁽²⁾ of 25 July 1975, this estimate (or 'target quantity') must be recorded. If the quantity is exceeded in the period, supplementary certificates are issued at the rate of refund originally fixed. If the 'target quantity' is not reached, the security is still not forfeited. The Court does not see the purpose of the security system in this particular case and invites the Commission to re-examine the matter in the future.

The interaction of Regulations Nos 1282/72 and 192/75

4.86. It is theoretically not impossible that butter purchased by the armed forces from intervention at reduced price under Regulation No 1282/72, should later be exported and receive export refunds under Regulation No 192/75. This could only be done by the military administration and the proceeds would go to the central authority. The Court considers that, although the danger of this loophole being exploited is small, the Commission should attempt to close it when the regulations are being revised.

MANAGEMENT OF EXPENDITURE ON SKIMMED-MILK POWDER IN 1979

4.87. The main characteristics of the skimmed-milk powder market are: an intervention price which guarantees the producer's price and automatically gives rise to public purchase, and therefore storage; export refunds to make good the difference between prices on the internal Community market and prices on the world market, which may be fixed in advance, at the request of the exporter, for a maximum period of nine months; denaturing premiums for fresh powder consumed in the internal market, granted at rates varying according to its intended use; sale at reduced prices of stored produce for the benefit of consumers in the internal market, involving price reductions consistent with the premiums offered for fresh powder. In 1979 the unit cost of disposal was 80 % of the intervention price for pro-

⁽¹⁾ NATO—North Atlantic Treaty Organization.

⁽²⁾ OJ No L 213, 11. 8. 1975, p. 15.

duce intended for use as pig and poultry feed, 60 % of the same price for produce intended for export and 50 % for produce intended for use as feed for calves.

4.88. The quantities in public storage showed a considerable reduction in 1979:

Table 13 — Public stocks

(tonnes)	
Stocks at 1 January 720 858	
Purchases from 1 January to 31 December 178 992	Sales from 1 January to 31 December 684 880
	Losses 112
	Stocks at 31 December 214 858
Total 899 850	899 850

The reduction is thus of 506 000 tonnes. It is of interest to compare it with the results of previous years:

1976: + 80 000 t	(opening stock: 1 050 000 t closing stock: 1 130 000 t)
1977: - 160 000 t	(opening stock: 1 130 000 t closing stock: 970 000 t)
1978: - 250 000 t	(opening stock: 970 000 t closing stock: 720 000 t)

Note should be taken of the serious imbalance in the geographical distribution of public stocks which appeared in 1979. Out of 214 858 tonnes still in stock at 31 December, 200 934 tonnes were in the Federal Republic of Germany. This can only reflect an imbalance at the purchasing level: of the 178 992 tonnes taken into intervention, 144 979 tonnes were in the Federal Republic of Germany.

4.89. The cost of the various intervention measures in 1979 was as follows:

Table 14 — Intervention measures

	Cost (EUA)	Tonnage
Premiums for fresh powder		
Calf feed	703 852 419	1 305 000
Pig and poultry feed	93 342 127	97 248
Disposal measures		
Net sales (reduction below normal sale price)		
Calf feed		250
Pig and poultry feed	326 395 526(*)	378 011(*)
Normal refunds (excluding food aid)	372 000 000(*)	465 000(**)
Total	1 494 590 072	2 245 509
compared with estimate	1 305 000 000(*)	1 900 000

(*) Figures estimated by the staff of the Court of Auditors: the nomenclature is not detailed enough for some — albeit essential — data to be assessed directly.

(**) Export quantities assessed by the Court of Auditors using the statistical data of the Commission. To this may be added 175 000 tonnes exported in the form of food aid. Total exports are thus 640 000 tonnes.

The Court's assessment of the financial management of the funds used in this way by the Commission in 1979 was based on the decisions taken by the Commission week by week after consulting the Management Committee for milk products. The examination was directed to a critique of the levels chosen for premiums, for the prices to be charged to the various consumers and for export refunds; the object being to determine whether financial management had been of the best, or, if not, whether the funds could have been used more judiciously.

4.90. At the beginning of the year Community stocks were undeniably still very large. But skimmed-milk powder is not expensive to store: it will keep without the use of cold storage. At that date, however, there was no longer a basically upward trend in Community production estimates. The first production estimates for the year were available from March/April. Compared with figures for the previous years, they clearly showed a reduction in the rate of growth (this is confirmed by the current estimates for 1980).

(1 000 tonnes)

1960	1965	1970		1972	1973	1974	1975	1976	1977	1978	1979		1980 (*)
323	775	1 356		1 655	1 771	1 753	1 941	2 001	1 969	2 143	2 076		2 075

(*) Estimate provided as a guide.

Source: Commission.

This reduction, particularly striking in the country which is the largest producer, is mainly due to a change of emphasis in the production process favouring the production of derived products with a high added value for a given quantity of milk (cheese and other manufactured milk products), at the expense of milk powder. It is interesting that the same phenomenon has been observed in New Zealand, the main competitor of the Community. This explains why the world market prices in 1979 showed a continuous rise accentuated by increasing demand.

4.91. In spite of this situation the Commission continued (as in 1977 and 1978) its vigorous policy of absorbing stocks by encouraging the consumption of fresh powder on the home and export markets and by disposing of the amounts actually in storage. It was not until 19 October 1979 that it stopped disposing of powder for pig and poultry feed in spite of the particularly high cost of the measure.

Table 15 — Disposal of skimmed-milk powder

(1 000 tonnes)

	1978				1979			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Internal sales								
Calf feed	1174				1305			
Pig and poultry feed ⁽¹⁾	109	144	158	177	144	156	190	0
Exports	90	100	105	110	130	180	170	160

⁽¹⁾ This data differs slightly from that provided in Table 13 for reasons inherent in the system of financing the EAGGF Guarantee expenditure.

At the beginning of the year the size of the stocks perhaps justified this policy in spite of their steady reduction over two years and their growing concentration in the Federal Republic of Germany. But it may be thought that the policy of reducing stocks was followed too vigorously and for too long without paying enough attention to the budgetary cost. It is also regrettable that it was brought to an end in a brutal manner, since abrupt administrative action often causes disturbances on the market.

4.92. Two factors suggest that the measures applied at the beginning of the year were carried out too vigorously and for too long:

- (a) the exceptionally large quantity covered by the applications for 9 months' advance fixing of refunds for export, submitted by traders during the summer 1979. At that time advance fixing certificates issued since the beginning of the year covered a total of more than 500 000 tonnes of skimmed-milk powder and at least 300 000 tonnes had already been exported to non-member countries whereas, normally, the volume of exports was about 400 000 tonnes a year.

This means that, from the summer, traders were certain of a rise in world prices and that the level of refunds could have been considerably reduced from the 804.4 ECU/t then prevailing. The first decisions of the Commission on 17 June (765 ECU) and on 3 August (735 ECU) were, however, too timid and, in fact, were only an incentive to have more refunds fixed in advance. It was not until 12 October (665 ECU) that the reduction had an adequate effect.

- (b) the firmness of the internal Community market, where for a long period (September 1979 to February 1980) prices were between 7 and 8 % above the intervention price, indicating, if not a shortage, at least fears of a shortage as confirmed by a number of separate indications. These fears were increased by awareness of the imbalance which existed between the public stocks in different Member States.

The Commission was to recognize this state of affairs itself, since the stated reason for its decision of 19 October 1979 ⁽¹⁾, suspending the sale of skimmed-milk powder intended as feed for animals other than young calves, was 'the drop in public stocks of skimmed-milk powder and of the general situation at the moment on the market for fresh skimmed-milk powder which is showing a certain firming of prices'.

This means that, even before that date, the normal users of skimmed-milk powder (calf feed) had paid higher prices for their supplies, which is not consistent with a policy of premiums for the same users and not only for them but also for the less traditional users (pig and poultry feed). Nor is this consistent with a policy of limiting milk production by means of a brake on producers' returns.

This could only have had the effect of discouraging calf-rearing and the use of feedstuffs based on milk products for this purpose. There is no substitute for skimmed-milk powder for rearing young calves or calves yielding white meat to the taste of a section of the consumers. The cheapest outlet, from the point of view of the Community budget, has thus been discouraged.

4.93. It is legitimate to wonder why the Commission could not have reduced export refunds more quickly and to a greater extent. The reductions decided upon in June and August were too small. Previously, refunds had been maintained at the very high levels set in 1977 and 1978. The Commission did not make any significant reduction in the rate until October 1979, i.e. three months after the start of the development mentioned above, during which traders had, by advance fixing, obtained very large quantities.

The Court has investigated the possible financial result for the EAGGF if, as early as June 1979, refunds had been sharply reduced. It transpires that over a period of two years, Community expenditure could have been reduced by 100 MEUA.

4.94. The main question that arises is whether, on the internal market, the Commission should not have adopted a different attitude well before October 1979, namely to increase the selling prices (Regulations Nos 368/77 and 443/77) and considerably reduce the aid (Regulation No 1844/77) to consumers of skimmed-milk powder for use as pig and poultry feed or, where necessary, to suspend sales or distribution of premiums to these consumers. The cost of the course followed was about 80 % of the intervention price, whereas at that time the market price rose considerably above this price (cf. paragraph 4.72 (b)).

⁽¹⁾ Regulation (EEC) No 2306/79 of 19 October 1979, OJ No L 264, 20. 10. 1979, p. 19.

Assuming that this would have meant carrying over an additional 200 000 tonnes to 1980 by stopping the use of skimmed-milk powder as pig and poultry feed from the second quarter of 1979, the stocks at the end of the year would still only have been 400 000 tonnes⁽¹⁾. The financial effect for the EAGGF would have been more favourable. The Court has calculated that there would have been a saving of about 85 MEUA over a period of two years.

It would most probably have been possible to find an outlet in 1980 for the amounts stored with calf-feed producers or, if this failed, in exports. The increase in sales at the normal price (intervention price increased by 2 ECU/100 kg) at the end of 1979 and the beginning of 1980 confirms this possibility. 58 000 tonnes were sold under these conditions during the three-month period October-December 1979 while only 52 000 tonnes had been sold throughout the whole of 1978. Furthermore, the prospects for the production of skimmed-milk powder are such (cf. paragraph 4.90) that a reduction in stocks was to be expected in a relatively short period on the basis of its use within the Community as feed for calves alone. This trend would have been accelerated if administrative measures had been taken to encourage the use of skimmed-milk powder in calf-feed, for example by stabilizing market prices at the level of the intervention price or if need be, increasing the premium and reducing the delivery price of public stocks to the extent to which Community finances benefit from this use of the powder.

Although the consumption of milk powder for calf-rearing is inelastic in the short term, it may, in the long term, be affected by structural factors. This is an industry with rather heavy investment costs where profit margins are very low. For this reason any change in the price of necessary basic products, such as skimmed milk, with effects that cannot be avoided in the short term can represent, over a long period, either a disincentive or, as the case may be, a real incentive to calf-rearing.

4.95. The Commission is entirely responsible for the course of conduct here criticized. At no time did

it meet any opposition in the Management Committee over steps it proposed. There is no reason to think that the Committee would have refused to agree with the steps if they had been proposed earlier. On the contrary, some delegations had pointed out, in late 1978 and early 1979, the unfortunate effects of the high level of subsidy given for pig and poultry feed.

A proper exercise of its functions by the Commission requires that, without concern for any other considerations, it should present the Committee with the best solutions for the Community from the technical and budgetary standpoint, if necessary at the risk of being turned down by the Council but forcing a clear-cut assumption of responsibility by all sides.

4.96. On the organization of the market rather than the day-to-day management, the Court's only comments at this stage are upon the advance fixing of refunds. The Court does not propose to question the principle of advance fixing, which meets a requirement of international trade. But it is reasonable to question some of the ways in which it was applied to the market for skimmed-milk powder and to the market conditions of 1979.

The question therefore arises whether the performance guarantee is adequate; whether, by way of exception, the validity of the advance-fixing certificates could not have been shortened during the period May to October 1979 to take account of a probable rise in world prices; and whether quotas could not have been reserved for producers and exporters who normally operate on the market so as to reduce the chances of speculators obtaining certificates for resale to those traders at the right moment.

The Court is struck by the complacency shown by the departments of the Commission at the mention of the present mechanisms and the ways in which they operate. It wonders whether a constant willingness on their part to question existing systems and procedures would not be a more appropriate attitude.

⁽¹⁾ At 1 June 1980 they amounted to 150 000 tonnes, a drop of 25 % from the 200 000 tonnes held at 1 January 1980. Almost the whole amount is situated in the Federal Republic of Germany.

CHAPTER 5 — THE EAGGF GUIDANCE SECTION

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Summary of principal comments

	Paragraph reference
5.0 The main observations contained in this chap- ter concern:	
(a) under-utilization of commitment appropriations and transfers to other titles of the budget	5.2 to 5.3
(b) need to improve the budgetary estimates	5.5 to 5.8
(c) under-utilization of payment appropriations and unsatisfactory operation of the system of differen- tiated appropriations	5.9 to 5.12
(d) subsidies granted for the construction of fishing boats: need to improve coordination with other Community operations	5.17 to 5.19
(e) delays and problems in the implementation or utilization of investments, in particular in the cit- rus fruits sector	5.25 to 5.31
(f) problems in justifying expenditure on aids to producers' organizations	5.32 to 5.36
(g) problems in applying the provisions governing the premiums for the non-marketing of milk and milk products and the conversion of dairy herds to meat production and in monitoring their appli- cation	5.37 to 5.39

INTRODUCTION

5.1. The financial year 1979 is the last to be governed by the system of annual allocations laid down in Article 6 of Council Regulation (EEC) No 729/70. From 1980, in application of Council Regulation (EEC) No 929/79, amending Regulation (EEC) No 729/70 the total financial assistance that can be made available to the Guidance Section is set by the Council by the Council for five-year periods (3 600 MEUA for 1980-84). The amount of annual appropriations is fixed through the budgetary procedure, to be financed under the common measures and special measures.

A reserve of approximately 531 MEUA, made up of the unused share of the annual allocations for 1969 to 1977 was last re-allocated by Council Regulation (EEC) No 3309/75 of 16 December 1975. It was employed in part in 1978 and 1979 to cover appropriations in excess of the annual allocation, and the balance of this reserve remaining at the end of 1979, about 133 MEUA, was then cancelled.

THE COMMITMENT APPROPRIATIONS
AVAILABLE IN 1979 AND THEIR UTILIZATION

5.2. For the Guidance Section of the EAGGF, the commitment appropriations in the 1979 budget were 525.4 MEUA. Following carry-overs and other movements during the financial year, the appropriations actually available in 1979 amounted to 711.6 MEUA, as shown in Table 1, which also shows the share utilized.

There were numerous cases of appropriations being re-entered under other headings, by means of transfer or the supplementary and amending budget, amounting in certain articles to more than half the initial appropriations. Their overall effect was to reduce by 97 MEUA the total commitment appropriations of the Guidance Section, mainly to the profit of the Guarantee Section.

Table 1 — Commitment appropriations available in 1979 and their utilization

(MEUA)

Item or chapter	Title	Initial budget	Supplementary budget ⁽²⁾ and transfers	Existing appropriations	Total appropriations available	Commitment	Appropriations carried over	Appropriations cancelled
80	A. Individual projects R. 17/64	token entry	—	117.5 ⁽¹⁾	117.5	115.5	—	2.1
8210	R. 355/77	80.00	—	1.5	81.5	79.4	2.1	—
8211	R. 1361/78	42.00	—	19.5	61.5	53.5	8.00	—
8600	R. 1852/78 inshore fisheries	token entry	+ 15.00	5.00	20.00	4.9	15.00	—
	Group A — Total	122.00	+ 15.00	143.5	280.5 ⁽³⁾	253.3	25.1 ⁽³⁾	2.1
8100	B. General social and infrastructure measures Dir. 72/159	81.1	— 0.1	6.9	87.9	54.3	33.6	—
8110	72/160	1.7	— 0.5	0.4	1.6	0.3	1.2	0.1
8120	72/161	3.1	— 1.4	2.9	4.6	3.9	0.7	—
8130	75/268	99.5	— 12.00	26.7	114.2	82.5	31.7	—
	Group B — Total	185.4	— 14.00	36.9	208.3	141.00	67.2	0.1
8190	C. Regional measures R. 2395/79 measures for FOD following hurricanes	—	+ 12.1	—	12.1	12.1	—	—
8400	R. 1362/78 irrigation in Mezzogiorno	26.7	— 9.00	—	17.7	—	17.7	—
8410	R. 1760/78 improvement of infrastructure	25.00	—	—	25.00	—	25.00	—
8420	Dir. 78/627 conversion of vineyards in Languedoc-Roussillon	21.7	— 13.6	—	8.1	—	8.1	—
8440	Dir. 78/628 drainage in Ireland	3.5	+ 0.4	—	3.9	3.8	0.1	—
	Group C — Total	76.9	— 10.1	—	66.8	15.9	50.9	—
8200	D. Measures connected with market organizations R. 1360/78 producer groups and associations thereof	3.7	— 3.7	—	—	—	—	—
8201	R. 1696/71 hop producer groups	0.4	+ 1.2	0.6	2.2	2.1	0.1	—
8310	R. 1353/73 conversion to beef and veal production	4.5	—	9.00	13.5	10.8	2.6	—
8322	R. 794/76 reorganization of fruit production	4.00	—	0.9	4.9	0.6	4.00	0.3
8350	R. 1163/76 conversion of vineyards	31.5	— 22.1	6.2	15.6	9.7	5.9	—
8360	R. 1078/77 non-marketing of milk	73.4	— 50.4	65.9	88.9	59.5	23.00	6.4
8370	Dir. 77/391 cattle diseases	20.00	— 12.9	—	7.1	7.1	—	—
8500	R. 1035/72 producer groups in fruit and vegetable sector	3.5	— 0.006	2.3	5.8	0.8	3.5	1.5
8520	R. 2517/69 grubbing fruit trees	token entry	+ 0.006	—	0.006	0.006	—	—
8530	R. 2511/69 conversion of citrus fruit production	token entry	—	17.7	17.7	4.9	—	12.8
8620	R. 100/76 producer groups in fisheries sector	0.1	—	0.2	0.3	0.2	0.1	—
	Group D — Total	141.1	— 87.9	102.8	156.00	95.8	39.2	21.00
	Grand Total	525.4	— 97.00 ⁽²⁾	283.2	711.6	506.00	182.4	23.2

⁽¹⁾ Including 45.7 MEUA de-committed and re-usable in accordance with Council Regulation (EEC) No 3171/75.⁽²⁾ — 81.7 MEUA from supplementary and amending budget No 3, and — 15.3 MEUA in transfers.⁽³⁾ After exchange-rate adjustments.

It should also be noted that, of the 43·80 MEUA of commitment appropriations provisionally provided for in respect of Chapter 100 of the budget for the Guidance Section, 5 MEUA were transferred to this Section, 23·3 MEUA were used for the Guarantee Section, and the balance was cancelled.

5.3. In 1979, commitments amounted to 506 MEUA (71·1 % of final appropriations), a notable increase over the 279·2 MEUA of the financial year 1978 (52·3 % of final appropriations). None the less, if the initial appropriations for 1979 are taken into consideration (i.e. 97 MEUA subsequently entered under other titles of the budget), the percentage of utilization falls to 62·6 %. For a more detailed examination of the commitments, by budget heading, reference should be made to the 1979 revenue and expenditure account.

In application of Article 2 of Council Regulation (EEC) No 929/79 of 8 May 1979, the appropriations entered in the 1979 budget that have not been committed by the end of the financial year and are carried forward to 1980, will be deducted from the amount of financial assistance for the five-year period starting on 1 January 1980.

5.4. No further commitment appropriation was entered in the 1979 budget for projects to improve agricultural structures (Regulation 17/64). In reality, the effect of carry-overs and appropriations de-committed and re-usable in accordance with Regulation No 3171/75 was to leave available an allocation of 117·5 MEUA in 1979 for projects under Regulation No 17/64, which was used for providing new assistance, in accordance with the provisions of Council Regulation (EEC) No 2992/78.

It is not intended in future to grant new financing of this kind, by means of re-utilization of de-committed appropriations, for projects under Regulation 17/64. The latter type of intervention is not to be continued, as the projects will henceforth be financed only under Regulation 355/77. Re-commitment of appropriations in accordance with Regulation No 3171/75 should be more suitably presented in the accounts in order to avoid differing sums appearing as at present on page 133 of the 1979 Revenue and Expenditure Account and on page 138 of the Analysis of the Financial Management for the same financial year.

5.5. Table 2 compares the utilization of commitment appropriations of the last three financial years. The project measures represent individual projects and regional projects for which collective projects or programmes are submitted by the Member States. Under the heading 'Measures involving reimbursement' are grouped the general social and structural measures and those connected with the market organizations, for which the commitments in the Community accounts take place at the same time as payments.

5.6. The estimates provided by the Member States and re-issued by the Commission have always been excessive as far as measures involving reimbursement (essentially the common measures) are concerned. Up to and including 1977, Article 6 (4) of Council Regulation 729/70 allowed the transfer, during the financial year, of the unused part of the appropriations intended for the common measures to the project measures (individual projects under Regulation 17/64).

In 1978, in spite of two transfers of 70 MEUA and 42 MEUA to finance interventions for projects (under Regulations 17/64 and 355/77 respectively), only 50·8 % of the final appropriations available for measures involving reimbursement (374·1 MEUA) had been committed and, for the Guidance Section as a whole, carry-overs to the following financial year amounted to 250·2 MEUA. In 1979, in spite of re-entries of a total of 97 MEUA under other titles of the budget, there are still 205·6 MEUA in unused appropriations at the end of the financial year, of which 182·4 MEUA have been carried forward to 1980 and 23·2 MEUA cancelled. The cancellations principally concern conversion in the citrus fruits sector (Item 8530), 79 % of the appropriations of which had been carried forward from 1978 to 1979, to be cancelled for the most part at the end of the year.

5.7. Better estimates would none the less appear possible. For the eradication of cattle diseases (Item 8370), irrigation in the Mezzogiorno (Item 8400), improvement of public services (Item 8410) and conversion of vineyards in Languedoc-Roussillon (Item 8420), the Community regulations provide for the prior approval by the Commission of plans or programmes, and it was therefore possible to foresee that, given the timetable for implementing the measures, there would be no commitments of Community funds in the first year following the adoption of these regulations.

Table 3 — Utilization of commitment appropriations in 1977/1978 and 1979

(MEUA)								
	Appropriations carried forward from previous year	Appropriations released R 3171/75	Initial budget	Amending budget and transfers	Appropriations available for the financial year	Commitments	Appropriations to be carried forward	Appropriations cancelled
1977 (m.u.a.)								
Project measures	0.6	25.6	186.2	+35.5	247.9	247.3	—	0.6
Measures involving reimbursement	21.6	—	138.8	−35.5	124.9	100.7	23.5 ⁽¹⁾	0.7
Total	22.2	25.6	325.00	—	372.8	348.00	23.5	1.3
1978 (MEUA)								
Project measures	—	12.00	80.00	+117.00	209.00	114.5	94.5	—
Measures involving reimbursement	26.6 ⁽¹⁾	—	393.5	−96.00	324.1	164.8	155.7	3.6
Total	26.6	12.00	473.5	+21.00	533.1	279.3	250.2 ⁽²⁾	3.6
1979 (MEUA)								
Project measures	97.8	45.7	198.9	+4.9	347.3	269.2	76.00 ⁽³⁾	2.1
Measures involving reimbursement	139.7	—	326.5	−101.9	364.3	236.8	106.4	21.1
Total	237.5 ⁽²⁾	45.7	525.4	−97.00 ⁽⁴⁾	711.6	506.0	182.4	23.2

⁽¹⁾ The difference is due to the change from u.a. to EUA.

⁽²⁾ The difference results from the non-inclusion in 1979 of the appropriations of the former Item 8303 (Surveillance of the fishing zone) in the Title 'EAGGF Guidance Section' (−16 MEUA) and from adjustment of the exchange rates +3.3 MEUA).

⁽³⁾ After exchange-rate adjustment.

⁽⁴⁾ Including −81.7 MEUA from the supplementary and amending budget No 3 for 1979 and −15.3 MEUA resulting from transfers.

For aid to producer groups and associations thereof (Item 8200), the relevant regulation was published in June 1978. In 1977, however, an appropriation of 0.5 MEUA had already been entered in the budget and this was increased by a transfer of 4.614 MEUA. A budget heading with a 'token entry' would have sufficed, for, even if the regulation had been adopted more quickly, no requests for reimbursement would have arrived before 1978. Carried forward to 1978, the appropriations were cancelled in their entirety and in 1979 all the appropriations of that year were transferred to finance other expenditure.

5.8. For the directives concerning social and structural measures (Items 8100, 8110, 8120, 8130), there has been a consistent over-estimation of appropriations since 1973, as can be seen from the following comparison between appropriations entered in the budget and appropriations used (in m.u.a. or MEUA):

Year	Appropriations provided	Appropriations used
1973	25.0	—
1974	15.0	—
1975	66.5	1.7
1976	91.0	47.1
1977	98.3	77.0
1978	155.3	65.4
1979	185.4	141.0
	636.5	332.2

More realistic estimates should have been possible, given that the decisions of the Commission on the conformity of the national implementing

regulations to these directives were staggered over several years and have still not all been adopted and that in 1976, 1977 and 1979, the Commission submitted proposals to amend the basic legislation which are still being examined and which are intended to extend the application of the measures provided for by these directives.

PAYMENTS MADE IN 1979

5.9. The utilization of payment appropriations in 1979 is given in Table 3, which distinguishes between the payment appropriations for the financial year and the differentiated and non-differentiated appropriations carried over.

Table 3 — Payments made in 1979

A. Utilization of appropriations in the financial year 1979

(MEUA)

	Appropriations available	Payments	%	Appropriations to be carried over	%
Individual projects	49.00	—	—	49.00	100.00
General social and structural measures	134.7	76.00	56.4	58.7	43.6
Regional measures	50.00	11.8	23.6	38.2	76.4
Measures connected with market organizations	70.5	3.4	4.8	67.1	95.2
Total	304.2	91.2	30.00	213.00	70.00

B. Utilization of appropriations carried over — differentiated appropriations

	Appropriations carried over from 1978	Payments	%	Appropriations cancelled	%
Individual projects	63.00	26.5	42.00	36.5	58.00
General social and structural measures	65.1	65.00	99.8	0.1	0.2
Measures connected with market organizations	158.6	92.4	58.2	66.2	41.8
Total	286.7	183.9	64.1	102.8	35.8

— non-differentiated appropriations

	Appropriations carried over	Payments	%	Appropriations to be carried over	Appropriations cancelled
Individual projects	571.9	128.3	22.4	435.4	8.2 (1)

(1) Including 6.7 MEUA representing adjustments to the balances of the commitments according to variations in the EUA rates.

The total payments amounted to 403.4 MEUA in 1979, as against 323.6 MEUA in 1978. Even after deducting the non-differentiated appropriations, the payment appropriations utilized amount to only 30.1 % of the allocations for the financial year and 64 % of the payment appropriations carried over from 1978.

5.10. The system of differentiated appropriations which has been applied to Title 8 of the budget since 1977 and whose purpose was to enable the budgetary estimates to reflect the real requirements of each financial year more faithfully, in respect of both commitment and payment appropriations, does not therefore seem to have led to the desired

results since a large part of the allocations continues to remain unused.

5.11. It should moreover be noted that in respect of many measures of the Guidance Section the commitment operations in the Community accounts are effected at the same time as the payment operations (measures related to market organizations, general social and structural measures).

For the measures in question (cf. Table 4) there were differences between the amounts of commitment appropriations and payment appropriations both in the transfers made in 1978 and 1979 and in the 1979 budget (initial budget and supplementary and amending budget No 3). These differences concern the aid provided for under Directives 72/159, 72/161, 75/268, Regulation No 1163/76, Directive 77/391 and are not justified since it involves operations in respect of which the same amount is committed and paid.

Table 4 — Differences between commitment appropriations and payment appropriations for measures involving reimbursement, 1977-79

(MEUA)

Financial year	Appropriations carried over	Initial budget	Transfers and amending budget	Appropriations available	Appropriations to be carried over	Appropriations cancelled
1977 (m.u.a.)						
Commitment in appropriations	19	138.8	— 35.5	122.4	23.5	0.2
Payment appropriations	19 (2)	138.8	— 35.5	122.4	23.5(1)	0.2
1978 (MEUA)						
Commitment in appropriations	26.6	393.5	— 112	308.1	139.7	3.6
Payment appropriations	26.6(1)	393.5	— 28	392.1	223.8	3.6
1979 (MEUA)						
Commitment in appropriations	139.7	326.5	— 101.9	364.3	106.4	21.1
Payment appropriations	223.8	287.5	— 82.2	429.1	125.8	66.4

Remarks: (1) Following the application of the EUA on January 1978, the 23.5 m.u.a. to be carried over at the end of 1977 correspond to the 26.6 MEUA carried over to 1978.

(2) The appropriations for the '75 statistics' enquiry were not taken into account in 1977.

5.12. The commitment entered into in respect of the general social and structural measures should cover all of the requests for reimbursement submitted by each Member State and not confine itself, as was the practice of the Commission until the end of 1979, to the part actually paid, in the form of an advance or balance.

5.13. Until 1977, payment of aid from the Fund was made in the form of a reimbursement to individuals or Member States of part of the expenditure which they had incurred themselves. The only exception was the system of flat-rate aid to Italy and Luxembourg, which involved the payment of advances.

The social and structural measures only slightly altered the procedure by making provision for the

payment of an advance of 75 % of the reimbursement requested as long as this application for reimbursement was submitted in due and proper form.

To cope with special circumstances, a system of advances was in fact introduced in 1976 by Regulation No 3108/76 on compensation for damage caused by the earthquake in Friuli.

5.14. Since 1978, in order to speed up the operations financed by the Fund, most of the new measures (Regulations Nos 1362/78, 1760/78, 269/79, 270/79, Directives 627/78, 628/78, 173/79, 174/79, 197/79, 359/79) include payment of advances. It should be noted that these measures concern regions which have special structural problems and the system of advances does not extend to the aid applicable to the Member States as a whole.

Although it has not adopted a general set of rules to govern the administrative arrangements for the granting of advances, the Commission has adopted a number of decisions on the conditions of payment of advances in particular sectors (drainage in Ireland, conversion of vineyards in Languedoc-Roussillon and in the Charentes). These decisions, which aim to reconcile the objective of speeding up the aid from the Fund with the need to verify that it is properly used, essentially rely on a duty to send the Commission each year a report on the utilization of the advances.

The increasing use of advance payments should be accompanied by an increase in the number of on-the-spot audits and audits on the basis of records by the Fund's departments, but there has been no sign of this to date, despite the considerable increase in expenditure.

AUDITS CARRIED OUT BY THE COURT OF AUDITORS IN 1979

5.15. The audits of the Court were concerned in particular with the systems applied by the Community institutions for the operation of the Fund.

The audits in the first place covered the inspections carried out in the Member States by the administrative departments, which proved to be very limited in number: 17 visits were made in 1979 of which seven related to individual projects and ten to common measures.

5.16. The Court of Auditors took part in four of these inspections (two involving individual projects and two others involving common measures). During the year it also undertook 15 independent audits in the Member States (one in Belgium, three in the Federal Republic of Germany, one in France, one in Ireland, four in Italy, one in Luxembourg and four in the United Kingdom).

Twelve of the independent audits related to common measures and three to individual projects. One on-the-spot audit, concerned with the premiums for the non-marketing of milk and milk products and conversion of dairy herds to meat production was performed jointly with the Federal German Court of Auditors.

Several independent audits dealt with the application of Council Directive No 75/268 of 28 April 1975 on mountain and hill farming and farming in

less-favoured areas. They formed the subject of a special report of the Court of Auditors which (together with the Commission's reply) is now in press.

The principal comments arising from the other audits are detailed below and concern the selection of projects for subsidy, the implementation of the projects, improvements in the citrus fruits sector, aid to producers' organizations and premiums for the non-marketing of milk and milk products and for the conversion of dairy herds to meat production.

SELECTION OF PROJECTS FOR SUBSIDY

5.17. From 1971 to 1979 aid in the Guidance Section was granted under the provisions of Regulation (EEC) No 17/64 for the financing of individual projects for the purchase or modernization of 609 fishing vessels, 271 of them in the United Kingdom (77 in England and Wales, 154 in Scotland and 40 in Northern Ireland). A large number of these vessels were intended more specifically for herring fishing.

As part of its measures to conserve fish stocks however, the Community saw fit to adopt various regulations imposing quotas on the herring catch and even temporary bans on herring fishing in certain areas.

5.18. An audit which, in addition to inspection of about thirty files, included a visit to Scotland from 17 to 27 September 1979, found that the imposition of restrictions on catches had left the subsidized vessels with limited scope for fishing.

In order to mitigate the effects of this under-employment of equipment, some owners, at considerable cost, converted their vessels for other types of fishing, namely mackerel or deep-sea fishing.

According to the 'Scottish sea fisheries statistical tables' of 1978, Scottish production of mackerel, in millions of metric tonnes, has developed over the

last few years as follows (herring production is given in brackets):

1974 : 9 (129)
 1975 : 17 (99)
 1976 : 30 (73)
 1977 : 54 (38)
 1978 : 107 (14)
 1979 : 108 (2)

5.19 Since 1978, in order to avoid uncontrolled catches, quotas have also had to be set for mackerel, which limits even further the possibilities for using the vessels built.

Even though it concerns only a small part of the fishing fleet, the granting of subsidies for building such a large number of vessels when the need to safeguard fish stocks made it clear that quotas would be applied reducing the catch is proof that granting of aid needs to be better coordinated with the measures applied in the fisheries sector.

It also shows the need for more specific and practical criteria in the selection of projects.

5.20. Furthermore, because of the low Community consumption of mackerel, part of the production is exported to non-member countries (cf. Fisheries of Scotland report for 1978, page 9) (which gives rise to the payment of refunds) and part is the subject of withdrawal measures. These measures are chargeable to the Guarantee Section of the EAGGF, under Article 880 and Item 8810 respectively of the Community budget.

From information supplied by the national authorities, the amounts charged to the Community budget in 1978 and 1979 as refunds paid by the United Kingdom for the export of mackerel were £ 1 342 532 and £ 1 694 792 respectively.

IMPLEMENTATION OF THE PROJECTS

5.21. Inspection of the files and on-the-spot visits in connection with projects to construct oil mills and restructure the olive-oil industry in the prov-

inces of Catanzaro and Reggio Calabria (Italy) showed that there were difficulties in completing the programmes.

Out of ten projects to construct oil mills, four had been cancelled, only two were operational and the four others had not been completed or had never operated.

With two of the projects cancelled, successive invitations to tender (two invitations to tender for each of the projects) sent to about fifty undertakings had not received any reply, and none of the firms consulted had submitted a tender. For two other oil mills it had not been possible to find suitable sites, as each of the sites planned was subsequently reserved for another purpose.

5.22. According to the national authorities, this situation is due to the increase in costs caused by inflation and to difficulties which arose in the acceptance of the work.

The main reason why certain of the completed installations are standing idle is that the cooperative organizations which were intended to manage them have not yet been set up, which at the very least shows a lack of initiative and coordination on the part of the national bodies responsible. Responsibility also lies, it must be added, with the Community authorities, who allowed this situation to develop.

5.23. Following an earthquake in May 1976 which affected the Friuli-Venezia Giulia region, emergency aid was approved by the Community and formed the subject of supplementary budget No 1 of 1976 (OJ No L 205, 1976). A total appropriation of 60 m.u.a. was accordingly entered in Chapter 58 under the heading 'Community aid to the Friuli disaster area' and committed, 45 m.u.a. for agricultural structures projects and 15 m.u.a. for civil infrastructures.

Audit of these projects had not been completed at the end of the year. Considerable delays were nevertheless found, mainly due to the approval procedure which, on average, takes 19 months.

5.24. Despite the adoption of special provisions both at national and Community level to speed up implementation, by the end of 1979 only one of the 19 agricultural structures projects financed had been completed, and payments by the Commission only

amounted to about 15 % of the aid granted. The national authorities stated that some 50 % of the work on these projects had been completed.

For the civil infrastructures (11 projects in all) work is at a more advanced stage and payments amounted to 75 % of the aid.

IMPROVEMENT OF THE CITRUS FRUITS SECTOR

5.25. On 9 December 1969 the Council adopted Regulation (EEC) No 2511/69 laying down special measures for improving the production and marketing of Community citrus fruit, which in the case of Italy were to be included in a plan drawn up in agreement with the Commission and completed before 31 December 1976.

The Italian plan, which was drawn up on the basis of this regulation, was submitted to the Commission in 1970. After an alternative version had been submitted in 1971, it was approved by the Commission in February 1973 and adopted by the Italian Parliament in June 1974. It made provision for the following expenditure to be borne in equal shares by the Member State and the EAGGF Guidance Section:

- total reimbursement of the expenditure incurred in replanting an estimated area of 42 740 hectares;
- additional aid could, under certain conditions, be allocated for five years to small farmers in order to compensate for the loss of income caused by the work of replanting;
- total reimbursement of expenditure incurred in setting up or modernizing nurseries;
- reimbursement, up to a maximum of 70 % of the cost of setting up, improving or enlarging packaging or processing centres for citrus fruit.

Other measures of a complementary nature were provided for, to be carried out by national or regional bodies, particularly in respect of site clearing and development, irrigation and loans to pre-finance conversion work.

5.26. Work only really started in 1975, i.e. more than five years after the adoption of Council Regulation (EEC) No 2511/69, which has itself been

amended twice, in the first instance to relax the conditions for the grant of additional aid (Council Regulation (EEC) No 340/77, OJ No L 48, 19 2. 1977), and secondly to extend until 31 December 1986 the period for implementing measures within the framework of the plan on which a start has been made before the end of 1983 (Council Regulation (EEC) No 2226/79, OJ No L 257, 12 10. 1979).

Table 5 gives a comparison of the estimates and results in the citrus fruit sector at the end of 1978. The total of 27 614 million lire represents payments of 2 307 in 1975, 3 595 in 1976, 10 268 in 1977 and 11 444 in 1978.

5.27. As indicated above, the plan provided for the replanting of 42 740 hectares (half of which would also benefit from the additional aid). At 31 December 1978 the total number of requests: (a) submitted, (b) for which a commitment had been made and (c) paid was as follows:

- (a) requests submitted: 3 119, for a total of 6 392 hectares namely 15 % of that estimated;
- (b) requests for which a commitment had been made: 1 944, for a total of 3 394 hectares, namely 8 % of that estimated;
- (c) requests paid: 636, representing 1 120 hectares, namely 5 % of that estimated.

5.28. The on-the-spot audits revealed certain continuing weaknesses in the working of the conversion measures. When questioned on this matter, the national authorities provided explanations which largely confirmed the findings made during the visits.

The amount of the aids was not adjusted in time to adequately compensate for the effects of the monetary depreciation.

Furthermore, the loss of income over at least three years that is caused by replanting can only partially be offset by additional aid (paid after completion of the work) and loans (complex application procedure). The difficulties are felt particularly by small growers who have no liquid assets, are sometimes in debt and in no position to give up full production from their existing trees.

Table 5 — Citrus fruits plan: fulfilment of estimates at 31 December 1978

	Estimates of total expenditure ⁽¹⁾		Commitments at 31 December 1978		Payments at 31 December 1978	
	(millions of lire)	(millions of u.a.)	(millions of lire)	(% of estimate)	(millions of lire)	(% of estimate)
Replanting						
— primary aid	72 420	115 872	8 116	11.2	1 765	2.4
— additional aid	60 360	96 576	4 357	7.2	917	1.5
Nurseries	3 100	4 960	3 643	117	1 842	59.4
Packaging and processing centres	44 750	71 600	57 007	127	23 090	51.6
	180 630	289 008	73 123	40.5	27 614	15.3

(¹) 50 % to be borne by Italy and 50 % by the EAGGF — Guidance Section.

Other constraints can arise from the social and cultural environment and the ingrained habits of the older farmers. But even allowing for these factors, the aims of the plan could have been better observed if they had been based on more valid estimates and if the amount of aid had been correctly adjusted to changes in monetary value.

5.29. The measures planned for the nurseries and for the packing and processing centres were more successful, since the commitments exceeded the estimates.

This success must, however, be seen in the light of the failure to convert the plantations of fruit trees. If replanting does not take place as envisaged, there is likely to be little use of the nurseries and the new plants which they produce, at least on the part of the small growers.

As for the packing and processing centres (which are primarily set up by cooperatives), although they represent a modernization of the installations, they will, at best, have to handle produce whose marketing potential has not been improved and confine themselves mainly to the production of fruit juices and fruit extracts.

5.30. Thus the findings made during the audit of the implementation of the conversion measures confirm the comments in Chapter 4 of this report on the

inadequate 'observance of Community preference in the citrus fruits sector' and the need to adapt production to suit the taste of the European consumer.

5.31. Article 4 of Council Regulation (EEC) No 2511/69, as amended by Council Regulation (EEC) No 349/77 lays down the conditions for the granting of additional aid to small growers to offset part of the loss of income entailed by replanting (cf. the preamble to the regulation).

It provides that, for small growers to benefit from the aid, the income derived from their holding must not exceed the income derived from four hectares of production of the citrus fruit in question.

The audit found that the actual income is calculated after the replanting work, which means that the income is always found to be less than that derived from four hectares. Moreover, the national departments make the granting of the aid dependent upon one further condition, derived from the national legislation: the maximum number of working days for running the holding must not exceed 1 500 per annum, which covers a greater number of persons eligible than the Community provisions.

AID TO PRODUCERS' ORGANIZATIONS

5.32. In order to facilitate the formation and operation of producers' organizations in various

agricultural sectors, Community regulations have made provision for the granting of aid in the initial stages to those organizations offering a sufficient guarantee of duration of efficiency.

The first stage of work of the Court in 1979 covered the application in certain Member States of Council Regulations (EEC) No 1035/72 of 18 May 1972 (fruit and vegetable producers), (EEC) No 1696/71 of 26 July 1971 (hop producers) and (EEC) No 100/76 of 19 January 1976 (producers in the fisheries sector).

These led to the following findings, which relate to the value of the documentation supporting the expenditure and to the validity of payment of aid to organizations which, although nominally set up recently, in fact merely continue the activities of associations existing beforehand.

5.33. An enquiry by the national administration at the request of the Commission is at present under way in France and Italy on observance of the conditions of Regulation 1035/72 by the fruit and vegetable producers' organizations. Requests for reimbursement have been held in abeyance by the EAGGF since 1975 for France and since 1976 for Italy while awaiting the result of the enquiry.

The Commission has been asked for the results of this enquiry. They concern both the Guidance and Guarantee Sections of the EAGGF. The existence of this enquiry was one of the reasons given by the Commission for the conditional nature of some of its clearance decisions on the taking into account of withdrawal expenditure on fruits and vegetables in 1979 (cf. paragraph 4.51).

5.34 Belgium's request for reimbursement of aid paid out in 1975 to a fruit and vegetable producers' organization was granted by the Commission by a decision in December 1976.

In 1977, the Commission requested that the Member State recover the aid. It appeared that the recipient organization had been set up by the merger of two existing cooperatives which had already received financial compensation for their activities from the Member State (Article 18 of Regulation 1035/72) which showed that they were in no way in their initial stages.

5.35. This resulted in a dispute with the Member State, due partly to the ambiguity of the regulations, which allowed aid to be granted without regard to the costs actually incurred by the recipient. Accordingly, in 1978, Regulation 1035/72 was amended by Council Regulation (EEC) No 1154/78 in order to avoid such problems of interpretation in the future.

However, the aid paid remained in the possession of the Member State, which raises doubts as to its compliance with the principle of sound financial management. Such expenditure could probably have been avoided if, before payment, the Commission had had more precise criteria for assessing the validity of requests for aid.

5.36. In the fisheries sector, as in the other sectors, the aid granted by the Member States to the producers' organizations is reimbursed up to 50 % by the EAGGF Guidance Section. It is paid over three years following the date on which the body is recognized and is limited to a decreasing share of the operating costs incurred by the body in question (60 % the first year, then 40 %, then 20 %).

An on-the-spot audit in September 1979 at a producers' organization in the fisheries sector in Aberdeen (United Kingdom) found that the expenditure of this organization was set nominally at an overall 33.3 % of the expenditure of a parent association of fishing vessel owners.

The activities currently falling to the producers' association in the fisheries sector were already performed to a large extent by the parent association of fishing vessel owners. When asked what actually were the new services provided to the producers by this newly-recognized organization, the national authorities stated that they essentially concerned duties under Regulation (EEC) No 100/76 and related provisions (withdrawal prices, distribution by category, etc.).

PREMIUM FOR THE NON-MARKETING OF MILK AND MILK PRODUCTS AND CONVERSION OF DAIRY HERDS TO MEAT PRODUCTION

5.37. A joint audit was carried out with the Federal German Court of Auditors in Lower Saxony in August 1979 on the application of the provisions of

Council Regulation (EEC) No 1078/77 of 17 May 1977 (amended by Council Regulation (EEC) No 1041/78 of 22 May 1978). This audit was performed both at the national administrative departments and at the holdings receiving the aid and covered the administrative arrangements, the processing of the application by the departments concerned and fulfilment by the recipients of the obligations imposed upon them by the Community regulations.

In view of the findings to date, the Court wishes at this juncture to draw attention to the following points.

5.38. Ambiguities and loopholes in the regulations are the prime reason for the continuing difficulties in their application; some three years after the measure was introduced. Successive interpretations of the Community legislation by the Commission, for the benefit of the national administrative departments have not clarified the situation to any real extent.

- (a) Milk producers can therefore sell their cows with a high milk yield, in order to replace them with animals of a lower quality, and subsequently apply for a premium.

For the purposes of the measure, the animals are in fact only identified at the time the application is submitted, the regulation requiring no more than the presence of the required number of animals on the farm.

- (b) The Community regulations on the non-marketing of milk do not provide for the case of a person who transfers or releases all or part of this pasture land before submitting his application. Numerous cases were found which are clearly not likely to lead to milk production being limited, in that the land thus released will again be used for dairy cattle rearing by other farmers.

The Commission was advised of this on several occasions by the Member State but merely stated in reply that the transfer of land prior to the application did not affect the premium.

5.39. The identity cards provided for in the annex to Regulation 1391/78 of 23 June 1978, which serve as proof that the animal has been slaughtered or exported, bear either no stamp at all or stamps which are not those of slaughterhouses; they are signed by persons who are not authorized to do so and are not properly completed.

The metallic markers fixed to the cows' ears can easily be detached and replaced by others; these markers can be bought on the open market.

Cases of fraud are not unusual and involve in particular falsified markers.

The administration of the *Land* in question is taking appropriate action via the Chambers of Agriculture. The latter are responsible, *inter alia*, for the formalities connected with submission of the application (registration of land and marking of animals) and for this receive fees from the recipients of the premiums. These fees amount to a deduction from the premiums granted and are likely to reduce their impact. And the fact that the recipients of the premiums pay the cost of checking their applications does not create an atmosphere conducive to the sound management of the measure.

The above considerations lead the Court to entertain doubts as to the effectiveness of the controls applied in that particular *Land* to ensure that the premium is justified.

CHAPTER 6 — FINANCIAL ACTIVITY OF THE COMMUNITY

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GENERAL REVIEW AND SUMMARY OF THE PRINCIPAL COMMENTS AND CONCLUSIONS OF THE CHAPTER

6.1 Table 1 below, which is given in differentiated and non-differentiated appropriations, summarizes the financial activity of the Community in the social sector, covered by budget Chapters 30

(Miscellaneous expenditure in the social sector), 35 (Protection of man and his environment), 50 to 53 (European Social Fund) and 59 (Aid to disaster victims in the Community).

6.2 The main features of the implementation of the budget have been firstly, the introduction of a system for cancelling commitments recognized as

unusable, and secondly, an effort to speed up payments. The Court notes, however, that the results vary considerably from country to country, which in turn suggests a need for the Commission to keep the Member States well informed, firstly in order to demonstrate the advantage of having cancellations early enough to ensure that appropriations are reused in the best possible way, and secondly, to ensure fuller use of advances.

6.3 The Court carried out on-the-spot visits in all the Member States, the main aim of which was to acquaint itself with the national procedures and systems of management of measures financed in part by the Community. As a preliminary conclusion, the Court would point out the need for the Commission to formulate clear rules and principles for applica-

tion within these national systems where projects are co-financed by the Community. It will thus be able to follow more easily the activities co-financed by the Community, with regard to their eligibility, efficiency and cost. It should also be the aim of these directives to encourage the Member States to adopt proper methods for evaluating the measures, both prior to and after their implementation, and for auditing them.

6.4. Although the objectives, methods and organization of its on-the-spot audits have not basically changed, at the end of the year the Commission set up a new system to improve their planning and implementation in the future. As it has only just been put into operation, its results will need to be kept under review.

Table 1 — Non-differentiated appropriations

Chapter	(EUA)								
	Final appropriations for the financial year	Commitments entered into charged to the financial year	Commitments as % of final appropriations	Payments made charged to the financial year	Payments as % of commitments of the financial year	Amounts outstanding at the close of the financial year	Appropriations automatically carried over (Articles 6(1) (c) and 108(3) (a) of the Financial Regulation)	Payments made charged to the appropriations carried over	Payments as % of appropriations carried over
	(1)	(2)	(3) = (2)/(1)	(4)	(5) = (4)/(2)	(6)	(7)	(8)	(9) = (8)/(7)
30	6 820 000	6 814 270.46	99.9	4 274 479.33	62.7	2 539 791.13	951 665.09	813 281.24	85.5
35	7 792 000	7 644 832.25	98.1	3 514 743.42	46.00	4 130 088.83	2 987 111.67	2 860 896.00	95.8
59	5 000 000	2 800 000.00	56	2 800 000.00	100	—	—	—	—

Differentiated appropriations

Chapter	Commitment appropriations					Payment appropriations					(EUA)
	Total commitment appropriations	Commitments entered into for the financial year	% of total commitment appropriations	Appropriations carried over from the financial year 1978 (Articles 6(2) (b) and 88(4) of the Financial Regulation)	Payments made from the appropriations automatically carried over (Articles 6(2) (b) and 88(4) of the Financial Regulation)	Payments as % of appropriations carried over	Final appropriations for the financial year	Total payments from the appropriations for the financial year	Payments as % of financial appropriations	Appropriations automatically carried over (Articles 6(2) (b) and 88(4) of the Financial Regulation)	
	(1)	(2)	(3) = (2)/(1)	(4)	(5)	(6) = (5)/(4)	(7)	(8)	(9) = (8)/(7)	(10)	
30	11 834 291.88	10 569 339.64	89.3	1 380 575.33	1 380 575.33	100	4 765 000	3 626 159.90	76.1	1 138 840.10	
50	328 631 721.20	307 488 863.18	93.6	107 313 985.39	106 647 106.86	99.4	215 000 000	121 505 886.66	56.5	93 494 113.23	
51	419 991 205.83	393 324 128.92	93.7	191 284 397.24	191 284 397.24	100	287 500 000	173 806 093.73	60.5	113 693 906.27	
52	3 134 435.39	3 079 543.17	98.3	929 460.35	929 460.35	100	2 500 000	168 201.57	6.7	2 331 798.43	
53	72 000 000.00	70 562 225.31	98.00	—	—	—	25 000 000	1 361 680.24	5.4	23 638 319.76	
Total Chapters 50-53	823 757 362.42	774 454 760.58	94.00	299 527 842.98	298 860 964.45	99.8	530 000 000	296 841 862.2	56.00	233 158 137.69	

EUROPEAN SOCIAL FUND

(Chapters 50, 51, 52 and 53)

Summary of the implementation of the budget

Commitments

6.5. Table 5 at the end of this chapter gives a detailed picture of the commitment appropriations and their utilization for the financial year 1979.

6.6. The approval decisions of the Commission — the basis of commitments — were taken in three series, the first on 15 June, notification of which was sent to the Member States on 9 July, for an amount of 154.07 MEUA, the second and by far the largest (631.64 MEUA) on 19 October, notification of which was sent on 28 November, and the third (which was primarily for measures to help women), for an amount of 11.29 MEUA, on 20 December, notification of which was sent on 24 January 1980. The Commission accepted 797 MEUA ⁽¹⁾ which was just over half of the total requested by the Member States (1 316 MEUA).

6.7. With regard to the transfers of appropriations increasing the appropriations of the chapter, an amount of 72 MEUA allocated to Chapter 53 was to cover a new measure to promote the employment of young people, which was decided by Council Regulation (EEC) No 3039/78 of 18 December 1978 and entered into force on 1 January 1979. Another transfer of 5 MEUA was to provide Article 512 with appropriations (Consequences of industrial conversion).

6.8. Column 7, relating to cancellations, is of great importance this year due to the setting-up of a more methodical system for the following through of commitments. This system consists in cancelling, in agreement with the Member State concerned, both the balance remaining after the cost of a measure has been paid and the amounts representing commitments revoked by the beneficiary State during the year.

Table 2 shows the consequences of the cancellations made in 1979.

Table 2 — Cancellations during the financial year 1979

Country	Of commitments for 1979: appropriations made available	Of commitments for 1978: appropriations made available	Of commitments from previous financial years: appropriations lost
France	—	99 247.80	447 053.12
Belgium	74 309.30	2 407 739.79	525 558.76
Netherlands	—	182 236.33	76 006.29
FR of Germany	187 415.93	4 283 328.88	—
Italy	1 693 270.49	7 960 093.13	5 791 004.90
United Kingdom	3 489 360.45	11 407 911.37	1 907 177.31
Ireland	623 412.74	10 762 984.31	690 543.09
Denmark	—	1 261 661.70	—
Luxembourg	—	—	—
Total	6 067 768.91	38 365 203.31	9 437 343.47

It is to be noted that the major part of the cancellations of commitments from previous years, i.e. some 60 %, concerned commitments in favour of Italy and some 20 %, commitments in favour of the United Kingdom.

Payments

6.9. Table 7 shows in detail the utilization of payment appropriations. As in the case of the commit-

(1) EUA rate at the time of the decisions.

ment appropriations, the transfers of appropriations provided Article 512 and Chapter 53 with payment appropriations of 2.5 MEUA and 25 MEUA respectively.

There was an increase in payments in respect of both the 1979 appropriations and the total appropriations available.

Payments made against the appropriations of the financial year amounted to 56 % in 1979 compared with 44 % in 1978, while payments against all of the appropriations available amounted to 72 % compared with 49 % the previous year. Despite this increase, it was still necessary to carry over 233 MEUA of appropriations to the financial year 1980, which is equivalent in absolute terms to a slight reduction.

Comments arising from an analysis of the implementation of the budget

6.10. The transfer of 5 MEUA to Article 512 (Consequences of industrial conversion) does not appear to comply with the principle of sound financial management. It was effected despite the fact that the new activity covered by this Article was only at the stage of a proposal for a Council Regulation, dated 31 October 1978. The transfer was accepted by the budgetary authority to avoid cancelling appropriations at the close of the financial year, as the attached explanatory memorandum shows. It was thus obvious from the outset that due to the late date on which this transfer took effect, i.e. 17 December 1979, there would have to be a total carry-over at the end of the year. Normally, the allocation should be for the year in which the regulation takes effect.

6.11. An analysis of the initial results of the system of cancelling for re-use commitments which will not be used gives rise to the following comments:

- The initial appropriations were increased by just over 5 % — a not inconsiderable amount.
- The Commission's main objective to effect the re-use of the appropriations thus released as soon as possible during the year of the commitment and the following year, was not fully realized. The Court concludes that if these additional resources are to be fully effective, they should be available by the latest at the time of the decision on the last instalment of the year, so as to reduce by the same token the total appropriations to be carried over. Knowledge of the amount of cancellations at this point would also enable them to be taken into consideration when deciding upon the reductions to the requests for aid that are necessary to remain within the appropriations available. However, the first cancellation decisions were not made until the second approval decision, i.e. 19 October.
- With the introduction of a deadline for the submission of requests for payment it should also have been possible to straighten out the situation in regard to commitments remaining from earlier financial years, so as to isolate the true amount outstanding. The Commission extended the deadline for submitting requests for payment relating to operations normally closed at 31 December 1977. As shown in Table 6, however, this operation is far from being completed. It is further to be noted that these cancellations are concentrated in certain countries while others do not seem to make any appreciable use of the procedure, in spite of having substantial surpluses. In addition, comparison of the cumulative amounts of payments and cancellations with the commitments remaining from previous financial years shows that the large quantity of unsettled financial operations from before 1979 remains a problem. In an effort to see its way clear through these old transactions, the Commission set 31 December 1979 as the deadline for the submission of requests for payment relating to the operations normally closed at 31 December 1978.
- 6.12. The progress made in respect of payments is mainly due to the Commission's efforts during the second half of the year to persuade the beneficiaries to submit their requests. Hence the concentration of payments at the end of the year as shown in Table 8. The result of these efforts illustrates how essential it is to keep the beneficiaries informed, especially when new techniques are introduced by the Community.
- 6.13. It is also noted that far greater use was made of the system of advances. The payments against commitments of the financial year (Table 3), which were greater than those of the previous financial year, were made up almost entirely of advances. This is mainly due to the fact that the commitment decisions were taken earlier in the year than in 1978.

Table 3 — Payments against commitments for the financial year by country

(MEUA)

Country	Commitments for the financial year by country ⁽¹⁾	Payments made in 1979 against 1979 commitments	Payments made in 1979 against 1979 commitments (%)	Payments made in 1978 against 1978 commitments ⁽¹⁰⁰⁾
France	136 286	4 905	3.60	—
Belgium	17 737	0 292	1.65	—
Netherlands	19 586	7 286	37.20	—
FR of Germany	58 086	10 267	17.67	18.04
Italy	270 913	17 109	6.31	—
United Kingdom	197 645	84 425	42.72	2.71
Ireland	58 128	24 829	42.71	27.58
Denmark	14 925	8 396	56.25	16.42
Luxembourg	1 149	—	—	—
Total	774 455	157 509	20.34	4.92

(1) Taking into account de-commitments and the value of the EUA at 31. 12. 1979.

It may be concluded from Table 4 below, which shows the extent to which use was made of the various types of payment under the present systems, that the system of advances is now well off the ground.

6.14. Despite the progress generally made in respect of payments, the position is not so favourable for all of the sectors, countries and methods of payment.

In Table 7 it can be seen that all of the appropriations under Articles 500 and 505 had to be carried over and that some of the carry-overs even had to be cancelled. The same applies to Article 512 where the situation may be explained by reference to the special reasons given for the transfer of appropriations, which have been discussed above. As regards Chapter 53, although commitments amounted to 98 % of the appropriations, only 1.9 % of these were paid, necessitating the almost total carry-over of the

appropriations available. As for the position in the Member States, it can be seen in Table 3 that while the situation as regards payments against commitments for the financial year improved in some countries, in that the use of the system of advances and implementation of the operations were more prompt, certain countries among the largest beneficiaries only achieved a nominal percentage of payments in relation to the amounts committed.

Table 4 shows that the final settlement of sums requested as accelerated advance payments is not such as to vitiate the conclusions drawn in the report of the Court of Auditors for the financial year 1978 ⁽¹⁾.

It should also be noted that the payments relating to the pilot schemes referred to under Chapter 52 still come under the rules governing payments on account and final payments; only 10 % were settled as final payments.

(1) OJ No C 326, 31. 12. 1979, p. 56 (4.9).

Table 4 — Breakdown in percentage of payments by type and by country

Country	Advance (¹)	Payment on account (²)	Accelerated payment on account (³)	Additional payment (⁴)	Final pay- ment (⁵)	Total	Total aid in MEUA
France	17.63	33.80	1.61	1.98	44.98	100	93.52
Belgium	12.40	5.63	0.61	9.74	71.62	100	7.47
Netherlands	98.58	0.34	—	—	1.08	100	11.06
FR of Germany	57.68	1.45	—	3.45	37.42	100	61.34
Italy	76.72	10.96	—	1.78	10.54	100	156.05
United Kingdom	73.16	1.02	3.70	13.09	9.03	100	201.81
Ireland	81.40	9.72	0.24	0.53	8.11	100	38.66
Denmark	59.14	0.06	—	28.22	12.58	100	24.44
Luxembourg	25.43	23.24	—	19.84	31.49	100	0.25
Community average	63.41	9.41	1.53	6.90	18.75	100	594.60

(¹) Advance: Valid for the operations beginning after 1. 1. 1978. First advance of 30 % at the start of the operation and second advance of 30 % half-way through. Certification of the factual and accounting accuracy of the data by the Member State.

(²) Payment of account: Operations completed before 1. 1. 1978. Payment on account of 85 % of the amounts specified in the request on submission of a detailed statement of expenditure.

(³) Accelerated payment on account: Transitional scheme for the operations completed before 1. 1. 1978, in force from 1. 1. 1978. Payment on account up to 85 % of the amounts specified in the request. Certification of the factual and accounting accuracy of the data by the Member State. The requests must be submitted before 1. 1. 1978 for operations prior to 1977 and before 1. 1. 1979 for the 1977 operations.

(⁴) Additional payment: Scheme in force from 1. 1. 1978. Balance of an instalment in the case of multiannual programmes. Upon submission of a statement of expenditure and a report. Certification of the factual and accounting accuracy of the data by the Member State.

(⁵) Final payment:

— Scheme prior to 1978: upon submission of a statement of expenditure and supporting documents.

— Scheme in force from 1. 1. 1978: upon submission of a statement of expenditure and of a report. Certification of the factual and accounting accuracy of the data by the Member State.

Comments on management

Comments on the national systems of management

6.15. Any serious audit undertaken by the Court of Auditors within the administration of the institutions and in the Member States will have as its aims:

- to ascertain whether the Community management systems and procedures exist in practice and are correctly applied;
- to detect the strengths and weaknesses of these systems and procedures in terms of regularity, legality and sound financial management;
- to assess the effect of these weaknesses;
- to make it possible to confirm rather than assume the existence of positive features.

Nevertheless, because of the sharing of responsibilities by the Community and the Member States and the essentially national character of the co-financed policy — especially with regard to the overall plan and the structure of the individual measures, the Court needs first to study both the national and the Community procedures and management systems in respect of the European Social Fund, and to analyse the relationship between the two.

6.16. The Court set up an initial programme of on-the-spot visits in respect of one type of measure (that in favour of young people) in order to find out what were the national management systems for the operations financed by the European Social Fund in each of the Member States.

At the same time it investigated the possibilities of gathering information on the extent to which the

co-financed projects had been completed, and on the nature, scope and significance of the Community intervention. This work obviously requires further contacts with the national representatives, but some preliminary remarks may be made at this stage:

- it is often difficult to assess the social needs or judge the social policy of the individual Member States, which are generally very complex. As far as the European Social Fund is concerned, it is even difficult to distinguish at this level the significance of Community intervention (which can, for example in the case of aid to young people, represent between 1 % and 50 % of its total activity per Member State). It should also be noted that the Member States do not engage in any special assessment of the measures co-financed by the Fund. The Commission ought to ascertain whether a machinery of assessment exists in the Member States and if not, examine the possibility of some other mode of assessment;
- the methods of identifying national expenditure that qualifies for participation of the European Social Fund vary greatly, both between and within Member States, and are not without gaps; it would be desirable if relatively uniform administrative practices were adopted in this respect;
- measures eligible for aid from the European Social Fund are only a part of the overall activity of a Member State in this field. The statement of expenditure submitted is calculated on the basis of the real cost of the measures recognized as eligible, hence the necessity, for checking its accuracy, to understand the national systems (responsibility for the supervision of which is in the hands of the national authorities) and to be able to isolate without difficulty from the accounts of the beneficiary organizations the cost factors which are indispensable for calculation of the Community share of funding. For the purposes of the different stages of audit (which share the same requirements) the beneficiaries should be requested by the Commission to retain the record of the figures that they had to compile on drawing up the statement attached to the claim for payment. This would also have the effect of making the work of the departments concerned easier if certain of the cases later come up for discussion;
- the national systems of internal and external audit do not provide all the material that the Commission needs to express an opinion on the effectiveness of the Community policies and have little interest in an audit limited to that part of the expenditure which qualifies for aid from the European Social Fund. The Commis-

sion's audit should take more account of these characteristics in working out its audit objectives and methods and in applying those auditing methods;

- the budgetary limitations can be seen not only in the application of a weighted reduction but also in the annual revision of the 'guidelines for the management of the European Social Fund', with the result that changes in the criteria for allocation do not altogether reflect a programmatic view of the needs to be met.

Comments on the follow-up by the Commission of co-financed operations

Weaknesses in the legislative framework

6.17. The Council expressly instructed the Commission to 'ensure the control of the use of the funds granted ... in close cooperation with the competent authorities of the Member States'. (Council Regulation (EEC) No 2396/71 of 8 November 1971, Article 11) ⁽¹⁾.

Council Regulation (EEC) No 858/72 of 24 April 1972 ⁽²⁾ gave more explicit instructions: '... the Member States shall make available to the Commission all information necessary for the proper functioning of the Fund and shall take all measures to facilitate such checks as the Commission may think fit to make within the framework of the administration of the Fund ...'. The staff authorized by the Commission to carry out the on-the-spot audits have access to the books and any other documents connected with expenditure financed by the Fund. They may in particular check:

- (a) that the administrative practices conform to Community rules;
- (b) that the necessary supporting documents exist and tally with the operations financed by the Fund;
- (c) the manner in which the operations financed by the Fund are carried out and supervised.

⁽¹⁾ OJ No L 249, 10. 11. 1971.

⁽²⁾ OJ No L 101, 28. 4. 1972.

It should be noted that in allowing the Commission the freedom to decide whether it is necessary to perform such audits, the Council is not relieving the Commission of its duty to undertake a systematic audit, albeit that the extent of the audit is not exhaustively determined.

6.18. Moreover, the amendment of Regulation No 858/72 by Regulation No 2894/77 ⁽¹⁾ reduced the scope of the audit within the departments of the supporting documents to claims for additional payments or the payment of the balance of an aid from the European Social Fund.

Under the former scheme — applicable to the operations completed before 1 January 1978 — the balance was paid on receipt of a general statement of expenditure drawn up at the close of the operation, accompanied by supporting documents.

Under the amended Regulation, the claim for payment must be accompanied by a report on the completion of the instalment concerned, or of the whole operation, and, if the assistance is granted on the basis of actual costs, a general statement of expenditure is attached to this report. The Member State is relieved of the obligation to submit supporting documents, and instead certifies the factual and accounting accuracy of the particulars given in the claim for payment.

Although the amendment requires the party claiming payment to furnish certain particulars as to the completion of the operations, it has resulted in responsibility being shifted to the Member States to verify the factual and accounting accuracy of the expenditure subject to the intervention on the Fund.

This amendment to the Regulation, which also tends to accelerate payments, does harbour certain risks. It is essential for the Commission to see that the responsibilities entrusted to certain bodies in the Member States with regard to the submission of claims for payment are fully exercised and that certification is not a mere formality. Moreover, now that the Member States are relieved of the obligation to submit supporting documents with their claims for the payment of balances, the examination of claims will become less effective unless accompanied by frequent on-the-spot checks.

Comments on the on-the-spot audits carried out in 1979

On-the-spot audits by the European Social Fund

6.19. The on-the-spot audits were the responsibility of the bodies who intervene as soon as the decision to grant aid has been taken; their planning (the choice of the beneficiaries to be audited, the preparation of these audits as regards establishing the objectives of the audit and the methods and techniques to be applied and the timing of the missions) was not coordinated either within the administration of the European Social Fund or with the Financial Controller.

The on-the-spot audits concerned only Ireland, Italy and the United Kingdom.

These audits were planned about one month before the visit took place and the Court was generally informed of them in advance.

6.20. From an analysis of the audit reports, the following conclusions may be drawn as to their aims and methods:

6.21. The on-the-spot audits in Italy (16 visits ⁽²⁾ totalling 86 days, 66 payments examined) concerned the payment of balances of projects from 1972 to 1977, and made possible the clearance of a large number of balances outstanding. The method used was, however, questionable. Firstly, the audits did not directly cover systems and procedures; their sole aim was to examine the eligibility of the sums requested and they were therefore of a purely factual nature.

Secondly, extrapolation was used throughout: random checks were made on the items of expenditure and the percentage of errors found was applied to the total of corresponding expenditure.

Thirdly, in respect of operations carried out by public bodies, the auditor's systematic application of an Italian collective agreement which fixed the maximum proportion of administrative staff expenditure at 40 % of that of teaching staff is discriminatory, since such a rule does not apply to comparable expenditure submitted by the other Member States.

⁽¹⁾ OJ No L 337, 27. 12. 1977.

⁽²⁾ A member of the staff of the Court participated in one visit.

6.22. The on-the-spot audits in the United Kingdom and in Ireland (seven visits lasting eight days, 11 payments examined) had essentially a double purpose.

The first was to acquire knowledge, which was to be regularly supplemented and up-dated, of the beneficiary organizations and of the operation of certain systems typical to them: legal systems, decision-making processes, methods of financing, accounting and allocating costs, systems of internal and external financial control. Special attention was given to the systems used for allocating the different types of expenditure to the programmes and for determining what part of expenditure is eligible for aid from the European Social Fund. Not only the large beneficiary organizations but also the smaller ones (mainly those of a semi-public and private nature) were considered.

The second was to verify the documents supporting the claims for payment. Several of the amounts claimed could be rectified as a result.

These objectives were pursued both by means of interviews and by sampling and cross-checking procedures. This system of on-the-spot audits has certain merits, but needs to be expanded to make it even more effective.

On-the-spot audits by the Financial Controller

6.23. An analysis of the reports on four on-the-spot audits (one in France, one in Italy, one in the United Kingdom and one in Ireland), leads to the following conclusions.

The on-the-spot audits are decided independently of the system for following up the projects of the European Social Fund. The choice of beneficiaries and of audit subjects was not made on the basis of an overall plan or approach but rather in response to specific problems.

Attention was mainly directed towards the system of allocating expenditure to the projects, that of identifying persons entitled to aid from the European Social Fund (for example young people in search of a first job), and the systems of financing, in particular that of participation by public authorities in the Member States.

The report on the visit to the 'Centre d'Études et de Formation des Assistants Techniques en Gestion Industrielle' (Study and Training Centre for Technical Assistants in Industrial Management, Paris) shows implicitly how cursory the examination of this case by the Commission was.

It should also be pointed out that the Court has, in general, not been informed of these visits beforehand.

Change in the approach to the on-the-spot audits of the European Social Fund in 1979

6.24. The change in approach is the result of a real effort by the European Social Fund to speed up the payment process and by the same token to modify the basic method of on-the-spot audits. This effort has taken the form of setting up a high-level administrative unit responsible for actions to speed up payments (for example 'organization visits' in the Member States to make the latter aware of the European Social Fund and its requirements for information in processing claims for payments) and for certain aspects of on-the-spot audits and relations with the Financial Controller whose approach was also altered in 1979.

6.25. This unit is responsible for the overall planning and coordination of the on-the-spot audit programmes. With the help of the operational divisions it determines the topics, aims and audit methods, and also the timing of the visits, for the coming year. The 1980 programme of on-the-spot audits, which is part of a longer-term strategy (visits to the most important beneficiaries every two to three years) was prepared in this way in 1979. The coordination of the on-the-spot audits of the European Social Fund is directly linked to the broader work of coordination in the hands of the Financial Controller.

The unit also has the task of formulating a new approach to on-the-spot audit. The main lines of this approach were adopted in the second half of 1979 and form the basis for the on-the-spot audit programme planned for 1980. They comprise examination of the systems of financing and management of (mainly) the largest beneficiaries, the classic audit on files, but more biased towards the accounts aspect and the gathering of supplementary information, and the extension of the on-the-spot audit to

cover the effectiveness of the projects and of the national systems of reviewing and evaluating them.

Finally, the unit directs the training of auditors for the European Social Fund; it participates in an interdepartmental working group ('Training of auditors') in analysing the training requirements of auditors and preparing special training programmes.

6.26. The efforts to restructure the methods of on-the-spot audit will need to be followed by the Court as they develop and are applied in practice, given that one of the major problems in the area of social policy is to clear the old files and organize an effective internal audit in place of the one that has operated so unsatisfactorily to date.

Regularity of payment

6.27. In order to assess the regularity of payments, the Court carried out a check on 175 payment orders (there were over 2 000 in 1979). Within the departments the files of approximately twenty cases which showed inexplicable delays were consulted, giving rise to the following comments:

- there are still some delays in the payment of advances, although the point of this system was to eliminate such delays; the files, however, do not reveal any sign of difficulties. The worst two cases may be mentioned in this connection; one where over a month elapsed between the claim for payment and its authorization, the other, where the same stage took three months;
- if the delays in payments on account and balances are most often due to complications arising on the processing of applications, there also appear to be periods of total inactivity between submission of the application and payment. Thus in one case, two years elapsed between the application for payment and authorization, and four months between authorization and the approval of the Financial Controller — without apparent justification. In another case these periods were one year and four months respec-

tively. If unusual delays should prove necessary at any stage of processing, they should at least be explained in the file.

AID TO DISASTER VICTIMS IN THE COMMUNITY

(Chapter 59)

6.28. As in 1978, an appropriation of 5 MEUA was allocated in the budget for aid to disaster victims.

In 1979 the Commission took the following decisions in this respect:

- 4 September 1979:
France
Martinique
and Guadeloupe (tornado) 1 MEUA
- 3 October 1979:
Italy
Umbria (earthquake) 1 MEUA
- 24 October 1979:
Italy
Lazio — provincia di Rieti 0.2 MEUA
Marche — provincia di Macerata e Ascoli Piceno (earthquake) 0.1 MEUA
- 5 December 1979:
United Kingdom
Orkney, Shetland and the Western Isles (exceptionally bad weather during the winter 1978-1979) 0.5 MEUA
2.8 MEUA

2.8 MEUA were thus committed and paid during the financial year 1979. The Member States were notified of these decisions on 6 September, 3 October, 24 October and 7 December respectively.

6.29. As the Court noted in its previous report, communications to the Member States concerned are of great importance since the Commission may at the same time give directives for ensuring the maximum results from the Community aid.

Little of importance however was added to the communications this year. On the other hand, contact was made on the spot by the Commission as soon as Community intervention had been decided in principle.

6.30. In October 1979 an audit visit was made by the Commission in connection with an aid of 500 000 EUA to the victims of damage caused by the oil slick on the coasts of Brittany following the shipwreck of the *Amoco Cadiz* in the night of 16/17 March 1978.

The audit report contained an analysis of the principal delays shown in the file:

- the decision of 22 March did not give rise to the transmission of funds until 24 April because information was not directly communicated;
- the Commission had to send several reminders to obtain a report which finally arrived on 27 June 1979 in the form of a brief note. The result of these delays was that the aim of providing aid of an essentially emergency nature was not achieved. They also had a serious effect on publicity and on the impact of the aid on the disaster victims.

In the light of the above, the Court can only point out, as it did in its report on the financial year 1978, the need to have an emergency set-up which will enable the aid to be channelled rapidly to its potential recipients.

MISCELLANEOUS ACTIVITIES IN THE SOCIAL SECTOR

(Chapters 30 and 35)

6.31. The details of the implementation of the part of the budget relating to Chapters 30 and 35 are

given in Tables 9 (Differentiated appropriations) and 10 (Non-differentiated appropriations).

With regard to the differentiated appropriations, the commitment appropriations provided for in the budget were increased by just over 10 % in relation to the financial year 1978. As far as Article 306 is concerned (Pilot research projects on action to combat poverty) an amount of almost 5 MEUA was carried over from the previous year, which brings the total to be committed to over 10 MEUA, of which 88 % was committed. 87 % of the appropriations available for payment were paid in respect of Article 306 and only 54 % for Article 303, where almost all the appropriations had been carried over in 1978.

The other articles of Chapter 30, which are managed according to the system of non-differentiated appropriations, are given in Table 10.

An amount of 650 000 EUA transferred from Chapter 100 to Article 302 (New programme to promote exchanges of young workers) was added to the initial appropriations, which amounted to 6 170 000 EUA. Almost all the appropriations were committed, but only 62.7 % of these commitments were paid, compared to 80 % in 1978. The appropriations to be carried over at the end of this financial year were distinctly higher than at the end of the previous year. 85 % of the appropriations carried over from 1978 were paid during the financial year.

The appropriations of Chapter 35, which amount to 7 792 000 EUA, were also almost entirely committed. Of these commitments, only 45 % were paid, compared with nearly 50 % in 1978, whereas payments amounted to 95.7 % of the total appropriations carried over. No payment was made under Article 356 (Organization and 'humanizing' of work) against the commitments of the financial year and only 72 % of the appropriations carried over resulted in payments.

Table 5 — Utilization of commitment appropriations

Article	Heading	Initial appropriations	Transfers of appropriations	Appropriations remaining at 31. 12. 1978	Adjustments due to EUA variation (previous financial years)	Cancellations allowing re-use (1978)	Total appropriations available	Total appropriations committed	Appropriations committed as % of appropriations available	Appropriations remaining at 31. 12. 1979 (1)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8) = (3) + (4) + (5) + (6) + (7)	(9)	(10) = (9)/(8)	(11) = (8)-(9)
500	Agriculture and textiles	35 000 000	—	569 042.02	757 361.57	5 805 245.61	33 131 649.20	26 074 751.78	78.70	7 056 897.42
501	Young people	230 000 000	—	130 041.84	2 644 255.63	12 084 014.09	244 858 311.56	230 991 611.88	94.34	13 866 699.68
502	Handicapped persons	—	—	—	151 714.99	—	151 714.99	—	0	151 714.99
503	Migrant workers	23 000 000	+9 000 000	3 265.28	-78 422.23	18 631.94	31 943 474.99	31 938 360.50	99.98	5 114.49
505	Women	18 000 000	—	311 434.77	152 730.36	82 405.33	18 546 570.46	18 484 139.02	99.66	62 431.44
	Chapter 50 — Total	306 000 000	—	1 013 783.91	3 627 640.32	17 990 296.97	328 631 721.20	307 488 863.18	93.57	21 142 858.02
510	Regions	326 000 000	+1 390 000	38 388.09	7 098 783.31	19 647 554.13	354 174 725.53	333 394 980.24	94.13	20 779 745.29
511	Handicapped persons	61 000 000	-1 390 000	462 408.49	16 719.60	727 352.21	60 816 480.30	59 929 148.68	98.54	887 331.62
512	Industrial conversion	—	5 000 000	—	—	—	5 000 000.00	—	0	5 000 000.00
	Chapter 51 — Total	387 000 000	5 000 000	500 796.58	7 115 502.91	20 374 906.34	419 991 205.83	393 324 128.92	93.65	26 667 076.91
Ch. 53	Employment — young people	—	72 000 000	—	—	—	72 000 000	70 562 225.31	98.00	1 437 774.69
	Ch. 50 + 51 + 53 — Total	693 000 000	77 000 000	1 514 580.49	10 743 143.23	38 365 203.31	820 622 927.03	771 375 217.41	94.00	49 247 709.62
Ch. 52	Pilot schemes and preparatory studies	2 500 000	—	634 293.37	142.02	—	3 134 435.39	3 079 543.17	98.25	54 892.22
	Total	695 500 000	77 000 000	2 148 873.86	10 743 285.25	38 365 203.31	823 757 362.42	774 454 760.58	94.01	49 302 601.84
	%	84.43	9.35	0.26	1.30	4.66	100.00	94.01	—	5.99

(1) These appropriations were carried over to the financial year 1980. The appropriations remaining under Chapter 53 will be transferred to Item 5011 to cover aids for the employment of young people. The appropriations remaining under Article 502 lapse.

Table 6 — Payments, cancellations and EUA adjustments as a percentage of commitments remaining by country and financial year

	France	Belgium	Netherlands	FR of Germany	Italy	United Kingdom	Ireland	Denmark	Luxembourg	Total
(EUA)										
Financial year 1974										
Balance 1. 1. 1979	3 363 148.11	—	707 862.70	—	1 483 952.01	210 985.71	59 608.68	—	2 633.13	5 828 190.34
Payments	33.03 %	—	—	—	3.67 %	87.65 %	6.28 %	—	—	23.23 %
Cancellations	0.06 %	—	—	—	0.12 %	11.74 %	—	—	—	0.49 %
EUA adjustments	0.56 %	—	0.33 %	—	4.72 %	0.61 %	+0.08 %	—	1.22 %	1.59 %
Balance 31. 12. 1979	2 231 116.97	—	705 489.13	—	1 357 605.60	—	55 918.45	—	2 600.82	4 352 730.97
Financial year 1975										
Balance 1. 1. 1979	19 009 230.81	1 207 311.43	625 026.50	521 933.96	13 725 996.56	5 058 087.46	124 761.02	—	—	40 272 347.74
Payments	28.63 %	—	—	—	18.93 %	16.42 %	0.46 %	—	—	22.03 %
Cancellations	0.50 %	—	9.85 %	—	5.04 %	0.33 %	14.93 %	—	—	2.20 %
EUA adjustments	0.50 %	1.22 %	0.33 %	+1.87 %	4.36 %	+2.56 %	+0.10 %	—	—	1.42 %
Balance 31. 12. 1979	13 375 537.01	1 192 499.57	561 334.79	531 726.37	9 837 782.51	4 340 428.47	105 691.53	—	—	29 945 000.25
Financial year 1976										
Balance 1. 1. 1979	52 104 686.15	2 950 565.20	4 298 517.56	21 327 583.47	30 109 471.12	6 633 952.36	3 470 033.25	786 551.20	45 701.77	121 727 062.08
Payments	61.05 %	0.02 %	0.12 %	3.35 %	18.37 %	32.51 %	5.93 %	2.22 %	0.08 %	33.22 %
Cancellations	0.09 %	16.07 %	—	—	4.34 %	3.98 %	5.40 %	—	—	1.87 %
EUA adjustments	0.81 %	1.22 %	0.33 %	+1.84 %	4.41 %	+2.39 %	+0.14 %	8.43 %	1.22 %	1.08 %
Balance 31. 12. 1979	19 820 439.52	2 439 609.22	4 278 913.37	21 008 099.13	21 944 629.95	4 372 336.66	3 081 888.25	702 738.71	45 101.46	77 693 756.27
Commitment authorizations 1977										
Balance 1. 1. 1979	31 559 006.54	2 331 122.38	273 983.31	16 941 838.36	53 462 198.50	8 638 903.42	6 254 862.71	543 697.22	325 452.39	120 331 064.83
Payments	43.99 %	52.46 %	47.00 %	47.11 %	39.75 %	46.62 %	38.62 %	62.10 %	56.22 %	42.74 %
Cancellations	0.84 %	2.20 %	—	—	4.78 %	13.39 %	4.06 %	—	—	3.56 %
EUA adjustments	0.46 %	0.20 %	+0.19 %	+1.06 %	3.93 %	+2.12 %	0.05 %	5.91 %	0.27 %	1.60 %
Balance 31. 12. 1979	17 264 754.11	1 052 124.34	145 733.18	9 140 142.18	27 556 001.79	3 638 228.44	3 581 999.44	173 911.15	141 609.88	62 694 504.51

Table 6 — Payments, cancellations and EUA adjustments as a percentage of commitments remaining by country and financial year (continued)

	France	Belgium	Netherlands	FR of Germany	Italy	United Kingdom	Ireland	Denmark	Luxembourg	Total
(EUA)										
Financial year 1977										
Balance 1. 1. 1979	105 332 093.67	2 044 123.59	3 962 356.72	53 040 522.24	57 579 292.26	82 895 133.79	17 327 543.83	13 823 104.15	8 692.49	336 012 862.74
Payments	26.82 %	0.95 %	0.47 %	48.95 %	31.74 %	59.57 %	32.32 %	74.75 %	98.77 %	41.02 %
Cancellations	0.03 %	—	0.36 %	—	0.01 %	0.39 %	1.08 %	—	—	0.17 %
EUA adjustments	0.49 %	1.22 %	0.33 %	+ 1.06 %	4.18 %	+ 3.38 %	+ 0.04 %	6.78 %	1.23 %	0.16 %
Balance 31. 12. 1979	76 532 369.65	1 999 673.10	3 916 085.56	27 640 617.71	36 890 728.83	35 986 725.22	11 547 283.00	2 553 260.73	—	197 066 743.80
Commitment authorizations 1978										
Balance 1. 1. 1979	18 267 086.62	2 201 906.53	175 143.99	10 360 736.13	18 534 666.33	4 295 302.18	1 999 295.92	39 990.92	318 779.74	56 192 908.36
Payments	10.39 %	—	—	4.17 %	15.58 %	9.60 %	8.43 %	57.78 %	—	10.36 %
Cancellations	—	—	—	—	6.62 %	2.76 %	2.13 %	—	—	2.47 %
EUA adjustments	0.43 %	1.23 %	0.34 %	+ 1.81 %	4.54 %	+ 3.06 %	+ 0.07 %	5.66 %	1.23 %	1.13 %
Balance 31. 12. 1979	16 292 012.25	2 174 892.52	174 556.71	10 116 348.69	13 577 808.91	3 896 002.39	1 789 647.56	14 617.65	314 868.80	48 350 755.48
Financial year 1978										
Balance 1. 1. 1979	86 986 110.90	12 729 049.41	9 953 237.50	50 436 680.35	226 904 290.34	109 342 603.40	32 179 038.37	11 909 785.26	341 720.09	540 782 515.62
Payments	7.37 %	49.04 %	36.36 %	31.80 %	40.99 %	51.34 %	17.20 %	45.08 %	18.81 %	35.58 %
Cancellations	0.11 %	18.92 %	1.83 %	8.49 %	3.51 %	10.43 %	33.45 %	10.59 %	—	7.09 %
EUA adjustments	0.47 %	0.96 %	0.73 %	+ 1.59 %	4.28 %	+ 4.17 %	+ 0.12 %	6.41 %	1.23 %	1.05 %
Balance 31. 12. 1979	80 066 287.96	3 956 769.75	6 079 131.47	30 918 144.95	116 220 810.37	46 357 193.52	15 917 217.30	4 514 973.75	273 256.11	304 303 785.18
Total										
Balance 1. 1. 1979	316 621 362.80	23 464 078.54	19 996 128.28	152 629 294.51	401 799 867.12	217 074 968.32	61 415 143.78	27 103 128.75	1 042 979.61	1 221 146 951.71
Payments	28.05 %	31.90 %	18.86 %	33.50 %	35.74 %	52.12 %	22.68 %	59.33 %	24.53 %	35.88 %
Cancellations	0.17 %	12.50 %	1.30 %	2.80 %	3.42 %	6.13 %	18.65 %	4.66 %	—	3.91 %
EUA adjustments	0.53 %	0.98 %	0.52 %	+ 1.40 %	4.25 %	+ 3.67 %	+ 0.08 %	6.65 %	0.93 %	0.88 %
Balance 31. 12. 1979	225 582 517.47	12 815 568.50	15 861 244.21	99 355 079.03	227 385 367.96	98 590 914.70	36 079 645.53	7 959 501.99	777 437.07	724 407 276.46

Table 7 — Utilization of payment appropriations

(EUA)

Article	Heading	Initial appropriations	Transfers	Final appropriations	Appropriations carried over	Total available	Payments	Payments as % of total available	Remaining appropriations ⁽¹⁾
(1)	(2)	(3)	(4)	(5) = (3) + (4)	(6)	(7) = (5) + (6)	(8)	(9) = (8)/(7)	(10) = (7)-(8)
500	Agriculture and textiles	38 000 000	—	38 000 000	40 259 710.43	78 259 710.43	40 170 878.84	51.33	38 088 831.59
501	Young people	150 000 000	— 15 000 000	135 000 000	49 104 111.58	184 104 111.58	150 045 513.58	81.50	34 058 598.00
502	Handicapped persons	1 600 000	—	1 600 000	1 108 861.91	2 708 861.91	2 534 936.44	93.58	173 925.47
503	Migrant workers	15 400 000	+ 15 000 000	30 400 000	14 341 301.47	44 741 301.47	33 479 711.71	74.83	11 261 589.76
505	Women	10 000 000	—	10 000 000	2 500 000.00	12 500 000.00	1 921 953.06	15.38	10 578 046.94
	Chapter 50 — Total	215 000 000	—	215 000 000	107 313 985.39	322 313 985.39	228 152 993.63	70.79	94 160 991.76
510	Regions	245 000 000	—	245 000 000	175 633 931.35	420 633 931.35	321 787 229.61	76.50	98 846 701.74
511	Handicapped persons	40 000 000	—	40 000 000	15 650 465.89	55 650 465.89	43 303 261.36	77.81	12 347 204.53
512	Industrial conversion	—	2 500 000	2 500 000	—	2 500 000.00	—	0	2 500 000.00
	Chapter 51 — Total	285 000 000	2 500 000	287 500 000	191 284 397.24	478 784 397.24	365 090 490.97	76.25	113 693 906.27
Chap. 53	Young people	—	25 000 000	25 000 000	—	25 000 000.00	1 361 680.24	5.45	23 638 319.76
	Chapters 50 + 51 + 53 — Total	500 000 000	27 500 000	527 500 000	298 598 382.63	826 098 382.63	594 605 164.84	71.98	231 493 217.79
Chap. 52	Pilot schemes and preparatory studies	2 500 000	—	2 500 000	929 460.35	3 429 460.35	1 097 661.92	32.01	2 331 798.43
	Chapters 50 + 51 + 52 + 53 — Total	502 500 000	27 500 000	530 000 000	299 527 842.98	829 527 842.98	595 702 826.76	71.81	233 825 016.22

(1) Appropriations are carried over where they do not exceed the amount of the final appropriations; the surplus lapses.

Table 8 — Payments made in 1979 by month and country

Month	France	Belgium	Netherlands	FR of Germany	Italy	United Kingdom	Ireland	Denmark	Luxembourg	Total	Percentage
January	2 319 368.40	38 884.29	—	3 264 456.62	6 543 514.35	5 997 132.67	669 136.16	—	—	18 832 492.49	3.16
February	15 181 730.41	1 202 291.58	152 733.85	8 298 841.61	13 252 830.92	4 803 987.40	6 092 005.37	—	132 414.20	49 116 835.34	8.25
March	1 091 676.85	30 170.61	—	—	1 678 904.76	6 650 404.36	229 572.69	35 640.46	—	9 716 369.73	1.63
April	1 547 957.66	—	—	—	2 566 983.58	785 096.99	34 994.33	17 459.37	—	4 952 491.93	0.83
May	4 478 421.37	—	—	11 304 380.48	10 351 357.33	505 373.68	1 212 164.41	—	—	27 851 697.27	4.68
June	4 321 963.64	432 840.68	42 295.72	1 455 703.48	10 731 572.04	950 005.96	1 497 047.15	2 826 502.32	32 008.87	22 289 939.86	3.74
July	3 450 672.03	9 580.54	3 534 434.86	1 002 039.07	5 565 044.95	35 587 560.58	114 576.60	278 966.46	—	49 542 875.09	8.32
August	2 395 682.35	2 180.08	—	9 363.87	11 636 217.80	688 538.94	13 490 151.79	154 158.34	—	28 376 293.17	4.76
September	13 643 829.60	28 726.31	1 605 370.69	6 172 305.33	3 256 342.50	23 262 806.56	4 957 341.52	2 755 920.99	—	55 682 643.50	9.35
October	29 579 710.89	2 533 695.77	179 327.68	16 347 306.95	9 272 936.59	44 723 621.94	2 002 227.51	6 612 537.91	—	111 251 365.24	18.68
November	840 067.61	418 667.25	42 427.01	4 048 842.88	9 529 471.50	10 346 388.41	1 796 741.18	3 161 223.35	64 682.79	30 248 511.98	5.07
December	14 856 970.29	3 079 730.33	5 501 180.97	9 494 167.79	71 939 905.89	67 645 778.39	6 663 425.36	8 633 400.66	26 751.48	187 841 311.16	31.53
Total	93 708 051.10	7 776 767.44	11 057 770.78	61 397 408.08	156 325 082.21	201 946 695.88	38 759 384.07	24 475 809.86	255 857.34	595 702 826.76	100
%	15.73	1.30	1.86	10.31	26.24	33.90	6.51	4.11	0.04	100	100

Table 9 — Differentiated appropriations
Expenditure in the social sector

(EUA)

Commitments							
Article	Heading	Initial appropriations	Appropriations carried over from 1978	Total appropriations	Commitments entered into	Percentage of appropriations used	Appropriations remaining
		(1)	(2)	(3)	(4)	(5) = (4)/(3)	(6) = (3) - (4)
303	Community measures to improve workers' living conditions Pilot research projects on action to combat poverty	1 200 000	21 029.93	1 221 029.93	1 131 893.35	92.70	89 136.58
306		5 750 000	4 863 261.95	10 613 261.95	9 437 446.29	88.92	1 175 815.66
		6 950 000	4 884 291.88	11 834 291.88	10 569 339.64	89.31	1 264 952.24
	Total						

Payments

Article	Final appropriations of 1979	Appropriations carried over from 1978	Total appropriations	Payments 1979	Percentage of appropriations used	Appropriations remaining
	(1)	(2)	(3)	(4)	(5) = (4)/(3)	(6) = (3) - (4)
303	765 000	360 857.53	1 125 857.53	612 500.57	54.40	513 356.96
306	4 000 000	1 019 717.80	5 019 717.80	4 394 234.66	87.54	625 483.14
Total	4 765 000	1 380 575.33	6 145 575.33	5 006 735.23	81.47	1 138 840.10

Table 10 — Non-differentiated appropriations

Article	Heading	(EUA)									
		(1)	(2)	(3)	(4)	(5)	(6) = (5)/(4)	(7)	(8)	(9)	(10) = (9)/(8)
		Initial budget appropriations	Transfers of appropriations	Final appropriations for the financial year	Commitments entered into charged to the financial year	Payments charged to the financial year	Payments as % of commitments of the financial year	Amounts still to be paid at the close of the financial year	Appropriations automatically carried over (Article 6 (1) (c) and 108 (3) (a) of the Financial Regulation	Payments charged to the appropriations carried over	Payments as % of appropriations carried over
300	<i>Expenditure in the social sector</i>										
	Administrative Commission on Social Security for Migrant Workers	720 000	— 46 500	673 500	673 486.79	362 128.09	53.77	311 358.70	284 707.14	272 348.15	95.66
301	Tasks entrusted to the Commission in the field of vocational training	3 300 000	50 000	3 350 000	3 349 791.55	2 448 225.65	73.09	901 565.90	138 461.14	120 063.39	86.71
302	Tasks entrusted to the institution to promote exchanges of young workers	—	650 000	650 000	647 664.46	21 473.53	3.32	626 190.93	45 147.30	20 357.99	45.09
304	Measures in support of, and with the participation of, movements which could increase the effectiveness of the social policy of the Community	300 000	40 000	340 000	339 144.60	163 808.42	48.30	175 336.18	82 973.66	50 608.71	60.99
305	Community measures under the employment policy	1 000 000	— 50 000	950 000	947 725.01	422 385.59	44.57	525 339.42	300 375.85	269 232.57	89.63
307	European Trade Union Institute	550 000	—	550 000	550.00	550.00	100.00	—	100 000.00	80 670.43	80.67
308	Assistance to victims of accidents in the coal and steel industries and aid to orphans	300 000	6 500	306 500	306 458.05	306 458.05	100.00	—	—	—	—
	Chapter 30 — Total	6 170 000	650 000	6 820 000	6 814 270.46	4 274 479.33	62.73	2 539 791.13	951 665.09	813 281.24	85.46

Table 10 — Non-differentiated appropriations (continued)

(EUA)											
Article	Heading	Initial budget appropriations	Transfers of appropriations	Final appropriations for the financial year	Commitments entered into charged to the financial year	Payments charged to the financial year	Pay-ments as % of commitments of the fi-nancial year	Amounts still to be paid at the close of the financial year	Appropriations automatically carried over (Article 6(1)(c) and 108(3)(a) of the Financial Regulation	Payments charged to the appropriations carried over	Pay-ments as % of ap-pro-pria-tions carried over
		(1)	(2)	(3)	(4)	(5)	(6) = (5)/(4)	(7)	(8)	(9)	(10) = (9)/(8)
						</					

CHAPTER 7 — THE EUROPEAN REGIONAL DEVELOPMENT FUND

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Summary of principal comments

	Paragraph reference
7.0. The principal comments of this chapter concern:	
(a) Utilization of appropriations and charging of payments against appropriations not allocated	7.2 to 7.13
(b) Need to define the criteria for examining and selecting investments for assistance	7.17 to 7.21
(c) Need for improvements in determining the qualifying amount of investments	7.22 to 7.26
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INTRODUCTION

7.1. 1979 is the first financial year to elapse since the adoption of Council Regulation (EEC) No 214/79 of 6 February 1979, which amended Council Regulation (EEC) No 724/75 of 18 March 1975 establishing the European Regional Development Fund (the 'Fund Regulation'). It is thus the first year in which the Fund has been managed under the new provisions.

The appropriations entered in the initial budget of the financial year, adopted on 15 December 1978, were amended by supplementary and amending budget No 1 of 25 April 1979.

COMMITMENT APPROPRIATIONS AVAILABLE
IN 1979 AND THEIR UTILIZATION

7.2. The ERDF finances:

(1) Community measures in support of regional policies adopted by the Member States. This is by far the largest part of the Fund's operations representing 95 % of its resources. The aid must be distributed among the Member States according to the 'quotas' fixed in Article 2 of the Fund Regulation (as amended) which, in accordance with the declaration recorded in the Minutes of the Council meeting of 6 February 1979, are for a period of three years (i.e. from 1978 to 1980).

The commitment appropriations available in 1979 for these measures amounted to:

— appropriations in Chapter 55 of the 1979 budget	900.00 MEUA
— appropriations carried over from 1978 (including 29.05 MEUA for 'non-quota' measures non-utilized in 1978)	43.48 MEUA
— appropriations available as a result of decommitals or variations in the EUA	21.85 MEUA
	965.33 MEUA

(2) Specific Community regional development measures amounting to 5 % of the Fund's resources and usually referred to as 'non-quota measures', since these resources are not subject to distribution by quota among the Member States.

The commitment appropriations available in 1979 for these measures amounted to:

- appropriations in Chapter 56 of the 1979 budget — 45 MEUA.

The total commitment appropriations available for the ERDF in 1979 therefore amounted to 1 010.33 MEUA, of which 962 105 136.15 EUA, i.e. 95.25 % (in 1978: 92.75 %) were used. Commitments were exclusively for the measures referred to under point 1 above and their distribution by type of investment is shown in Table 1.

If the 'non-quota' appropriations are deducted, then the utilization rate for the appropriations of the 1979 budget (Chapter 55 — 900 MEUA) rises to 99.64 %. The corresponding percentage was 97.38 in 1978, 97.86 in 1977, 99.98 in 1976 and 99.94 in 1975. The non-utilized part of these commitment appropriations is still available for the financial year 1980, in accordance with the provisions of Article 6 of the Financial Regulation of 21 December 1977.

7.3. For the second year running, however, the whole of the appropriations for specific Community measures remained unused.

By Article 13, as amended, of the Fund Regulation, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, lays down the main lines of each of the measures to be undertaken, in the form of a special programme. Proposals for five Regulations initiating specific Community measures were submitted by the Commission to the Council on 16 October 1979. The Council Regulations were adopted on 7 October 1980 (Regulations (EEC) Nos 2615 to 2619/80, OJ No L 271 of 15 October 1980).

Table 1 — Commitments in 1979 by type of investment

Member States	Industrial, handicraft and service activities				Infrastructure		Mountain and hill farming	Total	%	Quota Article 2
	below 10 MEUA		above 10 MEUA		below 10 MEUA					
	10 MEUA or above	below 10 MEUA	10 MEUA or above	below 10 MEUA						
Belgium	4 013 009.08	1 523 241.20	—	2 025 483.43	1 520 602.11	9 082 335.82	0.94	1.39		
Denmark	—	1 927 314.53	1 030 779.29	8 181 799.19	—	11 139 893.01	1.16	1.20		
FR of Germany	27 510 109.93	14 421 284.61	—	17 111 803.28	—	59 043 197.82	6.14	6.00		
France	44 994 864.85	18 511 974.67	50 862 562.45	43 525 666.97	1 488 918.30	159 383 987.24	16.57	16.86		
Ireland	16 936 245.24	12 536 756.05	4 588 349.29	26 260 976.04	1 891 492.20	62 213 818.82	6.47	6.46		
Italy	—	50 477 602.70	179 082 864.33	145 215 847.37	13 301 689.00	388 078 003.40	40.33	39.39		
Luxembourg	—	—	—	807 494.34	—	807 494.34	0.08	0.09		
Netherlands	—	—	3 367 727.41	7 972 110.56	—	11 339 837.97	1.18	1.58		
United Kingdom	70 253 761.64	5 956 182.40	69 979 639.25	111 995 076.02	2 831 908.42	261 016 567.73	27.13	27.03		
Total	163 707 990.74	105 354 356.16	308 911 922.02	363 096 257.20	21 034 610.03	962 105 136.15	100.00	100.00		
%	17.01	10.95	32.11	37.74	2.19	100.00				

(EUA)

The position of the 'non-quota' appropriations — a major innovation of Council Regulation (EEC) No 214/79 — is therefore as follows:

- appropriations entered in the 1978 budget and still unused due to the late adoption of Regulation No 214/79: 29.05 MEUA;

These appropriations were carried over to 1979 for 'quota' measures on the condition that this would be compensated by transfer of appropriations to the 'non-quota' measures in 1980;

- appropriations entered in the 1979 budget and still unused pending the adoption of special programmes: 45.00 MEUA;

These appropriations remain available for the financial year 1980 (Article 6 of the Financial Regulation of 21 December 1977).

Article 2b as amended of the Fund Regulation provides that the resources which cannot be used in time for the 'non-quota' measures shall be allocated to the other actions. Since the quotas apply to the 1978-1980 period it is of urgent necessity that provi-

sions for the utilization of the 'non-quota' appropriations be adopted.

DISTRIBUTION OF COMMITMENTS BY TYPE AND AMOUNT OF INVESTMENT

7.4. Commitments in 1979 showed an increase in the share devoted to infrastructure investments, which rose from 63.6 % of the aid in 1978 to 69.8 % in 1979. Since the adoption of Regulation No 214/79, this share may not exceed 70 % of the Fund's assistance over a period of three years, except by a decision of the Council acting on a proposal from the Commission (Article 4 (1) (b) as amended of the Fund Regulation).

The share of each type of investment varies greatly from one country to another, as illustrated in Table 2 which gives, by country, the percentage of aid allocated to each type of investment for the financial years 1978 and 1979.

Table 2 — Breakdown of aid by type of investment

	1978 aid			1979 aid		
	% A	% B	% C	% A	% B	% C
Belgium	22.6	77.4	—	61.0	22.3	16.7
Denmark	—	100.0	—	17.3	82.7	—
FR of Germany	52.1	47.9	—	71.0	29.0	—
France	35.9	54.1	10.0	39.8	59.2	1.0
Ireland	42.5	47.7	9.8	47.4	49.6	3.0
Italy	22.3	75.6	2.1	13.0	83.6	3.4
Luxembourg		100.0	—	—	100.0	—
Netherlands	67.5	32.5	—	—	100.0	—
United Kingdom	38.5	59.6	1.9	29.2	69.7	1.1
Total	33.0	63.6	3.4	28.0	69.8	2.2

A = industrial, handicraft and service activities.

B = infrastructures.

C = mountain and hill areas.

For each of the first three years of the operation of the Fund, the corresponding overall percentages are as follows:

	% A	% B	% C
1975	40.0	55.1	4.9
1976	24.9	70.2	4.9
1977	41.3	53.4	5.3

The original Fund Regulation (No 724/75) authorized the financing of infrastructures only if they were directly related to the development of industrial, handicraft and service activities. Regulation No 214/79 has extended eligibility for financing to include infrastructures that contribute to the development of the region or of the area in which they are situated.

7.5. The distribution of the aid by size of investment, as a percentage of the total annual financing, has changed as follows since 1975:

	Investments of 10 MEUA or above	Investments below 10 MEUA	Investments in mountain and hill areas
1975	43.4	51.7	4.9
1976	53.0	42.1	4.9
1977	43.7	51.0	5.3
1978	52.3	44.3	3.4
1979	49.1	48.7	2.2

Almost half of the aid allocated involves requests for investments of 10 MEUA or more, to the presen-

tation of which the Member States must give priority (Article 7 (5) of the Fund Regulation).

PAYMENT APPROPRIATIONS AVAILABLE IN 1979 AND THEIR UTILIZATION

7.6. The total payment appropriations available to the Fund in 1979 amounted to 852 191 484.02 EUA, divided as follows:

- (1) Community measures in support of national regional policies
 - payment appropriations carried over from 1978 353 191 484.02 EUA
 - payment appropriations in Chapter 55 of the 1979 budget 483 000 000.00 EUA
- (2) Specific Community measures
 - payment appropriations in Chapter 56 of the 1979 budget 16 000 000.00 EUA

The payments made in 1979 concerned solely those operations referred to under Item 1 above and totalled 513 147 831.68 EUA. Table 3 gives a breakdown by Member State and shows the amount of payment appropriations carried over to 1980.

Table 3 — Utilization of payment appropriations in 1979

(EUA)

	Payment appropriations carried over from 1978 and used in 1979 for the payment of commitments entered into in:		Payment appropriations for the financial year 1979	
	the financial years prior to 1979	the financial year 1979	used in 1979 for the payment of 1979 commitments	brought forward to 1980
Belgium	3 095 970.64		—	
Denmark	7 257 414.67		1 870 364.14	
FR of Germany	23 373 342.55		22 654 874.36	
France	55 275 273.85		48 334 361.25	
Ireland	18 187 943.78		14 698 743.20	
Italy	99 676 443.92		44 049 512.30	
Luxembourg	296 869.83		—	
Netherlands	8 644 909.52		—	
United Kingdom	67 120 713.40	70 262 601.86	28 348 492.41	
Total	282 928 882.16	70 262 601.86	159 956 347.66	323 043 652.34
Grand total	353 191 484.02		483 000 000.00	

7.7. The total payments amount to

353 191 484.02 EUA
+ 159 956 347.66 EUA
513 147 831.68 EUA

as opposed to 254 891 818.52 EUA in 1978, i.e. an increase of over 100 %. It should however be noted that even after subtracting the 'non-quota' measures the utilization rate of the payment appropriations of the 1979 budget remained low: only 33.1 % of these appropriations were used in 1979, the balance being carried over. The corresponding percentage was 60.5 % in 1975, 72.7 % in 1976, 72.6 % in 1977 and 32.7 % in 1978.

7.8. Payment appropriations unused in 1978 and carried over were used in 1979, in order to avoid any cancellation, to pay for commitments entered into against the 1979 appropriations (70 262 602 EUA) even though a considerable part of the 1979 payment appropriations remained unused and were carried over to 1980.

This procedure is of doubtful regularity, particularly in view of Article 1 (3) of the Financial Regulation,

which states that the payment appropriations cover, up to the limit of the amount entered in the budget, expenditure arising from the commitments 'entered into in the current financial year and/or preceding financial years'.

Remark of the Court on the reply of the Commission to paragraph 7.8

The effect of a carry-over to the following financial year is to prolong the validity of the appropriation, but this does not mean that the appropriations carried over can be treated for all purposes in the same way as those entered in the budget of the financial year to which the carry-over is made.

7.9. Article 8 (3) as amended of the Fund Regulation enables Member States as from 1979 to be reimbursed by an accelerated procedure for the payments made by them. These accelerated payments may be up to 75 % of the total amount of the aid, subject to the condition that at least 30 % of the payments constituting the basis for aid from the Fund have been made.

The Commission has not been able to send the Court of Auditors a list of accelerated payments because the information, although available, cannot be set out in any systematic form, due in particular to the absence of a computerized system in the administration of the ERDF.

The data compiled by the Court of Auditors on the basis of accounting documentation reveals that at least half of the year's payments were accelerated

payments. After deducting the reimbursements which would normally have been made even without the system of accelerated payments, the Commission estimates the net impact of the scheme in 1979 at about 150 MEUA (ERDF Annual Report 1979, paragraph 134).

7.10. The distribution among the Member States of the annual payments of the ERDF since 1975 is given in Table 4 (in %).

Table 4 — Breakdown of annual payments by Member State

	Percent of payments made in				
	1975	1976	1977	1978	1979
Belgium	0	1.66	0.76	2.34	0.60
Denmark	1.71	1.51	1.55	0.54	1.78
FR of Germany	0	3.63	6.69	16.55	8.97
France	17.79	12.23	12.30	15.95	20.20
Ireland	7.72	6.80	5.93	8.03	6.41
Italy	48.86	42.71	40.14	30.81	28.00
Luxembourg	0.25	0.17	0.03	0.08	0.06
Netherlands	3.14	2.26	0.75	2.54	1.68
United Kingdom	20.53	29.05	31.85	23.16	32.30
	100.00	100.00	100.00	100.00	100.00

A constant reduction can be seen in the case of Italy, whose quota (40 % for the period 1975-1977) is currently set at 39.39 %. It has not as yet been possible to obtain a precise explanation for this reduction, which is related to delays in the implementation or closure of projects.

close of 1979, a development which is to a large extent due to a relatively high level of the commitments entered into in the previous financial year.

COMMITMENTS OUTSTANDING AT THE CLOSE OF 1979

7.11. The position of commitments outstanding at the close of the financial year 1979 is given in Table 5.

These commitments rose from 683 908 689.34 EUA at the close of 1978 to 1 132 865 993.81 EUA at the

The commitments still awaiting payment at the close of the financial year 1978 represent 2.68 times the total payments made in 1978. At the close of 1979 the ratio was a little more favourable: 2.20 times the total payments made in 1979.

7.12. In order to ascertain the position of the projects at the close of the financial year and in particular that of the projects still to be closed, the departments of the Fund were requested to send data showing, by year, the accounting situation of the projects, with, in particular, their geographical distribution.

It was stated in reply that all the data available to the Directorate-General responsible for the ERDF is

recorded in the Annual Report of the Fund, which would be sent shortly. Data on the actual financial management of the ERDF, moreover, is provided in the analysis of the financial management preceding the revenue and expenditure account of the Communities, a document drawn up annually in accordance with Article 75 of the Financial Regulation of 21 December 1977.

The departments of the Fund add that at the moment it is impossible to send other financial and accounting information to the Court of Auditors. The compilation of such information on the basis of data which is indeed available but not necessarily in a systematic form, is impeded by the absence of a computerized system for the financial management of the ERDF.

Table 5 — Position of commitments outstanding at the close of the financial year 1979

(EUA)

Member States	Commitments still to be settled at the close of the financial year 1978 ⁽¹⁾	Commitments entered into in 1979	Payments in 1979	Commitments still to be settled at the close of the financial year 1979
Belgium	13 006 050.65	9 082 335.82	3 095 970.64	18 992 415.83
Denmark	9 417 225.78	11 139 893.01	9 127 778.81	11 429 339.98
FR of Germany	50 919 693.69	59 043 197.82	46 028 216.91	63 934 674.60
France	139 933 789.08	159 383 987.24	103 609 635.10	195 708 141.22
Ireland	36 482 205.25	62 213 818.82	32 886 686.98	65 809 337.09
Italy	249 172 668.24	388 078 003.40	143 725 956.22	493 524 715.42
Luxembourg	959 117.07	807 494.34	296 869.83	1 469 741.58
Netherlands	15 833 336.11	11 339 837.97	8 644 909.52	18 528 264.56
United Kingdom	168 184 603.47	261 016 567.73	165 731 807.67	263 469 363.53
Total	683 908 689.34	962 105 136.15	513 147 831.68	1 132 865 993.81

⁽¹⁾ This sum is adjusted to account for variations in the EUA rates and commitments cancelled.

7.13. The Court of Auditors can only point out how scanty the available information on the management of the Fund is, even that of a strictly accounting nature. The Court finds it hard to accept in particular that there is no regional survey of the investments subsidized.

AUDITS BY THE COURT OF AUDITORS IN 1979

7.14. In addition to examination of the accounting documents and financial files, the contents of which are necessarily terse, the audits carried out in 1979 aimed in particular to analyse the operating systems of the Fund at Community level.

They covered the number and extent of the audits carried out in the Member States by the administrative departments of the Fund; these departments made 20 on-the-spot visits in 1979 (involving 181 projects: 84 industrial, handicraft or service projects and 97 infrastructure projects), which obviously represent only a small part of the operations financed by the ERDF and an equally small sample of the projects subsidized.

7.15. The Court of Auditors was present at four of the Commission's on-the-spot audits of ERDF projects and organized twelve independent audits in the Member States (two in Belgium, one in Denmark, two in the Federal Republic of Germany, one in France, one in Ireland, three in Italy, one in the Netherlands and one in the United Kingdom) involving 77 projects, of which 21 were industrial and 56 infrastructure projects.

In its previous annual report, the Court of Auditors commented that, following the refusal of the

national authorities responsible, the Commission were unable in the course of their audit of industrial projects in France to visit the site of the projects.

In 1979, the Court of Auditors was met with the same refusal, and was thus obliged to limit its audit of industrial projects in France to exchanges of views with the central or local administrative departments, with the help of a part of the documents in the files of the subsidized projects, but without any on-the-spot inspection of the recipient firms. Emphasis should be made of the irregular nature of this situation, which indeed discriminates against all the other countries of the Community in the matter of audit.

7.16. The main comments arising from the audits effected during the financial year are set out under the following paragraphs, which deal with the selection of investments for assistance, the determination of the qualifying amount of investments, payment of the aid, the estimated and actual results of projects and the impact on regional development.

SELECTION OF INVESTMENTS FOR ASSISTANCE

7.17. In examining the operation of the Fund, a prime concern is the method of selecting investments that can benefit from the aid, in particular with regard to the anticipated effect on the economic development of the region and the activity of the sector concerned.

This is one of the fundamental aspects of the financial management, but it is one on which there is a total lack of reliable documentary information.

7.18. Articles 5 *et seq.* of the Fund Regulation provide that the assistance of the Fund shall be decided by the Commission according to the relative severity of the economic imbalance of the region where the investment is made and the direct or indirect effect of the investment on employment.

The Commission shall examine in particular the consistency of the investment with the range of actions undertaken by the relevant Member State in favour of the region concerned, as apparent from information supplied by Member States in the form and upon the matters stipulated by the Fund Regulation.

The documents to be sent by the Member States, above all the regional development programmes, are generally too vague to be of any practical use for the selection of projects. For this purpose more specific information is required which will show how the main lines of the plan take shape in the individual projects and give the grounds for the choices made at this stage.

7.19. In reply to queries about the present system and the criteria applied for the granting of the aid, the Commission, referring to the Fund Regulation, in particular to Articles 5, 6 and 7, explained that 'examination of applications for aid, which includes verification that they comply with the provisions of Article 7 (2) and (3) of the ERDF Regulation and of the internal consultation procedures laid down with reference to them, involves their assessment according to the criteria laid down in Articles 5 and 6'.

The Court of Auditors considers that the only possible valid basis for the selection of projects and subsequent verification of the results is a set of criteria and priorities designed to apply the provisions of Articles 5, 6 and 7 of the Fund Regulation.

7.20. Even the inclusion in the programmes of specific information on the projects to be carried out should not absolve the Commission from carrying out a detailed examination of the merits of the investments made. This does not appear to have been done in sufficient detail in the case of three projects relating to waste-processing plants and equipment for Berlin.

Despite the very high installation and operational expenses and despite the considerable burden that they imply for the future, these projects are not free from harmful side-effects, in particular from the concentration of lorries, and there is practically no scope for recovery of by-products (in particular in the form of energy for heating or the production of electricity), whereas certain major complexes recover up to 50 % of the running costs of the processing-plants from their by-products.

Cases like this underline the fact that, for any assessment of sound financial management, a full set of specific criteria for examining and selecting projects is needed, to provide better access to the choices to be made.

Remark of the Court on the reply of the Commission to paragraph 7.20

The file submitted to the Court for audit contained no indication of the reasons behind the choices made.

7.21. With regard to the selection of projects it was also noted that for the construction of a factory at Aubange (Belgium), public aid in the form of interest subsidies was granted to a public corporation ('Intercommunale').

The latter held a 50-year lease of land owned by an industrial company, and after having built the factory, it leased it to the company for 20 years. The national authorities (who have not yet sent their reply) were questioned as to the eligibility of such a project for aid, where the recipient, not being an industrial undertaking, ought not to have benefited from assistance provided for investments in industrial, handicraft or service activities, as laid down by the Fund Regulation and where it had no permanent title to the land allocated to the project.

DETERMINATION OF THE QUALIFYING AMOUNT OF INVESTMENTS

7.22. For investments in industrial activities, Article 4(2) of the Fund Regulation provides that the amount of the Fund's contribution shall be 20 % of the investment cost. The term 'investment cost' is not however further defined.

7.23. The audit of an industrial project in Ireland showed that about two-thirds of the investment cost (total = £Irl 11 448 000) was for equipment financed by leasing contracts for periods ranging from three to five years, or more.

If the project is abandoned, the public aid is to be repaid, it being agreed that this obligation is to be divided between the lessor and the lessee in proportion to the stage of completion of the contract.

It was established that the lessor remained the owner of the equipment throughout the contract period. At the end of the first contract, a second agreement is usually concluded which may in practice cover the remainder of the period during which the machinery in question is used. Aid from the Fund was thus allocated for investment in equipment which does not belong to the beneficiary but which is only rented for a specific period of time.

7.24. The Court of Auditors is of the opinion that if the equipment used in a project is on lease only, it should be clearly stated in the documents submitted to the Commission, which is not the case at present.

Moreover there is also the question of how to determine the value of the property to be taken into consideration for the purposes of Community aid to the investment cost where the equipment is held under lease.

7.25. The examination of various investments in Greenland that have received reimbursements from the Fund has shown that all the projects included, as 20 to 25 % of the direct expenditure, a share of the operational expenses of the technical organization in Greenland which manages the projects.

This share, determined on the basis of a method which was illustrated in detail by the national authorities, covers the cost of preparing the tender specifications and the preliminary and detailed plan, the cost of determining the division of the work for tender, the tenders, the drafting of contracts, the supervision of work and the transfer of property. Preliminary studies and administrative costs are also included.

7.26. Similar cases were found in the Federal Republic of Germany and in the Netherlands. According to the Dutch authorities, it was the custom to reimburse the expenses incurred by staff of public or semi-public bodies responsible for carrying out the projects, provided that these expenses arise from the drawing up of the tender specification, up to 85 % of the fees that a private firm of engineers would charge for the same services.

PAYMENT OF THE AID

7.27. An examination of the procedure for reimbursing the aid revealed the difficulties caused by the fact that the amounts of expenditure declared by certain national departments in the applications for reimbursement submitted to the Commission are not final. It is inherent in the operation of the national departments that even after the applications for reimbursement have been submitted to the Fund, the project files continue to be the subject of audits or other checks which can result in small changes being made to the payments previously made.

7.28. The legislation requires such subsequent amendments to be communicated to the departments of the Fund, but on-the-spot visits to a number of projects in the Federal Republic of Germany revealed that this had not been done.

It would be desirable to adopt procedural rules for the closing of files, insofar as this could help to improve the exchange of information between the Member States and the departments managing the Fund.

7.29. The Court of Auditors also noted that it was the custom in Italy upon payment of the national aid to deduct 5 % by way of security, which is then adjusted on the final accounting.

The requests for reimbursement submitted to the ERDF, on the other hand, are for the full amount of the aid. The sum withheld may thus be partially reimbursed to the national authorities before they have even paid it to the beneficiary of the project.

THE ESTIMATED AND ACTUAL RESULTS OF THE PROJECTS

7.30. The implementation of the projects and the relation of the actual results to those projected also deserve detailed examination, particularly in respect of the creation and maintenance of jobs, which is one of the specific conditions laid down by the legislation. Aid from the Fund to investments in the industrial, handicraft or service sector may only be granted subject to the creation or maintenance of at least ten jobs.

7.31. From the findings made during the year, it appears that, in the case of eight industrial projects in Scotland, the estimates for the creation of jobs in the applications for aid submitted by the national authorities were not very realistic. Significant disparities were found between the number of jobs estimated and those actually created which, for seven of the completed projects, amounted to a mere 766 instead of the 1 564 jobs estimated.

On the other hand, in respect of certain projects, completed up to two years ago, the national aid had meanwhile been fully paid, without the corresponding Community aid having yet been requested at the time of the on-the-spot visit of the Court.

To the difficulties arising from the disparity between estimate and reality may thus be added that of an excessive extension of the deadlines for the closure of the files, for the purpose of reimbursement by the Community.

7.32. In respect of the conversion and extension of the port of Eems in the Netherlands, aid from the Fund was granted to two projects involving the preparation of an industrial site, the construction of a quay and connection to a road network.

At the time of the visit of the Court of Auditors in March 1979, the projects had in actual fact been completed but their utilization had not yet fulfilled expectations; the industrial site was unoccupied and there was still little port traffic. In the view of the national authorities, the general stagnation of economic development since the oil crisis is responsible for the slow development of the port's activities and the poor demand for sites around the port.

A decision therefore had to be taken to employ the investment in a different way to that initially anticipated and preparations were under way to let some areas of the port for the discharge of liquefied natural gas.

7.33. Aid from the Fund was granted in 1976 to a project for the construction in Pace del Mela (Sicily) of an industrial complex comprising a steelworks and a rolling mill and fitted out with a loading dock for the delivery and dispatch of goods, scheduled for completion at the beginning of 1979.

As a result of an on-the-spot visit at the end of 1979, it transpired that the construction of the steelworks had been postponed to a later date. The rolling mill had been completed but was only operating on one shift. The transport facilities (mainly the railway station) did not allow any increase in the volume of supplies and the loading dock had not been built.

The project has seen the creation of only a small proportion of the new jobs anticipated. Such disparities between the estimates and the results completely upset the economics of the project, particularly as, for the part of the industrial complex which was completed, the costs far exceed the expenditure estimated.

7.34. A project subsidized by the Fund for the extension of the industrial zone of Frameries (Belgium) was based on the need to provide sites for several firms supposed to create about a thousand jobs.

The extension made to this industrial zone, however, remains completely unoccupied almost two years after completion. This state of affairs led to inquiry of the national authorities (whose reply has not yet been received), as to whether the creation of certain industrial zones was not sometimes in excess of demand or based on unfounded estimates.

In respect of another project to extend the industrial zone at Tessenderloo-Paal (Belgium), work had not yet begun at the time of the visit, i.e. two years after the decision to grant aid from the Fund.

7.35. Examination of the situation in France first of all made apparent the absence of any element of selection in the system for stimulating employment which might encourage activities in certain specific sectors in preference to others. Premiums were granted without distinction to the various categories of firms and without different conditions or intervention rates.

In this connection the national authorities pointed out that it was possible for competitive firms to

dévelop and create jobs in all industrial sectors and they would therefore not be justified in excluding *a priori* any sector from receiving regional aid.

7.36. It also became apparent that the creation of jobs within a firm does not necessarily result in a corresponding increase at the regional or national level. The investments assisted may have the effect of transferring activities from one region to another or from one firm to another within the same region, with a possible improvement in production conditions, but without any overall effect on the level of employment.

This is particularly so when activities are, or are likely to be, extended at the expense of other firms.

In this connection the national authorities consider that the role of the regional aids is to redeploy jobs to the benefit of the less-developed regions or of the areas with the severest problems of unemployment or rehabilitation.

7.37. Even accepting the point made by the national authorities that the investments financed constitute in all cases an increase in or a modernization of the production capacity of the region, it is nevertheless doubtful whether the transfer of jobs one firm to another, without an overall increase in employment in the area concerned, complies with the statutory requirement to create or maintain jobs.

IMPACT ON REGIONAL DEVELOPMENT

7.38. A vital, if not the main aspect, of the audit of management of the Fund, is to ascertain whether the schemes of regional aid have in fact had positive effects on the development of the regions under consideration.

It is a question in particular of determining whether the interventions of the Fund have achieved better or greater effects than would have been possible in their absence, and if these effects were obtained on the best terms from the point of view of cost or other outlay, i.e. if the most suitable economic instrument was employed.

7.39. It is difficult to make such an evaluation in isolation from the general pattern of interacting economic movements and trends. This in turn would require a lengthy study, more sophisticated analytical methods, an greater similarity in the systems of planning and management in the Member States.

Questioned on this subject, the Commission stated that since 1979 its on-the-spot audits had begun to cover not only the purely technical financial aspects, but increasingly and more systematically the socio-economic aspects of the investments audited.

7.40. While aware of the complexity of assessing the impact of the projects assisted by the ERDF on the development of the regions, the Commission added that it endeavoured to establish the real contribution of these projects in the light of the guidelines provided by the regional development programmes. It considered that it is not surprising that under the present economic circumstances, examination of the socio-economic aspects of the investments subject to an on-the-spot audit reveals the difficulty of achieving the objectives of creating the jobs initially planned.

7.41. The Commission noted however that an effective monitoring of the impact of regional action

is not yet within reach, since it would have to include not only an evaluation of the overall development of the region, of which employment is only one element, but also an assessment of the economic efficiency of the regional measures.

The Commission stated that it was continuing its efforts to achieve the best results in this field and it pointed out that the statistical summaries referred to under Article 6 (6) of the Fund Regulation constituted a valuable instrument; it would not deny, as experience within the Member States has shown, that an assessment of this nature would be no easy task, especially since at Community level a method for checking the results had still to be worked out.

7.42. This reply serves to underline the significance of the statistical summaries; the communication of these summaries constitutes in practice the only improvement in the revised Fund Regulation aimed at ascertaining the results of regional action.

The monitoring of the effectiveness of regional aid can only be improved if reliable statistical instruments are available, and any efforts in this direction should be directed to developing sound methods of evaluating the results obtained from the financing of investments.

CHAPTER 8 — ENERGY, RESEARCH AND INVESTMENT

(Chapters 32 and 33 of the general budget)

SUMMARY OF CONTENTS	Paragraph reference
Chapter 32 — Expenditure under the energy policy	8.0
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Summary of principal comments

	Paragraph reference
8.0. The principal comments in this chapter are:	
(a) in the field of expenditure under the energy policy: the low utilization of payment appropriations, shortcomings in the 1979 budget proposals and the procedure for the repayment of financial support	8.3 to 8.12

(b) concerning the Joint Research Centre:

- the effect of criticism expressed by the Court in its 1978 report;
- shortcomings in the procedures relating to building activities

8.14 to 8.24

(c) in the field of indirect action:

- shortcomings in the execution of research contracts and the presentation of financial information

8.32 to 8.38

CHAPTER 32 — EXPENDITURE UNDER THE ENERGY POLICY

8.1. Financial impact of the implementation of action programmes in the energy field:

	(MEUA)	
	Commitments	Payments
Expenditure 1978	43	19
Appropriations 1979 budget	57	51
brought forward from 1978	67	46
Total available	124	97
Expenditure 1979	69	29

Introduction

8.2. In both its 1977 and 1978 reports, the Court drew attention to the low rate of utilization of appropriations entered in the budget to finance action programmes under the Communities' energy policy. The Court has reviewed the history of the utilization of payment appropriations since the commencement of these action programmes in 1974, the 1979 budget out-turn, and the procedures for the preparation of 1979 budget proposals for payment appropriations. The Court has also looked into the procedures for the repayment of financial support granted by the Commission, a special feature of energy action programmes.

Utilization of payment appropriations, 1974 to 1979

Cancellation of payment appropriations

8.3. Payment appropriations are cancelled if they are not used either in the year in which they are granted in the budget or in the following year. Payment appropriations amounting to 57.7 MEUA + m.u.a. for energy action programmes have been cancelled during the period 1974 to 1979. They represent 27 % of the total payment appropriations of 210.8 MEUA + m.u.a. inscribed in Chapter 32 of the budget for those years. That the total of these cancellations exceeds the payment appropriations of 50.5 MEUA entered in the 1979 budget for this chapter indicates their significance.

Payment appropriations not utilized in the budget year for which they were intended

8.4. Chapter 32 payment appropriations have seldom been utilized in the budget year for which they were intended. The best year from this point of view was 1977 in which 2.7 m.u.a. (8 %) was used out of 34 m.u.a. granted in the budget.

Budget Item 3200 — Hydrocarbons technological development

8.5. The situation described above for Chapter 32 applies equally to budget Item 3200, which is the longest-running action programme, and the largest in terms of expenditure. For this item cancellations

of payment appropriations amounted to 41.7 MEUA + m.u.a. in the period 1974 to 1979, representing 26 % of the total payment appropriations of 160.9 MEUA + m.u.a. granted in the budget for those years (see Table 1).

The Court's 1978 report referred to the lengthy procedures involved in placing contracts as a reason for the low rate of utilization of appropriations for budget Item 3200. It is understandable that delays in concluding contracts can significantly affect the rate of utilization of commitment appropriations. However, such lengthy procedures and delays can hardly be the only reason for the low rate of utilization of payment appropriations, as a large part of such appropriations are intended to liquidate commitments already entered into at the time budget proposals are being framed.

Budget out-turn 1979

8.6. There has been some improvement in the utilization of the total commitment appropriations available in 1979 (56 % of 124 MEUA in 1979 compared to 32 % of 134 MEUA in 1978). However, the situation concerning payment appropriations has shown little improvement over 1978. Of the total payment appropriation of 96.7 MEUA available in 1979, 30 % was paid in 1979, and the rate of utilization of new payment appropriations of 50.5 MEUA granted in the 1979 budget was only 3 % (0 % in 1978) (see Table 2). It is significant that the rate of utilization of the total payment appropriations available in 1979 for budget Item 3200, hydrocarbons technological development, has relatively dropped from 34 % of 48.1 MEUA in 1978 to 30 % of 59.9 MEUA in 1979. In 1979, as in 1978, none of the new payment appropriations granted in the budget for this item were utilized.

Budget proposals 1979

8.7. The continuing low rate of utilization of payment appropriations prompted the Court to look into the procedures for the preparation of 1979

budget proposals for these appropriations. The Court's enquiries at the services of the Commission concentrated on budget Item 3200, hydrocarbons technological development projects.

Estimates of the amounts of payment appropriations required over several years to liquidate commitments already entered into, or budgeted up to 31 December 1979, were prepared by the services of the Commission in the period February to May 1978 resulting in a 'likely schedule of payments *vis-à-vis* commitments' ⁽¹⁾ shown in the preliminary draft budget for 1979 presented by the Commission to the Council.

The Commission's proposals (see table below) were eventually incorporated in the equivalent schedule shown in the remarks column of the final 1979 budget ⁽²⁾, adopted in December 1978.

(MEUA)					
Commitments		Payments			
		1978	1979	1980	1981, etc.
Commitments entered into before, and not yet paid by 1 January 1978	43				
less: covered by payment appropriations brought forward from 1977 to 1978	-20				
	23	15	4	4	—
Commitment appropriations brought forward from 1977 to 1978	31	—	11	20	—
Commitment appropriations in 1978 budget	35	15	10	10	—
Commitment appropriations in 1979 budget	20	—	6	7	7
Total	109	30	31	41	7

This schedule is the basis for the 31 MEUA of payment appropriations requested for budget Item 3200 for 1979, which were not utilized at all in 1979.

⁽¹⁾ This is the term used to describe this schedule in the final 1979 budget.

⁽²⁾ OJ No L 23, 31. I. 1979, p. 261.

8.8. The absence of documentation describing either the computations made or the underlying assumptions taken into account in drawing up the estimates of payment appropriations, leads the Court to the conclusion that shortcomings in the procedure may have resulted in overestimation of the payment appropriations required for 1979.

A general assumption has been made by the Commission that commitments will be fully liquidated by the end of the second year after that in which the commitment is made. This assumption is clearly reflected in the likely schedule of payments in the 1979 budget (see above). However, experience has shown that, for many contracts final payments are unlikely to be made before the third year after that in which the commitment is made.

The estimates of future payments for commitments already entered into at the time the 1979 budget proposals were being prepared were drawn up on a global basis, and not on a contract-by-contract basis. This could have been done for the 43 m.u.a. of commitments entered into before 1978, and some 18 MEUA of the 31 m.u.a. of commitment appropriations brought forward from 1977 which had been committed by April 1978.

Remark of the Court on the reply of the Commission to paragraphs 8.7 and 8.8

The reply of the Commission to paragraphs 8.7 and 8.8 could lead to the impression that the Court has gone beyond the limits of its authority in commenting on the methods and procedures by which the level of budget appropriations is established.

The Court wishes to emphasize in this context that in order to carry out the obligations placed upon it by the Treaties it needs to assess whether sound financial management is safeguarded by appropriate methods and procedures.

It follows that the Court's audit of the implementation of the budget may also include a retrospective examination of methods and procedures associated with the preparation of the budget.

The Court maintains its view that improvements in the procedure for the preparation of budget proposals could lead to more accurate forecasts for payment appropriations. This view is supported by the Commission's statement in their reply to paragraph 8.9 that improvements have been made for the budget year 1981.

Conclusion

8.9. The Court is of the opinion that the payment appropriations requested in the 1979 budget for Item 3200 were not soundly based. The Court invites the Commission to consider the adoption of procedures which are likely to result in more accurate forecasts of payment appropriation requirements, in particular the introduction of contract-by-contract based estimates where possible.

Remark of the Court on the reply of the Commission to paragraph 8.9

On the subject of the examination of budget proposals, the Court would like to refer the reader to its remark on the reply of the Commission to paragraphs 8.7 and 8.8.

With regard to the last sentence, the Court reserves to itself the right to select the subjects on which it comments in its Annual Report.

Repayment of financial support

Introduction

8.10. The energy action programmes in Chapter 32 consist of financial support granted by the Commission to projects in the energy sector carried out mainly by commercial firms within the Member States. The financial support granted by the Commission represents a percentage share, usually between 30 and 40 %, of the cost of the project.

In accordance with the appropriate Council Regulations, financial support paid to contractors under four budget items in Chapter 32 is repayable to the Commission in the event of commercial exploitation of the results of the supported project. This is provided for in the standard contracts which the Commission has entered into for the financial support of projects in the fields of hydrocarbons technology, hydrocarbons exploration, energy saving and new energy sources. The contractor is also obliged to communicate to the Commission all information concerning commercial exploitation of the results. Where the results do not lead or lead only in part, to commercial exploitation the Community may release the contractor, wholly or partly,

from the obligation to repay the financial support. Only the hydrocarbons technological development action programme (budget Item 3200) is sufficiently long-running to have led to the operation of the repayment provisions in the contracts. Therefore the Court has confined its review of procedures and examination of a sample of completed contracts to this particular action programme.

take place to reach agreement on the amount of the subsidy related to the part of the work programme commercially exploited, the date on which commercial exploitation started, the interest rate applicable since that date, if any, and the repayment timetable. These repayment arrangements are agreed in writing between the Commission and the contractor.

In cases where information indicating the occurrence of commercial exploitation does not come to the attention of the services of the Commission they send further reminders of contractual obligations to the contractor.

Description of procedure

8.11. The services of the Commission have implemented the following procedure to monitor cases of commercial exploitation to ensure that these are properly brought to their attention and result in appropriate arrangements for the repayment of the financial support.

During the progress of the contract, the technical experts of the services of the Commission look for signs of commercial exploitation when they make control visits to contractors. Information of this kind should be recorded in the reports prepared describing the results of these control visits. The Commission's technical experts also review industry publications for indications of commercial exploitation.

Whenever information comes to the attention of the services of the Commission indicating the possible occurrence of commercial exploitation, a letter is written to the contractor asking him to state his opinion and to make proposals for repayment of the related financial support.

The services of the Commission also write to each contractor, after the final instalment of financial support is made, to remind him of his remaining obligations under the terms of the contract, including that of reporting commercial exploitation. Every two or three months the services of the Commission hold internal meetings (not formally minuted at present) to review the situation of all contracts in progress or completed. Action on the monitoring of commercial exploitation may result from these meetings.

Once the contractor informs the Commission that commercial exploitation has occurred, negotiations

Conclusion

8.12. Up to 31 December 1979, 39.3 MEUA (at 1 December 1979 exchange rates) in financial support had been paid out by the Commission for 33 closed contracts from the 1975 and 1976 rounds of hydrocarbons projects, and a total of 13.3 MEUA had so far been established as repayable in ten cases. The procedure described above has been reasonably effective in monitoring the commercial exploitation of contracts completed by the end of 1979.

However, a considerable increase can be expected in the number of completed contracts which will have to be followed up for commercial exploitation, as 139 contracts involving financial support of approximately 150 MEUA had been entered into by 31 December 1979 under the hydrocarbons technological development programme alone.

Therefore, the Court invites the Commission to consider the introduction of project evaluations to be prepared at the time the contractor's final report is approved, and the final instalment of financial support is released.

Such evaluations should describe, in particular, the technical success or failure of the project; the contribution, if any, to the overall objective of the action programme; the likelihood of commercial exploitation of the whole or specific parts of the results achieved; and the prospects for repayment of financial support.

Such evaluations, updated for later developments, would provide a more systematic basis for the follow-up of commercial exploitation than exists under the present procedure, particularly for those projects where only partial exploitation is reported, or where no information relating to commercial exploitation is communicated to the Commission.

In addition, such evaluations could contribute to the evaluation of results achieved by action programmes in general (cost/benefit analysis).

Finally, consideration should be given to the introduction of a clause in the standard contract which obliges the contractor, within a specified time period, to provide an independent auditor's certificate stating the extent, in financial terms, to which the results of the supported project have been commercially exploited.

CHAPTER 33 — RESEARCH AND INVESTMENT (JOINT RESEARCH CENTRE — JRC)

8.13. Financial impact in the field of the direct action (Chapter 33 of the budget).

(MEUA)		
	Commitments	Payments
Expenditure 1978	110	104
<i>Appropriations</i>		
1979 budget	115	114
brought forward from 1978	26	40
transfers	11	7
Total available	152	161
Expenditure 1979	134	120

Effect of the comments in the Annual Report of the Court of Auditors on the conduct of the Commission.

Introduction

8.14. The Court of Auditors has examined the effect of its comments particularly in respect of criticism which the Commission recognized as justified

during discussions with the Court of Auditors and so confirmed in its replies to these comments in the Annual Report.

8.15. As far as inventories and stock accounts are concerned, given previous observations of the Court on the subject, the Commission issued detailed instructions for the JRC establishments dealing with evaluation procedures for stocks and inventories as required by Article 59 of the Financial Regulation of 21 December 1977. The Court notes this improvement with satisfaction.

8.16. In the framework of services performed for outside bodies the following objectives have not yet been achieved:

- to identify accurately all operations of work for outside bodies in order to distinguish them clearly from operations related to the objectives of the multiannual research programmes,
- to monitor individually the financial position of each contract,
- to compare forecast with actual achievement in order to ensure satisfactory progress of the work,
- to verify all receipts which the Commission has the right to expect, in particular by analysing charges and reductions granted.

The Court notes that the Commission has already issued instructions which could form the basis for the achievement of these objectives. In due course, the Court will verify the implementation of these measures.

In this connection, it should be noted that the Commission itself took the view 'that no further reduction should now be made in the JRC's staff, as otherwise this work force . . . would no longer be capable of carrying out its task with the desired efficiency' ⁽¹⁾.

It follows that all the staff are needed for the multiannual programme, and there are no reserves available to carry out work for outside bodies. This raises the question whether generally work for third parties can be done without jeopardizing the objectives of the multiannual programme.

⁽¹⁾ COM (79) 121 final of 19. 3. 1979 — Multiannual programme of the Joint Research Centre (submitted by the Commission to the Council), p. 24.

Building activities of the JRC

Introduction

8.17. The JRC establishments in Geel (Belgium), Ispra (Italy), Karlsruhe (Germany) and Petten (Netherlands) are accommodated in 279 buildings covering a total of approximately 280 ha of leasehold land and representing — together with the corresponding technical installations — an estimated value of about 150 MEUA (peculiarities of the system of valuation are dealt with below).

Most of the buildings of the JRC establishments are over ten years old.

Maintenance of buildings

8.18. Considerable expenditure is incurred in maintaining these buildings and their installations (electricity, water supply and drainage, air conditioning), the supply network for which is in some cases exceptionally long.

In the financial plan ⁽¹⁾ for the 1978 budget, there is shown 'expenditure for the maintenance of the buildings, roads and installations, expenditure for safety at work, and the costs of assistance from national bodies'.

From the description and remarks given therein, there is no way of judging whether the appropriations intended for maintenance of buildings are in proportion to the value of the buildings concerned.

Construction of buildings

Planning

8.19. Whereas in the years prior to 1977 it was not possible for a number of reasons, to extend and renovate the laboratories and other buildings at the

Ispra Research Centre on a systematic basis, an active building programme was included in the implementation of the 1977-80 multiannual research programme.

A site development plan provided for building activities amounting to 7 MEUA. This included, *inter alia*, in addition to 400 000 EUA for contracts with architects, the construction of an electronics building (594 161 EUA), a climatron hall (189 500 EUA), an accelerator building (1 206 497 EUA) and commitments of about 1.3 MEUA for an administrative building.

A conference building at Geel valued at 424 000 EUA and an extension to replace temporary huts at Petten for 290 000 EUA were not included in this plan, but have already been completed.

It is clear that building projects should only be on the basis of a plan, particularly as budget appropriations are required for construction. An obvious shortcoming is the fact that neither the 1977-80 multiannual programme, nor the 1978 and 1979 general budgets with the financial plans for making available appropriations (for 1978/79, about 7 MEUA) contain information about buildings projects. An exception to this is a reference in the technical annex to the 1977-80 multiannual programme of the Joint Research Centre ⁽²⁾ 'specific appropriations in excess of the normal sums should enable the following alterations: replacement of temporary huts by extension of the existing building'.

Article 16 (2) b c of the Financial Regulation, however, states clearly that the budget shall show 'in the section for each Institution, appropriate remarks on each subdivision' ⁽³⁾ as regards the statement of expenditure.

Tendering

8.20. According to Article 54 of the Financial Regulation of 21 December 1977 ⁽⁴⁾ public works

⁽¹⁾ Financial plan 1978, Part II, Annex to the appropriation account, 1.20, p. 5, General Services — Category 30.

⁽²⁾ Detailed technical proposals — COM (76) 171 final 2, p. E-1-10/13, German version.

⁽³⁾ OJ No L 356, 31. 12. 1977, pp. 7 and 8.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 15.

contracts are to be submitted for the opinion of the Advisory Committee (ACPC-JRC) before a decision is taken by the authorizing officer.

In the course of its work, the Advisory Committee published a document⁽¹⁾ intended to inform the services as fully as possible of the regulations in force and where necessary to facilitate their application through explanatory notes.

This 62-page document states amongst other things that: 'This vade-mecum will examine mainly the procedure for restricted invitations to tender, i.e. invitations to suppliers whom it has been decided to consult.'

It is principally the exceptional cases that are dealt with. The Financial Regulation of 21 December 1977 (Article 51)⁽²⁾ does allow for restricted invitations to tender in some cases, but the general rule is:

'Invitations to tender shall, as a general rule, be published throughout all the Member States, and, where appropriate, in third countries, to the extent to which this is compatible with development of industries in the Communities (Article 50 (2) Financial Regulation of 21 December 1977)⁽²⁾.

In practice, the Joint Research Centre acts as would be expected from the orientation of the ACPC-JRC vade-mecum: the exceptional case has become the norm; none of the 7 MEUA worth of building and conversion projects of the JRC was published in all the Member States.

This overwhelming preference for the restricted tender is objectionable for the reason that it infringes the principle of Council Directive No 71/305/EEC of 26 July 1971⁽³⁾ completed by Council Directive No 72/277/EEC of 26 July 1972⁽⁴⁾ (see also legal opinion adopted by the Court of Auditors on Article 50.2⁽⁵⁾) — applicable to all Member States — concerning the coordination of procedures for the award of public works contracts:

'Whereas to ensure development of effective competition in the field of public contracts it is necessary that contract notices drawn up by the authorities of Member States awarding contracts be advertised

throughout the Community; whereas the information contained in these notices must enable contractors established in the Community to determine whether the proposed contracts are of interest to them; whereas for this purpose, it is appropriate to given them adequate information about the services to be provided and the conditions attached thereto...'⁽²⁾

For these reasons, the Advisory Committee should in future ensure that public works contracts are published in accordance with the provisions of the Financial Regulation of 21 December 1977⁽²⁾ — i.e. at least throughout all the Member States — and should only authorize exceptional cases, if at all, when satisfactory grounds are given in writing.

The Court of Auditors is further of the opinion that contracts should be concluded on the same conditions as those which were submitted to the Advisory Committee as being the result of the invitation to tender (in one particular case 600 million lire). Phrases such as 'it is advisable to add about 10 % to take account of the need for possible adjustments' which imply alteration of the result of the competition in the above-mentioned case (contract concluded for 615 million lire) are definitely to be avoided.

Remark of the Court on the reply of the Commission to paragraph 8.20

The Commission omits any reference to Article 50 (2) of the Financial Regulation of 21 December 1977⁽²⁾, which clearly states that 'invitations to tender shall, as a general rule, be published throughout all the Member States'.

The Court does not share the Commission's opinion that an administration building or a conference hall, for example, are very highly specialized, and that therefore their construction could only be carried out by contractors with 'special qualifications' in the sense of Article 51 (2) of the Financial Regulation of 21. 12. 1977⁽²⁾.

Furthermore, the Court is of the opinion that the procedure referred to by the Commission as the 'safety margin' technique does not comply with the principle of sound financial management.

(1) Vade-mecum on purchases and contracts drawn up by the Advisory Committee on Purchases and Contracts of the Joint Research Centre.

(2) OJ No L 356, 31. 12. 1977, p. 15.

(3) OJ No L 185, 16. 8. 1971, pp. 5 to 13.

(4) OJ No L 176, 3. 8. 1972, pp. 12 to 13.

(5) OJ No C 139, 5. 6. 1979.

Completion of buildings (permits and acceptance)

8.21. The completion of new buildings and conversion work in the Member States usually requires an official permit. This also applies for the acceptance of such buildings, i.e. clearance being given for their occupation.

Due to the special nature of the JRC establishments (premises on leasehold land, privileges and exemptions), the procedure is different in the individual centres.

The JRC Ispra and the Italian authorities differ as to who is responsible for building permits and acceptance.

There was no evidence of comprehensive manuals of procedure for the granting of permits and authorizing of acceptance.

Due to the question of liability in the event of structural damage, it is essential not only to settle the procedure relating to building permits and acceptance, but also — if it is the JRC that is responsible — to define the responsibilities and required qualifications of the officials charged with implementing the procedure.

The Court of Auditors considers it important to clarify these responsibilities as soon as possible, and to settle in documentary form the individual steps of the procedure relating to permits and acceptance.

Value of building and insurance

8.22. According to Articles 59 and 76 of the Financial Regulation of 21 December 1977 ⁽¹⁾, on completion of buildings or termination of building operations, an inventory should be kept of the property. Annual valuation of the buildings and installations is also necessary for insurance purposes.

At the JRC Ispra, the last valuation was carried out by the service department in 1976.

One contract with an Italian insurance company for coverage of the buildings and installations at Ispra against fire and other risks dates back to 1967. Although it could have been terminated in 1977, no invitation to tender for the provision of insurance coverage has as yet been arranged.

The Court of Auditors is of the opinion that a more favourable premium and thereby a saving of budgetary appropriations could have been achieved through a public invitation to tender, at least in the Member States (Article 50 of the Financial Regulation of 21 December 1977 ⁽²⁾). In this connection the Court of Auditors considers it necessary that criteria for valuation be established and applied as soon as possible.

Use

8.23. For over ten years buildings or parts of buildings at the JRC Ispra have been let to third parties; for example, a bank and a travel agent. The leases do not provide for the payment of an adequate rent, and heating and water are supplied and cleaning carried out free of charge.

It is not in accord with the budgetary principle of economy to forego budgetary revenue such as rent and cleaning, heating and water charges for almost 15 years.

The Court of Auditors is of the opinion that where buildings or rooms are made available to third parties, consideration must be given to the amount that should be demanded by way of payment and the effect that the lease may have on the application of certain labour regulations

S u m m a r y

8.24. The faults that the Court has criticized should be rectified without delay.

The excuse of shortage of appropriate staff cannot be accepted any longer.

⁽¹⁾ OJ No L 356, 31. 12. 1977, pp. 16 and 19.

⁽²⁾ OJ No L 356, 31. 12. 1977, p. 15.

The employment of auxiliary staff and the subcontracting of work is in general not the proper way to relieve shortages of staff.

The Commission should be in a position to rapidly overcome such shortages from its own resources: the Commission has at its disposal 537 administrative posts for research and investment of which 461 relate to the Joint Research Centre ⁽¹⁾.

CHAPTER 33 — RESEARCH AND INVESTMENT (INDIRECT ACTION)

8.25. Financial impact of the implementation of the indirect action research programmes.

(MEUA)

	Commitments	Payments
Expenditure 1978	66	69
<i>Appropriations</i>		
1979 budget	27	83
brought forward from 1978	130	60
Transfers	21	14
Total available	178	157
Expenditure 1979	115	105

Effect of the comments of the Court of Auditors in its Annual Report for the financial year 1978.

Introduction

8.26. In its reply to the comments of the Court in the 1978 report, the Commission stated that it was prepared to examine the possibilities of strengthening internal control of indirect research action in three areas:

- deciding the rate of Community participation in the expenditure for research undertaken by means of contracts;
- the rules for determining the amount of advances paid to contracting parties and the ways in which these advances are set off against declared expenditure;
- improving the productivity of the administrative work by making the contractual arrangements more effective.

The Court of Auditors has been informed of a number of studies in these three areas undertaken by the contracts department of the Directorate-General for Research, Science and Education. The study on the productivity of administrative work has been communicated to the Court of Auditors and is commented upon in paragraph 8.29 below.

Certificates of conformity

8.27. In reply to comments of the Court of Auditors ⁽²⁾ the Commission declared that the absence of original supporting documents could be compensated for by declarations that the statements supplied by the contracting parties conform with the supporting documents.

The Court of Auditors wishes to make it clear that these declarations of conformity alone cannot take the place of documentary proof of the regularity of the expenditure declared and its conformity with the terms of the financial annexes to the contracts. Under the present system of promoting research by means of indirect action, monitoring the expenditure of the contracting parties is generally accepted to be the cornerstone of internal financial control. If as part of the process of monitoring certificates of conformity are submitted, it should be done by independent auditors (national audit bodies or private auditors) and under no circumstances by the contractors themselves.

Remark of the Court on the reply of the Commission to paragraph 8.27

The Commission points out that approximately two-thirds of indirect action funds relate to contracts with

⁽¹⁾ OJ No L 23, 31. 1. 1979, pp. 49 and 50.

⁽²⁾ OJ No C 326, 31. 12. 1979, pp. 95, 97 and 98.

public bodies. Therefore, it should be relatively easy for the Commission to look into the possibilities for implementing the Court's suggestion that certificates of conformity be submitted by national audit bodies for contracts of this kind. The remaining contracts could be dealt with by the Commission requiring the submission of certificates of conformity by private auditors or carrying out on-the-spot visits.

On-the-spot inspection visits to contracting parties

8.28. In the absence of declarations of conformity given by private experts or national audit bodies, the on-the-spot inspections of the Commission remain indispensable. In the course of 1979 the Commission made three on-the-spot visits, whereas some thirty-six in 1978 had already been regarded as inadequate. Furthermore, as regards the detailed execution of these inspections, the Commission stated in reply to the comments of the Court of Auditors that 'since 1970 it has been using a detailed questionnaire for the verification of expenditure' ⁽¹⁾. The Court of Auditors found that this questionnaire had not been used either in 1978 or in 1979. It further noted that no audit file was made at the time of the controls and that the auditors' notes were either scattered throughout the administrative files or destroyed after drafting of the reports, whose weaknesses have already been pointed out.

In the Court's opinion, the absence of audit files and audit notes may limit the effectiveness of on-the-spot inspections.

The productivity of the administrative work

8.29. In its 1978 report, the Court of Auditors stated ⁽²⁾: 'Before an increase in the staff of the specialized contract service is considered it would be appropriate ... to undertake a study to determine how far changes of procedure would enable internal control to be strengthened without a corresponding increase in the work-load.'

The Commission gave the following reply ⁽³⁾:

'As regards the suggestion that procedures should be altered so as to improve internal control without a corresponding increase in the work-load, the Commission has engaged an outside firm to carry out a study on reorganizing the administrative departments of DG XII and, in particular, the internal and external control procedures on the basis of objective criteria and in accordance with actual requirements.'

8.30. The study was confined in scope to the Directorate-General for Research, Science and Education. None of the other Directorates-General responsible for intervention expenditure who are faced with the same problems of administration of controls were consulted; the most striking example being the Directorate-General for Energy, where the number of contracts is rising apace.

For reasons of economy, other Directorates-General could be consulted as and when they have problems with the administration of contracts (DG JRC; DG XIX; DG XX ⁽⁴⁾).

The study was, moreover, conducted without the participation of the 'Management and organization, and establishment' division of the Directorate-General for Personnel and Administration, in spite of the fact that the recommendations could be applied to other Directorates-General than DG XII.

At the end of the financial year, no decision had yet been taken on the report by the Commission.

Information on the progress of the research programmes

8.31. In 1978 the Court of Auditors noted that the Commission is required by Article 7 of the Euratom Treaty to submit an annual report on the implementation of the programmes in the field of nuclear research. In the non-nuclear field, the decisions of the Council for each programme also make provision for the submission of such reports.

⁽¹⁾ OJ No C 326, 31. 12. 1979, p. 98.

⁽²⁾ OJ No C 326, 31. 12. 1979, p. 99, 6.57.

⁽³⁾ OJ No C 326, 31. 12. 1979, pp. 99 and 100.

⁽⁴⁾ DG JRC: Directorate-General of the Joint Research Centre;
DG XIX: Directorate-General for Budgets;
DG XX: Directorate-General for Financial Control.

The Court of Auditors asked for the reports of 15 current indirect action programmes. It received the following reports:

1976: Environment; research and development in the energy field;

1977: Biology and health protection; environment; plutonium recycling in light-water reactors; management and storage of radioactive waste; research and development in the energy field;

1978: Biology and health protection; environment; plutonium recycling in light-water reactors; research and development in the energy field;

1979: Biology and health protection; Community Bureau of References; plutonium recycling in light-water reactors.

In several cases the reports cover multiannual periods whereas the basic legislation required annual publication.

The Court of Auditors considers these reports on the progress of the research programmes as one of the principal instruments of political control over the scientific and financial execution of the research programmes. It doubts whether this control can be properly exercised in the absence of these reports. The situation should be compared with that of direct action, where the Joint Research Centre publishes 'programme progress reports' at regular intervals. In the Court's opinion therefore, the principle of annual submission of reports should be observed, in order to ensure continuity in the exercise of control.

Execution of the indirect action contracts

Scope of the audit

8.32. Having analysed in 1978 the administrative and accounting procedures for the management of the indirect action research contracts and discovered certain weaknesses in the system of internal control, the Court of Auditors in 1979 undertook a survey of the financial execution of these contracts.

On the basis of the accounts at 30 September 1979, the Court sought to determine the reasons why certain contracts for which commitment had been made prior to 1 January 1979 registered no activity in the first nine months of 1979.

Of the approximately 1 350 contracts appearing in the accounts at that date, 488 contracts came within this definition.

The balance outstanding on these contracts amounted to approximately 17 240 000 EUA. 217 of these contracts were examined, representing sums outstanding of approximately 9 095 000 EUA.

(1 000 EUA)

Contracts concluded	Number of contracts	Value of sums outstanding at 30 September 1979
Before 1976	7	35
1976	39	1 968
1977	91	4 356
1978	80	2 736
Total	217	9 095

These 217 contracts originally represented a total of some 16 065 000 EUA⁽¹⁾ of Community participation in research expenditure.

Results of audit

8.33. In summary, the review gave the following results. (It should be noted that the same contract can show various anomalies; in this case it will be mentioned as many times as the anomalies it contains):

- 26 commitments worth approximately 668 000 EUA were no longer necessary at the time of audit;
- in the case of 71 contracts nothing more than an advance payment had been effected, without any statement of expenditure from the contracting party; of these 71 contracts, 38 had expired;
- in 67 cases, the Commission had been obliged to suspend payment; in 19 cases because the documents presented in evidence of expendi-

(1) EUA rate of 1. 10. 1979.

ture by the contracting party were not in conformity with requirements of the financial annex; in 15 cases because the scientific reports had been judged inadequate or had not been submitted at all, while in 33 cases the file gave no indication of special reasons for suspending payments;

- in 61 cases contracts had at the time of the review expired but the balance owing had not yet been paid. Of these 61 contracts 29 had expired before 1 January 1979 and represented a total of approximately 800 000 EUA in commitments still to be settled;
- in 9 cases payments had been made by the Commission in excess of those stipulated by the terms of the contracts. The total of overpayments amounted to approximately 407 000 EUA;
- in 69 cases, the contractual clause requiring the contracting party to send in a half-yearly statement of expenditure had not been respected; this may well have been a major factor in the under-utilization of the payment appropriations of certain programmes;
- in 76 cases, the advances for covering the initial expenses of the contracting party were paid more than six months after commencement of the research work;
- in 67 cases, the contract had been signed more than six months after commencement of work;
- in 4 cases, the contract had been extended by a rider signed more than six months after the main contract had expired;
- in 26 cases, the contract had been extended for one year or more without any change in the subject of the research work.

8.34. The number of anomalies shows that the necessity for strengthening both the financial and scientific supervision of these contracts, which was pointed out in the Court's comments in 1978, is now all the more urgent. As the findings above show, the delays are not entirely administrative in origin.

The Court therefore considers it imperative that priority be accorded to resolving these problems in the management of the contracts and that studies of the problems should quickly give way to the application of reforms.

Presentation of financial information

Commitments outstanding

8.35. The internal rules of the Commission⁽¹⁾ provide for an annual revision of the commitments outstanding, which is then referred to the Financial Controller for approval. For the indirect action projects no serious effort was made in this direction either at the end of 1977 or at the end of 1978. A brief survey revealed that at 30 September 1979 there was a total of approximately 668 000 EUA in unnecessary commitments dating from these two financial years (see 8.33 above).

The delay in correcting the accounts has two major consequences:

- it distorts the revenue and expenditure account by giving an incorrect picture of the actual state of utilization of the appropriations;
- it artificially freezes appropriations which could be usefully employed for research projects.

The Court is of the opinion that, in this field, the accounts of the indirect action projects must be revised on a regular basis by the authorizing officer at the beginning of each financial year, if the accounts are to be up-to-date and the regulations duly applied.

The accounting systems for direct and indirect action projects

8.36. Title VII of the Financial Regulation⁽²⁾ treats research and investment appropriations as a coherent whole subject to special rules. In practice, however, there are differences in the ways in which the basic rules are applied to direct action projects and indirect action projects. The following examples are in no way exhaustive:

- the staff appropriations for indirect action projects are fixed for the duration of the

⁽¹⁾ Internal rules on the implementation of the general budget of the European Communities — Commission, 5th edition, Annex III, Article 10 paragraph 2, p. 76.

⁽²⁾ OJ No L 356, 31. 12. 1977 amended by Council Regulation (EEC) No 1252/79, 25. 6. 1979, OJ No L 160, 28. 6. 1979.

programme whereas those for direct action projects are reassessed each year, although in both cases the salaries are those of officials, which are subject to the same changes;

- whereas the cost of staff for indirect action projects is charged to research at a rate corresponding to the category of each member of staff concerned, for the direct action projects an average is taken of the cost of the staff employed on research, all categories being lumped together; this average is calculated with the aid of the 'scientific divisions' appropriation account; the result of this practice is to eliminate the difference in costs arising from the employment of different categories of staff on the research project and to favour those projects employing more highly qualified staff;
- for indirect action projects, mission expenses are treated as specific expenditure for research whereas for direct action projects they are absorbed in general administrative expenditure; the expenditure for a few projects is thus spread among all the activities;
- for indirect action projects, the operating expenditure of the Directorate-General is not charged to research, whereas for direct action projects it is. Thus, out of 445 posts allocated to the Directorate-General for Research, only 346 were charged to the research budget.

The Council decisions establishing the research programmes would not appear sufficient justification for such a distortion of the information, as the Commission claims ⁽¹⁾;

- expenditure on preparing new indirect action programmes is not included in the research budget, whereas with direct action programmes it is.

The Court is of the opinion that these differences in accounting practice between direct action projects and indirect action projects make it difficult to compare the two and it would appear desirable, in the interests of honest presentation of the financial information, for both to be treated consistently.

Changes in accounting methods

8.37. The changes made from one financial year to another in the accounting methods can have a

significant influence on the presentation of the financial information. An example may serve to illustrate this.

In 1978, the Commission entered its contribution to the Joint European Torus (JET) undertaking in the accounts on the basis of the JET budget expressed in payment appropriations. This was in respect of both commitment appropriations and payment appropriations under Item 3351 of the general budget.

In 1979 the Commission retained the same approach for its payment appropriations but used a new method for its commitment appropriations by entering its contribution in the accounts on the basis of the JET budget expressed in commitment appropriations.

If the same method had been used in 1979 as in 1978 for these commitment appropriations, the 1979 commitments would have amounted to 32 MEUA and not 60.8 MEUA, i.e. a difference of 28.8 MEUA. This change in method enabled the Commission to present to the budgetary authority an improved rate of utilization of the commitment appropriations allocated to JET. These operations took place in May 1979. The report on the Communities' financial situation for the second quarter of 1979, presented to the budgetary authority in accordance with Article 29 of the Financial Regulation, makes no reference to this change in method. Such a practice is a serious breach of the generally accepted accounting principle that the accounting methods are assumed to remain constant from one financial year to the next and, consequently, puts in question the authenticity of the accounts presented to the budgetary authority.

This change in method without expressly informing third parties contravenes the spirit of the fourth Council Directive of 25 July 1978 ⁽²⁾.

8.38. The Court is of the opinion that, when changes in method are required to enable the accounts to represent the facts more faithfully, it is essential that these changes should be brought to the attention of the budgetary authority, and their effect clearly shown in accounts presented on the basis of the old and new methods.

⁽¹⁾ OJ No C 326, 31. 12. 1979, p. 84.

⁽²⁾ OJ No L 222, 14. 8. 1978 'Fourth Council Directive of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies' Article 3, 31-1-b, 31-2.

JOINT EUROPEAN TORUS (JET) JOINT
UNDERTAKING

8.39. The JET financial statements for 1979 as submitted for audit show that the expenditure of the joint undertaking in the year ended on 31 December 1979 was just over 30 MEUA, 80 % of which has been financed by the Commission. In carrying out the audit of these financial statements, staff of the Court have visited the project on several occasions

to review financial procedures and accounting systems and to undertake such tests of records and transactions as they have considered necessary. As a result of this examination, the Court has issued an audit report which concludes that the JET financial statements for 1979, as submitted for audit, present fairly the financial position of the joint undertaking as at 31 December 1979 and the income and expenditure for the year ended on that date. The audit report does, however, make certain recommendations concerning the financial management of the joint undertaking.

Table 1 — Energy action programmes — Utilization of payment appropriations 1974-1979
Item 3200 — Hydrocarbons — Technological development

Payment appropriations

Type of appropriation (¹)	Year	Currency	Brought forward from previous year	Current year budget	Total available in year	Utilized (payments made in year)	Cancelled	Carried forward to following year
N-D	1974	m.u.a.	0	25	25	0	0	25
N-D	1975	m.u.a.	25	25	50	25.5	0	24.5
N-D	1976	m.u.a.	24.5	28	52.5	15.7	8.8	28
D	1977	m.u.a.	28	23	51	11.9	18.8	20.3 (³)
D	1978	MEUA	18.1 (³)	30	48.1	16.3	1.8	30
D	1979	MEUA	30	29.9 (²)	59.9	17.7	12.3	29.9
	1974 to 1979	m.u.a. + MEUA		160.9		87.1	41.7	

(¹) N-D = 'non-differentiated' appropriations; D = 'differentiated' appropriations.

(²) Initial budget 31 MEUA less transfers 1.1 MEUA.

(³) The difference between the 1977 amount carried forward and the 1978 amount brought forward is due to conversion from u.a. to EUA.

Table 2 — Energy action programmes — Utilization of payment appropriations in 1979

(MEUA)

	Budget reference	Programme	Payment appropriations				Paid in 1979	Percentage utilization	
			1979 budget	Transfers	Brought forward from 1978	Total		of total appropriations	of 1979 appropriations ⁽¹⁾
Programmes with legal basis in 1979	3200	Hydrocarbons-technological development projects	31	-1.1	30	59.9	17.7	30	0
	3201	Hydrocarbons prospecting	t/e	—	5	5	1.0	20	—
	321	Uranium prospecting	3	—	5.2	8.2	6.2	76	33
	3240	Energy-saving programme	7	—	2	9	0.4	5	0
	3241	New sources of energy	9.5	—	4	13.5	3.1	23	0
		Subtotal	50.5	-1.1	46.2	95.6	28.4	30	2
Programmes without legal basis in 1979	3230	Use of coal in power-stations	t/e	—	—	0	0	—	—
	3231	Aids for coal stocks	t/e	—	—	0	0	—	—
	3232	Aids for trade in power-station coal	t/e	—	—	0	0	—	—
	Subtotal	323 Operations in coal sector	—	—	—	0	0	—	—
Studies	328	Studies in energy sector	t/e	1.1	—	1.1	0.4	36	36
	32	Grand total	50.5	0	46.2	96.7	28.8	30	3

(1) Payments made in 1979, less appropriations brought forward from 1978 and utilized in 1979, as a percentage of appropriations in the 1979 budget.

CHAPTER 9 — COOPERATION WITH DEVELOPING COUNTRIES AND NON-MEMBER STATES

(Title 9 of the budget)

SUMMARY OF CONTENTS	Paragraph reference
General financial information	9.1 to 9.3
Food aid	9.4 to 9.15
Financial and technical cooperation with non-associated developing countries	9.16 to 9.18
Specific cooperation projects	
— Agreements concluded with UNRWA	9.19 to 9.22
— European Association for Cooperation	9.23 to 9.25
— Cooperation projects undertaken by non-governmental bodies	9.26 to 9.31
Emergency aid	9.32 to 9.42
Cooperation with non-member countries	9.43 to 9.49

GENERAL FINANCIAL INFORMATION

9.1. In 1979 the appropriations for payment entered under 'Cooperation with developing countries and non-Member States' and the payments made against these appropriations, were as follows:

Appropriations available and payments

(Title 9)

(MEUA)

	Appropriations for payment			Payments in 1979	% used
	Carried over from 1978	For 1979 ⁽¹⁾	Total available in 1979		
Food aid (Chap. 92)	100.07	296.04	396.11	259.00	65.4
Financial and technical cooperation with non-associated developing countries (Chap. 93)	40.66	59.62	100.28	23.11	23.1
Specific measures for cooperation with developing countries (Chap. 94)	2.61	12.69	15.30	13.97	91.3
Exceptional measures to assist developing countries and non-member countries (Chap. 95)	—	42.00	42.00	38.50	91.7
Cooperation with non-member countries (Portugal, Mediterranean countries, Maghreb and Mashreq countries) (Chap. 96)	97.50	131.29	228.79	70.80	30.9
Total	240.84	541.64	782.48	405.38	51.8

⁽¹⁾ Including transfers of appropriations.

9.2. Title 9 of the budget, however, by no means includes all Community expenditure in respect of cooperation with developing countries in 1979. The overall picture must also take into account:

- payments under the European Development Fund (EDF), which remain outside the framework of the budget (462.28 MEUA). This expenditure is broken down and examined in the EDF section of this report;
- export refunds on food aid charged to the EAGGF Guarantee Section (300.69 MEUA).

Account should also be taken, where appropriate, of advances made to Member States for the implementation of food aid programmes which have not yet been charged to the budget at the close of the financial year (32.28 MEUA).

9.3. Thus in 1979, the total financial contributions (in terms of payments) of the Community to developing and non-member countries amounted to some 1 168 MEUA, not including the advances mentioned in the previous paragraph.

FOOD AID

Comments arising from examination of the accounts

9.4. As a result of criticism of the food aid operations in the past few years, the European Parliament on 18 April 1979 invited the Court of Auditors to prepare a special report on the subject.

This report, which has now been submitted to the European Parliament, gives a critical account of Community food aid from its inception until 1979, through the various stages of implementation. The present annual report will therefore concentrate upon the utilization of appropriations in 1979 and the findings made, on the basis of records and on-the-spot visits, in respect of the implementation of the 1979 food aid programme.

In general, the management of food aid showed no notable improvement, not the least because the draft regulation to modify the policy and management of this aid, submitted by the Commission in January 1979, is still before the Council.

Budgetary management of the appropriations and the adoption of the annual programme

9.5. The appropriations initially entered in the 1979 budget may be summarized as follows:

(MEUA)				
Product	Programmes	Appropriations Title 6 (Export refunds on food aid)	Appropriations Title 9 (Food aid)	Total
Cereals	(a) previous	3.60	4.82	8.42
	(b) 1979	53.80	96.12	149.92
Skimmed- milk powder	(a) previous	31.60	22.27	53.87
	(b) 1979	125.00	87.94	212.94
Butteroil	(a) previous	22.00	11.99	33.99
	(b) 1979	114.10	62.25	176.35
Sugar	(a) previous	token entry	token entry	token entry
	(b) 1979	1.70	1.45	3.15
Other products	—	token entry	token entry	token entry
Miscellaneous	—	—	0.50	0.50
Total		351.80	287.34	639.14

9.6. The budgetary estimates of Title 6 (food aid part) were totally unrealistic, as can be seen from the table below:

	(MEUA)		
	Initial appropriations 1979	Actual utilization in 1979	% used
Previous programmes	57.20	233.80	408.7
1979 programme	294.60	66.90	22.7
Total	351.80	300.70	85.5

9.7. The same applies for the appropriations of Chapter 92, which amounted to 287.34 MEUA, plus 100.07 MEUA carried over from 1978 and 8.7 MEUA transferred from other budget headings, i.e. 396.11 MEUA in total, of which 137.11 MEUA (34.6 %) were again carried forward to 1980.

Taking into account the appropriations carried over from the financial year 1978, the budgetary situation in respect of Chapter 92 may be shown as follows:

(MEUA)							
Product	Programmes	Carried over from 1978	Appropriations 1979	Transfers	Total	Total payments	Appropriations carried over to 1978
Cereals	(a) previous	14.44	4.82	+ 9.63	28.89	28.89	—
Skimmed-milk powder	(b) 1979	—	96.12	— 4.80	91.32	59.52	31.80
Butteroil	(a) previous	46.83	22.27	+ 0.33	69.43	69.43	—
Sugar	(b) 1979	—	87.94	— 2.33	85.61	25.31	60.30
	(a) previous	38.61	11.99	+ 11.08	61.68	61.68	—
	(b) 1979	—	62.25	— 11.08	51.17	13.48	37.69
	(a) previous	0.09	token entry	+ 0.17	0.26	0.26	—
	(b) 1979	—	1.45	—	1.45	—	1.45
Other products		—		+ 5.70	5.70	0.27	5.43
Other expenditure		0.10	0.50	—	0.60	0.16	0.44
Total		100.07	287.34	+ 8.70 ⁽¹⁾	396.11	259.00	137.11

⁽¹⁾ Increase by transfers from other chapters of Titles 8 and 9.

9.8. In addition, the appropriations for programmes prior to 1979 amounted to 39.08 MEUA in the initial budget, but had to be increased by 54 % (21.2 MEUA) by drawing upon the appropriations for the 1979 programme.

introducing differentiated appropriations, especially since the Community has already in practice entered into multiannual commitments in respect of food aid, for example under the Food Aid Convention and the Flood II programme with India.

Two different methods of calculating appropriations are used for the same article:

- for the previous programmes, the appropriations requested are calculated by reference to the quantities that the Commission expects to be able to deliver,
- for the 1979 programme, the appropriations are calculated on the basis of the quantities given in the programme, although it is clear that part of the aid will not be delivered in the same year.

9.9. The appropriations entered in the 1979 budget covered the supply of 720 500 tonnes of cereals, 150 000 tonnes of skimmed-milk powder and 45 000 tonnes of butteroil to various countries and organizations and 6 153 tonnes of sugar for Palestinian refugees.

The Court would reiterate its opinion that more realistic budgetary estimates can only be achieved by

The allocation of these supplies may be summarized as follows:

Beneficiaries	(tonnes)		
	Cereals	Skimmed-milk powder	Butteroil
<i>Countries:</i>			
Bangladesh	100 000	—	3 000
Egypt	90 000	5 000	2 800
Vietnam	86 000	15 000	4 000
Pakistan	50 000	—	1 000
Sri Lanka	19 000	—	200
Mozambique	16 500	1 000	250
Madagascar	14 000	500	—
India	—	31 000	12 700
Sahel region	66 500	5 930	1 755
Middle East	11 000	2 295	1 975
Others	82 000	17 700	3 640
<i>Organizations:</i>			
international	137 500	41 800	13 200
non-governmental	—	25 000	—
Contingency reserve	48 000	4 775	480
Total	720 500	150 000	45 000

The Commission sent its proposal for allocation between the various beneficiaries to the Council on 16 March 1979, but the latter did not adopt the proposal until 8 May 1979.

Late adoption of the programme greatly reduces the effectiveness of the food aid, which is delivered, at least in part, at the time of the harvest in the beneficiary countries. In normal circumstances, the local

communities generally prefer to eat home-produced foodstuffs since they best correspond to their eating habits. It is only in the event of famine or other disasters or in the period between two harvests that international aid meets with some success (for example in the countries of the Sahel, this period is from June to October/November).

It is, moreover, advisable to distribute the food aid at the point when the need for supplies becomes apparent (taking into account commercial imports), in other words just before the between-harvest period, since at that period in a great many countries the rains make the roads impassable for several months and it becomes very difficult to supply the outlying regions, where the need is usually greatest.

Food aid distributed at the right time not only constitutes a major nutritional contribution at a point when foodstuffs are in short supply, but also helps to curb the sharp price rises that are a characteristic feature of periods of shortage. The sudden increase in prices often compels farmers to sell forward their next harvest at a pittance in order to survive.

The Court recommends that in future the delivery date be negotiated with the beneficiary States at the outset and express reference be made thereto in the agreements concluded with these States — which implies adoption of the annual programme immediately after the budget.

9.10. The table below analyses by country of origin of supplier the food aid operations charged to the Community budget:

(MEUA)

Member State	Cereals	Skimmed-milk powder	Butteroil ⁽¹⁾	Others	Total
FR of Germany	10.32	121.97	86.41	—	218.70
France	62.55	4.53	33.12	—	100.20
Italy	21.42	—	—	—	21.42
Netherlands	6.91	11.46	24.00	—	42.37
Belgium	13.02	58.69	37.25	—	108.96
Luxembourg	—	3.89	2.94	—	6.83
United Kingdom	0.09	1.20	2.34	—	3.63
Ireland	—	17.96	3.92	—	21.88
Denmark	—	2.58	15.12	—	17.70
Total payments via the Member States	114.31	222.28	205.10	—	541.69
Direct payments from the Commission	8.36	7.07	1.88	0.69	18.00
Total payments	122.67	229.35	206.98	0.69	559.69
Allocated: Title 6	34.26	134.61	131.82	—	300.69
Title 9	88.41	94.74	75.16	0.69	259.00

(1) The butteroil may have been processed by a supplier from another country.

9.11. In accordance with Article 102 of the Financial Regulation applicable to the general budget of the European Communities, the food aid programme, as soon as it is approved by the Council, is made the subject of a proposal for a single commitment.

The Court of Auditors considers that Article 102 should be interpreted so as not to exempt the Commission from making a separate commitment upon conclusion of each agreement between the Commission and a food aid recipient. This will make it easier to follow the utilization of the appropriations and ensure that all tender awards, certain of which represent expenditure of 50 MEUA, are subject to the prior approval of the Financial Controller, which is not the case at the moment.

The same applies when the Commission decides upon a food aid operation involving products purchased and shipped in non-member countries.

In the case of a purchase of maize from Kenya for delivery to Zambia, the absence of an individual commitment led the Financial Controller of the

Commission to withhold approval of the payment order for this purchase and the operation, which had none the less been the subject of a binding contract with Kenya, had to be cancelled several months later.

The Court of Auditors would also draw attention to the fact that in 1979, a sum of 17.7 MEUA was reimbursed to Denmark and charged against Chapter 92. This amount, however, included 10.5 MEUA in refunds which Denmark had failed to identify separately and which should have been charged against Title 6.

An error of this nature indicates a serious deficiency in the management and monitoring of this expenditure. It is equally regrettable that the last formal clearance of food aid expenditure dates back to the financial year 1974.

9.12. In the 1980 programme, submitted to the budgetary authority by the Commission on 22 February 1980, it is stated that under the 1979 programme the following volume of food aid was delivered:

(tonnes)

Product	Still to be delivered at 31. 12. 1978	1979 programme	Delivered or in the course of delivery in 1979	Still to be delivered at 15. 1. 1980
Cereals	86 913	720 500	662 863	144 550
Skimmed-milk powder	138 735	150 000	210 311	78 424
Butteroil	36 280	45 000	70 852	10 428
Sugar	—	6 153	—	6 153

As the individual commitments are not recorded, no reconciliation is possible between these figures and those of the budget accounts. The latter show different figures, namely that at 31 December 1979, the food aid still to be delivered amounted to approx. 300 700 tonnes of cereals, 138 600 tonnes of skimmed-milk powder, 34 800 tonnes of butteroil and 6 153 tonnes of sugar (tonnage to be compared with the last column of the table above).

The Court considers that it is wrong for the Commission to supply different sets of figures to the budgetary authority, depending on which of its departments compiles them.

Comments arising from on-the-spot audits

9.13. From its audits upon records and on the spot (three visits to ports of shipment in the Community, two visits of inspection devoted entirely to food aid in India and Egypt, and visits to Rwanda, Madagascar, Niger and Upper Volta in connection with the European Development Fund) the principal findings of the Court are:

- various deliveries, in particular some 5 000 tonnes of rice, which were intended for disaster-stricken communities, were unfit for human consumption. The present regulations appear to give no clear definition of responsibilities;
- an intervention agency responsible for mobilizing the aid was still awarding contracts to a firm who in the past had made several deliveries (amounting to over 5 000 tonnes) of a dubious quality, despite opposition from the Directorate-General for Development of the Commission, which was brought to the attention of the Directorate-General for Agriculture;
- 1 500 tonnes of skimmed-milk powder initially bound for Kampuchea were in the end sent to Somalia without the agency responsible being informed. These bags arrived in Somalia marked 'Gift of the EEC to the Kampuchean populations'. The reference to the 'EEC', moreover, did not comply with the invitation to tender, which stipulated use of the words 'European Economic Community';
- some deliveries were implemented at a time when the aid was no longer necessary;
- a large part of Community aid is still shipped on vessels which are not registered either in a Member State of the Community or in the State receiving the aid. Nor is the condition of the vessels used subject to any check;
- an emergency aid of skimmed-milk powder requested on 14 June 1979 by a non-governmental organization for Nicaragua was delivered by plane on 12 September 1979. The organization concerned notified the Commission that at the beginning of September it had received a shipload of 2 000 tonnes of skimmed-milk powder from another donor;
- a part of the food aid intended for free distribution had to be sold by a recipient country which was unable to marshal the resources needed for free distribution;
- the bags of milk powder bear no instructions for use nor the date of manufacture (unless this was in code form);
- the bags of vitaminized milk powder bear no mention of a date-limit on the potency of the vitamins (in principle six months after the date of manufacture);
- vitaminized milk powder was used in one country to manufacture cheese. The obvious effect of processing was to destroy the vitamins, so that

the vitaminization costs, in the region of 100 EUA per tonne, were wasted;

- the unit in which the vitaminized milk powder is packed is often too large (bag containing 25 kg in bulk) and the quality of the packaging has been criticized.

Remark of the Court on the reply of the Commission to paragraph 9.13, last indent

Vitaminized milk powder manufactured for technical reasons from fresh milk is intended for direct human consumption and is thus not affected by the first part of the Commission's reply, which refers to ordinary milk powder. The Court did not find that any sizeable quantity of vitaminized milk powder had been delivered in smaller packages: the existence of such a possibility does not appear to have been sufficiently publicized.

The obligations of the recipient countries

9.14. Although this question is examined in detail in its special report, the Court wishes to mention here its principal comments.

The Community imposes upon the countries receiving food aid a series of obligations which are often not fulfilled in practice or which in certain cases run counter to the purpose of the aid.¹

The Court recommends that in future the Commission should no longer impose upon the recipient States a general set of conditions but that each case should be negotiated separately and adapted to the capacities and actual needs of these countries, as should the time at which the aid is to reach them, mentioned above.

Once these obligations have been entered into, it is necessary for the Commission to scrupulously monitor their observance.

Remark of the Court on the reply of the Commission to paragraph 9.14

The Court has found that certain recipient countries, particularly the poorest when faced with an urgent requirement tend to accept any conditions put to them, even if they know perfectly well from the outset that they will never be able to fulfil them.

Conclusions

9.15. Food aid in 1979 involved a budgetary expenditure of 559.69 MEUA (259 MEUA under Title 9 and 300.69 MEUA under Title 6). Despite the weaknesses that were found, it not only made possible the supply of considerable amounts of food to a large number of persons in need but also enabled many countries to save the tens of millions of EUA in foreign exchange needed for the purchase of vital foodstuffs, which would otherwise have placed a heavy burden on their balance of payments.

The purpose of the Court's comments is to move the Commission to improve the management of food aid in all respects, in particular by assigning the necessary staff to this sector.

FINANCIAL AND TECHNICAL COOPERATION WITH NON-ASSOCIATED DEVELOPING COUNTRIES

(Chapter 93)

9.16. Following a Council Resolution of 16 July 1974, the Commission drew up a proposal for a programme of financial and technical aid to non-associated developing countries for the years 1976 to 1980.

This aid, in the form of grants, is mainly intended for agricultural and food development schemes in the poorest countries of Latin America and Asia and for those African countries that are not associated with the Community.

In the four budgets from 1976 to 1979 these programmes were allocated 20 m.u.a., 45 m.u.a., 70 MEUA and 110 MEUA respectively, 75 % of which was allocated to Asia, 20 % to Latin America and 4 % to Africa. 1 % was allocated to other expenditure, in particular experts' fees.

The appropriations in the 1976 to 1978 budgets were committed in full. The commitments for 1976 and 1977 concerned financing agreements fixed in US dollars. Following subsequent monetary move-

ments, the accounts (in EUA) show balances of 1.6 MEUA and 7.9 MEUA respectively.

9.17. Commitments and payments at 31 December 1979:

(MEUA)					
Programme	1976	1977	1978	1979	Total
Allocation	20 (1)	45 (1)	70	110	245
Amount committed	18.4	37.1	70	77.6	203.1
Number of projects financed	8	21	37	29	95
Cumulative amount of payments by programme at 31 December 1979	12.9	11.3	9	0.2	33.4
Still to be paid:					
MEUA	5.5	25.8	61	77.4	169.7
%	29.9	69.5	87.1	99.7	83

(1) In m.u.a.

The table shows that the payment appropriations were greatly under-utilized; it would be helpful if the Commission were to give the precise reasons for this.

At 31 December 1979 only two of the eight projects of the 1976 programme had been completed, four of the 21 of the 1977 programme, four of the 37 of 1978 and none of the 1979 projects. Most of the projects completed are subsidies to research programmes which were already well underway before the Community's involvement.

A period of nine months was required after the adoption of the 1979 budget to prepare the list of projects adopted and a further three to six months to sign the financing agreements. At all events, most of the delays are in the execution of the projects, which is entrusted to the beneficiaries or the institutions co-financing the project, and without any Community staff or supervision on the spot.

Another reason for delay was that, in the absence of a basic regulation on aid to non-associated develop-

ing countries, the Commission generally waited until the Council had approved the list of projects to be financed, which was not until the end of the financial year.

Financial control

9.18. The Commission accepts every request for payment bearing the signature of the co-financer or the ambassador of the recipient country without checking the award of contracts, the calculation of part-payments or the soundness of the financial management of the project financed.

To make sure that controls delegated to the beneficiaries are carried out, it would be preferable if all payments were subject to the periodic transmission

of the appropriate certificates from the national audit bodies of the recipient countries or other independent audit bodies.

EXPENDITURE RESULTING FROM THE AGREEMENT BETWEEN THE EEC AND UNRWA

(Article 940 of the budget)

Implementation of agreements

9.19. Within the framework of its programme of aid for Palestinian refugees in countries in the Middle East, the Community concluded successive agreements with the United Nations Relief and Works Agency for Palestine Refugees (UNRWA).

The first agreement was concluded with UNRWA in 1972 for three years and was later extended until 1978.

The Commission did not pay UNRWA the cash contributions for 1977 (2 602 978 EUA) and 1978 (2 307 195 EUA) until the end of 1978.

No cash contribution was made to UNWRA in 1979 because the new agreement for 1979 and 1980 was not signed until 21 April 1980.

9.20. On the other hand the food products for use under the basic rations programme were supplied to UNRWA as part of the general Community food aid programme of 8 May 1979. This involved 27 593 tonnes of flour (the equivalent of 36 700 tonnes of cereals) and 3 200 tonnes of butteroil.

Audit

9.21. In its annual report for the financial year 1978 the Court of Auditors pointed out that the successive agreements concluded by the Commission with UNRWA did not make provision for any form of check by the Community on the use of Community aid. Following this observation, the Commission stated that in all future agreements, it proposed to include a clause giving the Court a right of audit

in accordance with the requirements of Article 82 of the Financial Regulation.

9.22. Article VII of the new agreement signed on 21 April 1980 stipulates that UNRWA 'shall give every facility to any persons nominated by the Community for the purpose of observing the agency's receipt, storage and distribution of the Community's aid. UNRWA shall also provide such supplemental information as may reasonably be requested by the persons so nominated'.

In reply to a question in the Parliament as to whether the Commission could affirm that the new agreement would make it possible to audit these resources in the appropriate manner, a vice-president of the Commission stated: 'Obviously the Court of Auditors will also have full powers of control'.

Consequently, the Court will henceforth be able to exercise the powers conferred upon it by the Treaty and the Financial Regulation.

SUBSIDY FOR THE OPERATION OF THE EUROPEAN ASSOCIATION FOR COOPERATION

(Article 943 of the budget)

The 1979 appropriations for subsidizing the operation of the EAC were used as follows:

Initial appropriation: 2.72 MEUA

Commitments: 2.57 MEUA

Payments: 2.54 MEUA

Advances

9.23. Apart from advances from EDF funds, the EAC receives advances from the Commission's general budget to finance a number of its activities. The accounts of the EAC show the following expenditure for the latter:

- (a) operating expenses of the headquarters of the EAC in Brussels; mainly remuneration of its 53 staff (2.45 MEUA);
- (b) for the Maghreb and the Mashreq countries:
 - operating costs of the Commission delegations (1.16 MEUA);
 - technical assistance for projects subsidized (0.09 MEUA);
 - scholarships for nationals of these countries (0.03 MEUA);
- (c) non-associated developing countries (0.03 MEUA):
 - remuneration of certain staff of the Commission delegations;
 - expenses of trainees.

Total recorded expenditure: 3.76 MEUA.

Comments arising from examination of the accounts

9.24. Every operation, whether it be the engaging of an expert or the grant of a scholarship to a student, is the subject of an individual advance. This places a special burden on the financial management of the EAC, particularly as it involves partial advances which have to be regularly replenished. At 31 December 1979 none of these advances had been cleared in the accounts of the Commission and no reconciliation of these accounts had been made with those of the EAC. Thus, for example, it was found that in the Commission accounts, Article 969 of the 1979 budget records 1.5 MEUA in payments for the operating costs of delegations in the countries of the Maghreb and Mashreq, while the EAC accounts record an expenditure of 1.16 MEUA for this purpose.

A global advance should have been recorded in an advances account and settled monthly, after receipt of the supporting documents in respect of the expenditure.

Bank interest

9.25. The interest received on its bank accounts and also exchange gains and losses should appear in

the EAC's statements of revenue and expenditure, instead of disappearing from the accounts when the EAC pays it over to the Commission.

COMMUNITY CONTRIBUTION TOWARDS SCHEMES CONCERNING DEVELOPING COUNTRIES CARRIED OUT BY NON-GOVERNMENTAL ORGANIZATIONS (NGOs)

(Article 945 of the budget)

9.26. This form of Community measure was introduced into the budget in 1976.

The main rules followed in granting the subsidies are:

- the co-financing project must be submitted by a recognized non-governmental organization in one of the Member States of the Community;
- the Community contribution may amount to 50 % of the total cost of the project (75 % in certain specific cases);
- the Community contribution may not exceed 300 000 EUA per project, divided into instalments of 100 000 EUA per year (3 years).

9.27. For the budgets of 1976-78, the commitment appropriations and the number of projects co-financed were as follows:

- in 1976: 2 500 000 u.a. for 76 projects
- in 1977: 4 000 000 u.a. for 113 projects
- in 1978: 12 000 000 EUA for 175 projects
- in 1979: 12 000 000 EUA for 152 projects.

The appropriations for the financial year 1979 were used in their entirety, both in commitments (12 MEUA) and in payments (7.5 MEUA).

9.28. The major advantage of the aid granted by the NGOs is that, in theory, aid can be provided to all the developing countries. In 1979, 63 of these countries benefited from co-financed projects.

The geographical distribution is as follows:

	1976	1977	1978	1979	Total
Africa	1 145 740	1 855 145	6 593 042	5 608 899	15 202 826
Asia	634 704	1 523 099	3 251 321	2 464 364	7 873 488
Central America and Latin America	719 556	506 453	1 796 033	3 397 548	6 419 590
Middle East	—	115 303	221 343	444 352	780 998
	2 500 000	4 000 000	11 861 739	11 915 163 ⁽¹⁾	30 276 902

⁽¹⁾ Common expenditure excluded.

9.29. The following table gives the classification by area of intervention of the projects co-financed in 1979:

Sector	Number of projects	Amount in EUA	%
Agriculture	41	3 808 072	33
Education	55	3 248 713	28
Health	33	1 660 211	14
Economy	21	866 830	8
Communications and means of transport	13	415 287	4
Migrants and refugees	3	99 187	1
Social	24	1 310 257	11
Miscellaneous	2	138 491	1
Total ⁽¹⁾	192	11 547 048	100

⁽¹⁾ These figures do not include general donations, which cannot be classified until after the various progress reports have been received.

Audit

9.30. Due to the wide geographical dispersion of the projects carried out by the NGOs with Community aid, and the relatively small amounts involved, the Commission departments do not carry out regular on-the-spot audits, which would necessarily be expensive.

During its on-the-spot visits, the Court of Auditors was able to inspect seven projects carried out by NGOs. With two exceptions, the projects inspected can be qualified as sound and even excellent. The good projects bring direct benefits to the population

concerned (water supply, training in crafts, employment of the handicapped, etc.).

Nevertheless, the Court wishes to draw attention to two projects, the first of which was faulty in conception and the second of which suffered from lack of supervision:

- (a) The first project involved the construction of a village to house some 140 orphans, comprising 10 family houses with all modern comforts, a common administrative building and a school (total cost: 837 000 EUA; the Community's share: 297 000 EUA). This village is in fact a European model transposed to Africa without any adaptation to local habits and customs.

The orphans housed in the village will receive privileged treatment which will make their later reintegration into the normal social environment difficult. This is therefore an expensive measure which has no place in a country with three million children, where tradition demands that orphans generally be cared for by relatives.

- (b) The second project was intended, with the assistance of four totally inexperienced European volunteers, to accelerate rural development by the construction of three fully-equipped and operational model farms (total cost: 95 000 EUA; Community's share: 45 000 EUA). Representatives of the Court visited one of the three farms. It is uncompleted, the standard of construction is deplorable (despite the presence of a specialist), and it has since been abandoned. It is a very bad example for the village concerned whose population had to contribute their unpaid labour to some of the work.

9.31. Finally, the Court would raise three points regarding the management of the projects carried out by the NGOs to benefit developing countries:

- (a) at present the Commission does not systematically check whether the NGO has paid its share, particularly when this consists in supplying labour or providing land or existing buildings;
- (b) when a European NGO is acting on behalf of a local NGO, the Commission does not verify that the latter is also eligible for the subsidy according to the criteria set by the Commission;
- (c) in cases where certain NGOs do not honour their commitment to keep separate accounts for each project, the Community is not in a position to check the use of its own subsidy.

EMERGENCY AID

(Article 950 of the budget and Article 59 of the Lomé Convention)

9.32. The emergency aid granted by the Community to non-member countries is charged:

- (a) either to the European Development Fund, under Article 59 of the first Lomé Convention

which provides that 'exceptional aid may be accorded to ACP States faced with serious difficulties resulting from natural disasters or comparable extraordinary circumstances';

- (b) or to Article 950 of the general budget of the Communities entitled 'Community aid to disaster victims in developing and non-member countries'.

9.33. The circumstances which can justify recourse to one of these methods of financing and the content and practical purpose of the aid being very similar, the Court has deemed it preferable to give its comments on both these sources of financing in the same chapter.

The financial resources available and their utilization

Aid financed under Article 950 of the budget

9.34. The appropriations under Article 950 are non-differentiated appropriations. They were made up as follows in 1979:

— initial appropriations	3 MEUA
— increase by means of transfers to Article 950	39 MEUA
Total	42 MEUA

The appropriations transferred came in part from the appropriations for the same financial year and in part from 1978 differentiated appropriations (Chapter 96) retained in 1979.

These appropriations were committed in their entirety; payments amounted to 38.5 MEUA. The balance of 3.5 MEUA represents an amount kept in reserve for financing a possible airlift as part of the last emergency aid operation to Kampuchea.

Aid financed under Article 59 of the first Lomé Convention (EDF)

9.35. For this aid, the Commission is not subject to the constraints of an annual budget and imple-

mentation is thus much slower. With regard to the time taken, four categories of aid can be distinguished. The following table shows the large

amount of expenditure incurred in respect of measures spread over two and even three financial years.

(EUA)

	Number of measures	Total commitments	Payments in 1979
(a) Measures commenced and completed in 1979	10	4 008 246	3 808 245
(b) Measures commenced before 1 January 1979 and completed in 1979	5	8 125 207	5 630 876
(c) Measures commenced in 1979 and uncompleted at 31 December 1979	20	23 027 653	7 645 578
(d) Measures commenced before 1 January 1979 and uncompleted at 31 December 1979	23	55 617 000	12 999 588
Total	58	90 778 106	30 084 287

Only 4.4 % of the total commitments relating to the financial year 1979 represent the ten measures commenced and completed in 1979; 95.6 % therefore represents the remaining 48 measures spread over at least two years, of which 61.3 % represents 23 measures spread over at least three years.

Dispersion of files on emergency aid

9.36. Examination of the files relating to emergency aid is made all the more difficult because the documents are widely scattered across the files of separate departments. The result of the different practices followed is that in order to have an overall view of the aid programme in progress, the files of some four different departments must be examined, a situation which facilitates neither the audit nor the management of the files.

Findings of the Court on the basis of records or of visits to the recipient countries

9.37. The aid is sometimes ineffective because the programme is too slow in being carried out, as can be seen from the following examples:

- (a) 15 tanker lorries were delivered in March 1979, nearly two years after they had been requested so that supplies of petrol could be brought to the capital city, whose tanks were empty due to unrest in a neighbouring country;
- (b) two hospital centres, financed in an ACP country from EDF aid and completed in December 1978 and April 1979 respectively, are standing empty as they have not been connected to the water or electricity supply network and have no furniture, matters whose finance and execution were the responsibility of the beneficiary country.
- (c) an EDF aid of 2 735 000 EUA, granted to meet the effects of drought, which gave rise to a financing agreement on 23 May 1978 and covered the supply of seeds, veterinary vaccines, 70 tanker lorries and the deepening of 100 village wells, was still in progress at the beginning of 1980.

9.38. The Court of Auditors found that the Commission tends increasingly to exclude works projects from emergency aid since, in most cases, the necessarily longer periods of implementation would give this aid the character of classic investment projects. Supplies and services can be provided in the shorter time warranted by the notion of an emergency. Thus many measures are now implemented very quickly:

- (a) Following the eruption of a volcano on 12 April 1979, the government of the country affected

submitted a request for aid on 30 April; the decision was taken by the Commission on 9 May 1979 to grant 300 000 EUA to the government for the purchase of food and medical supplies for the disaster victims. The first consignment arrived on 16 May and the last in July 1979.

- (b) For the dredging of sand from a port struck by a cyclone, aid of 100 000 EUA was granted on 26 October 1979 (Article 950); the work was completed by 15 January 1980, which is all the more remarkable since it involved a works project.
- (c) An EDF aid for the purchase of groundnut seeds in order to re-establish the production level after a serious fall in production was implemented within three months, from March to June 1976.
- (d) The purchase and airlift of cholera vaccine to the capital of a landlocked country for which an EDF aid of 55 000 EUA had been decided on 5 March 1979, was completed on 16 March 1979.

9.39. Under the EDF, exceptional aid of 2 000 000 EUA decided upon by the Commission in 1976 for the repair of damage caused by three successive cyclones, was partly used for purposes other than those referred to in the proposal submitted to the EDF Committee. 675 000 EUA were used for the rebuilding of a bridge, originally financed by the EDF, which had collapsed in 1974. Moreover, the proposal submitted to the EDF Committee contained material errors and very inaccurate estimates.

9.40. Under a EDF aid granted in 1976 to a landlocked ACP country, an order for 15 tanker lorries was paid for in US dollars. Similarly, 505 tonnes of haricot beans from Mozambique purchased in Lisbon were paid for on 20 December 1979 in US dollars, which was the currency of the contract, and a payment order approved by the Financial Controller. The Financial Controller had however reminded the Commission on 5 September 1979, when giving his approval of a proposal for commitment of expenditure under a similar contract (different quantity but same product, country of origin and supplier, and under the same EDF measure), that payment in dollars was not allowed in this case.

Article 45 of the Financial Regulation of the 4th EDF stipulates that supply contracts shall be drawn up and payments made in EUA, in the currency of the recipient country, in the currency of the country of the contractual supplier or in the currency of the country producing the supplies.

In the present case, the US dollar did not correspond to any of these currencies.

9.41. The Commission has not received sufficient information on the implementation of several emergency aid measures, although this is required by the agreements.

In this respect, the Court does not regard as adequate the formula frequently used, that the recipient of the aid (namely the Commission representative authorized to manage the aid) is to provide information on the implementation of the aid 'at the request of the Commission'. There should be a duty in principle to inform the Commission and the information to be provided should be specified.

9.42. In several cases the aid provided by the Community covers the supply of goods intended for sale on the spot. The product of the sale has to be paid into a special account whose use, if not defined, is at least indicated in the agreement. There must be consultation with the Commission on the use of the funds in this account, which must in any event be notified to the Commission.

Certain files, however, contain no information from the recipient country on the use of these funds, and in particular:

- EDF aids of 16 March and 23 April 1979 in the form of essential goods to an ACP country (especially fuel);
- EDF aid of 17 August 1979 to an ACP country (300 000 EUA) for the purchase of rice, fish, meat, condensed milk;
- EDF aid of 27 June 1979 to an ACP country (1 200 000 EUA) for haricot beans;
- aid to a non-member country (Article 950) via the FAO of 27 August 1979 (250 000 EUA) for the supply of seeds.

COOPERATION WITH NON-MEMBER COUNTRIES

(Chapter 96)

9.43. The following amounts were entered in the 1978 and 1979 budgets for the purpose of implementing the Financial Protocols signed in application of the cooperation agreements between the Community and most of the Mediterranean coun-

tries (Algeria, Cyprus, Egypt, Greece, Jordan, Lebanon, Malta, Morocco, Syria, Tunisia, Turkey) and Portugal: 12 MEUA in non-differentiated appropriations, 409.3 MEUA in commitment appropriations and 212.1 MEUA in payment appropriations. These appropriations are intended for use either in the form of interest subsidies on loans from the European Investment Bank, or of grants or loans under special conditions. The amounts are to be committed as far as possible at regular intervals throughout the duration of the Protocols which expire on 31 October 1981 for all the countries except Cyprus whose Protocol expires on 31 December 1980.

9.44. In the absence of an implementing regulation, which is still awaiting adoption, each proposal

for financing measures managed by the Commission is subject to a decision by a Council *ad hoc* committee.

9.45. The rate of utilization of the appropriations has been so slow that 30 MEUA of the appropriations allocated in 1978 were carried over to 1979 and then transferred to emergency measures in favour of refugees from South-East Asia, and 47.38 MEUA of the commitment appropriations and 16.97 MEUA of the payment appropriations were cancelled on 31 December 1979:

(a) At 31 December 1979 the position of the (differentiated) appropriations was as follows:

(MEUA)

Country	Commitment appropriations 1978 and 1979			Commitments at 31 December 1979	Payments
	Initial	Transfers or cancellations	Committed or carried over automatically		
Malta	10.00	2.14	7.86	5.36	0.36
Greece	38.50	—	38.50	25.78	15.78
Turkey	132.00	—	132.00	121.00	31.92
Cyprus	7.00	3.00	4.00	—	—
Maghreb:					
— Algeria	31.70	17.20	14.50	0.40	—
— Morocco	53.30	12.27	41.03	17.33	0.05
— Tunisia	38.90	15.48	23.42	6.12	3.11
Mashreq:					
— Egypt	55.40	19.84	35.56	10.96	7.09
— Jordan	15.80	2.20	13.60	6.60	0.82
— Lebanon	8.00	3.85	4.15	1.15	0.00
— Syria	18.70	1.40	17.30	13.31	2.11
Total	409.30	77.38	331.92	208.01	61.24

Out of payments of 61.24 MEUA (i.e. 28.9 % of the 212.1 MEUA in total payment appropriations available), only 0.417 MEUA were made in respect of measures managed directly by the Commission. The rest, i.e. 28.76 MEUA for interest rate subsidies on loans from the European Investment Bank and 32.06 MEUA in

loans granted under special conditions, are appropriations managed by the European Investment Bank.

(b) The 1978 (non-differentiated) appropriations for Portugal (6 MEUA) for interest rate subsidies on loans from the European Investment Bank,

were carried over to 1979 and were committed and paid. On the other hand, 4.1 MEUA of the 6 MEUA entered in 1979 have not been committed.

9.46. The EIB is responsible for examining and monitoring the projects for which special loans are made (except those relating to agricultural projects in the Maghreb and Mashreq countries) as well as projects receiving interest rate subsidies. The Commission confines its activities to making the appropriate transfers to the European Investment Bank at the simple request of the latter, and takes no part in the management of an important part of the appropriations for cooperation with non-member countries.

9.47. For projects managed by the Commission (agricultural projects, training projects and technical assistance), the authorizing powers are exercised by the Directorate-General for Development. These projects concern two distinct geographical groups:

- (a) the Maghreb and Mashreq countries in which there is a Commission delegation which approves each payment;
- (b) Malta, Greece, Turkey and Cyprus: in these countries there is no Commission delegation and therefore no on-the-spot financial control on the part of the Community.

The Court's right of audit is implicit in the financing agreements concluded between the Commission and the recipient country by reason of the reference

to the financial regulations, but these are not annexed to every agreement.

The Court of Auditors would draw attention to its opinion of 23 May 1978 (OJ C 139 of 5 June 1979) in which it requests that explicit mention be made of its powers of audit in the implementing regulations of agreements and in the general conditions of each financing agreement.

9.48. The interest rate subsidies which accompany the loans granted from the own resources of the European Investment Bank could theoretically be paid by the Commission to the Bank every year for the duration of the loan. To simplify administration, they are paid on a single occasion by the Commission two months after signature of the loan contract on the basis of the present value of the total annual subsidies. To calculate the present value of this amount, the EIB uses an interest rate one-quarter lower than that which it charges the borrower.

The Court requests the Commission to explain why it agreed to accept early payment of the subsidies on this basis, and how it reconciles the principle of early payment with the rules of budgetary annuality.

9.49. The advances paid by the Commission to the bodies responsible for managing the grants are recorded as expenditure instead of being treated as advances until presentation of the detailed accounts.

CHAPTER 10 — STAFF EXPENDITURE

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INTRODUCTION

10.0. Chapter 10 contains the comments arising from the audit of staff expenditure, which concentrated on the most important aspects of this sector.

A general review of the situation in respect of staff and appropriations (paragraphs 10.1 and 10.2) is followed by consideration of comments arising from previous audits upon which no satisfactory action has yet been taken by the institutions (paragraphs 10.3 to 10.8).

The audit of the staff expenditure at the Joint Research Centre revealed shortcomings in the system of payment of remunerations (paragraphs 10.10 and 10.11) and management of posts (paragraph 10.12), and in the application of the special provisions of the Staff Regulations (paragraphs 10.13 to 10.20).

The application of the provisions relating to persons treated as dependent children (paragraphs 10.21 to 10.26) and the transfers of emoluments (paragraphs 10.27 to 10.33) also gave rise to criticism.

Examination of the system of installation allowances revealed that under the present rules allowances may be granted in cases where no costs have been incurred (paragraphs 10.34 to 10.37).

The application of the Staff Regulations in cases of election to public office gives grounds for criticism (paragraphs 10.38 to 10.43).

The provisions of the Treaties and the Financial Regulation were infringed in the course of granting humanitarian aid (paragraphs 10.44 and 10.45).

GENERAL

Number of staff

10.1. For the financial year 1979, the position at 31 December 1979 was that a total of 16 097 posts

had been authorized for the institutions compared with 15 410 in the financial year 1978. There was thus an increase of 687 posts, i.e. 4.46 %. At 31 December 1979 the actual number of staff was 15 113 (officials and temporary staff), compared with 14 513 at 31 December 1978. The increase therefore amounted to 600, i.e. 4.13 %. The distribution of staff among the institutions was as follows:

Table 1 — Officials and temporary staff

Institution	1978			1979			Change 1978/1979	
	Posts provided for in the budget	Staff at 31 December	Difference (a) — (b)	Posts provided for in the budget	Staff at 31 December	Difference (d) — (e)	In posts provided for: difference (d) — (a)	In Staff: difference (e) — (b)
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
Parliament	1 709 ⁽²⁾	1 597	112	2 112 ⁽³⁾	1 799	313	+ 403	+ 202
Council	1 517	1 382	135	1 547	1 419	128	+ 30	+ 37
Economic and Social Committee	314	303	11	325	320	5	+ 11	+ 17
Commission ⁽¹⁾ :								
— Administration excluding Office for Official Publications	8 378	8 021	357	8 580	8 231	349	+ 202	+ 210
— Office for Official Publications	224	207	17	237	217	20	+ 13	+ 10
— Research and investment Direct action	2 320	2 267	53	2 300	2 265	35	— 20	— 2
— Research and investment Indirect action ⁽⁴⁾	496	330	166	471	396	75	— 25	+ 66
Court of Justice	288	257	31	311 ⁽⁵⁾	293	18	+ 23	+ 36
Court of Auditors	164	149	15	214	173	41	+ 50	+ 24
Total	15 410	14 513	897	16 097	15 113	984	+ 687	+ 600

⁽¹⁾ The European Centre for the Development of Vocational Training and the European Foundation for the Improvement of Living and Working Conditions are not included in these figures.

⁽²⁾ 23 of these as reserve authorized for secondment of staff to the political groups.

⁽³⁾ 35 of these as reserve authorized for secondment of staff to the political groups.

⁽⁴⁾ Including JET and FAST.

⁽⁵⁾ At 30 June 1979 a total of 315.

The number of posts provided for at the Parliament in the original budget for 1979 was 1 995. This was increased by 117 to 2 112 by a second supplementary budget on 2 May 1979 (OJ No L 157, 26. 6. 1979).

Apart from the staff in posts provided for in the budget, there were another 920 auxiliary staff, local staff and special advisers, distributed as follows:

Table 2 — Auxiliary staff, local staff and special advisers

Institution	31. 12. 1978				31. 12. 1979			
	Auxiliary staff	Local staff ⁽¹⁾	Special advisers	Total	Auxiliary staff	Local staff ⁽¹⁾	Special advisers	Total
Parliament	56	53	—	109	83	33	—	116
Council	1	80	—	81	3	70	—	73
Economic and Social Committee	6	6	—	12	16	11	—	27
Commission:								
— Administration	72	717	25	814	65	709	31	805
— Research and investment	46	—	—	46	49	—	—	49
Court of Justice	16	7	1	24	22	8	1	31
Court of Auditors	7	6	—	13	12	7	—	19
Total	204	869	26	1 099	250	838	32	1 120

(1) Including local staff paid from extra-budgetary appropriations (restaurants, crèches, etc. ...).

Staff appropriations

10.2. Title 1 of the budget consists entirely of appropriations for expenditure relating to persons working with the institutions. Staff expenditure is also charged against the appropriations for research and investment in Title 3 of the Commission's budget.

Appropriations under Title 1

Table 3 — Breakdown of appropriations by chapter

(EUA)

Chapter	Initial appropriations	Final appropriations	Utilization of commitments		Payments as percentage of commitments
			Commitment	% of appropriations	
10 Members of the institutions	14 052 850	23 865 650	18 485 829	77.4	99.9
11 Staff	525 870 487	523 128 487	485 606 174	92.8	99.4
12 Allowances and expenses on entering and on leaving the service and on transfer	18 964 650	20 224 650	16 295 572	80.5	95.1
13 Missions and duty travel	15 687 880	17 218 880	14 734 824	85.5	81.7
14 Social welfare	2 769 420	4 639 920	4 445 631	95.8	87.1
15 Internal training courses and vocational training of staff	2 756 100	2 775 300	2 620 796	94.4	79.5
Total	580 101 387	591 852 887	542 188 826	91.6	98.6

Table 4 — Breakdown of appropriations according to institutions

(EUA)

Institution	Initial appropriations	Final appropriations	Commitments	% of commitments against final appropriations	% of payments against commitments
Parliament	74 676 327	90 766 527	75 031 362	82.6	98.4
Council	52 547 700	52 547 700	46 148 389	87.8	99.2
Economic and Social Committee	10 795 900	10 818 900	10 654 287	98.4	98.9
Commission ⁽¹⁾	417 562 800	413 132 800	390 036 390	94.4	98.5
Court of Justice	14 593 940	14 593 940	12 575 674	86.1	99.7
Court of Auditors	9 924 720	9 993 020	7 742 724	77.4	98.0
Total	580 101 387	591 852 887	542 188 826	91.6	98.6

⁽¹⁾ Including Office for Official Publications.

Appropriations under Title 3

Table 5 — Direct and indirect action

(EUA)

	Initial appropriations for 1979	Final appropriations for 1979	Payments	
			Amount	% of appropriations
Direct action	70 160 366	72 014 960	67 110 715	93.2
Indirect action	15 176 800	14 988 099	14 522 266	96.9

COMMENTS ARISING FROM PREVIOUS AUDITS

Overtime allowance for drivers

10.3. In its 1977 Annual Report the Court commented that two criteria were used in calculating the flat-rate overtime allowance for drivers, irrespective of their actual grade, and both represented the maximum allowable. They were firstly the maximum number of hours of overtime authorized by the Staff Regulations (Article 56-150 hours in any six months) and secondly the highest salary step in category D,

i.e. the remuneration of an official in Grade D 1, step 8.

The Commission stated that for reasons of fairness there could be no question of providing different remunerations to officials of different steps or grades as part of a system of flat-rate compensation.

The Court replied that the Commission's decision did not seem compatible with the principle of sound financial management. Despite this the Commission has not up to now seen its way to altering this decision.

Regular supplements to travel allowances

10.4. In its 1978 Annual Report the Court objected to the fact that Parliament officials who went on mission to Brussels, Luxembourg or Strasbourg were regularly granted supplements in excess of the daily allowances prescribed in the Staff Regulations.

The Parliament stated in its reply that as a provisional solution it had had to adjust the scale of mission allowances to match actual hotel and restaurant charges in view of the number and frequency of these missions and the fact that most of the officials concerned were in the lowest income bracket. A permanent solution would only be possible if a change were made in the procedure hitherto followed by the Council of Ministers for adjusting the fixed mission allowances to the expenses actually incurred on mission.

Recent inquiries by the Court have shown that the Parliament is still granting supplements. The Court cannot regard the Parliament's contention that it is mainly officials in the lower salary scale travelling on mission who are involved as sufficient reason for continuation of this practice. Moreover, the granting of supplements to officials of the Parliament who are on mission constitutes an infringement of the principle of equal treatment for all the staff of the Communities. The Council, when recommending that the Commission be given discharge for the financial year 1978, added a comment to the effect that the provisions of the Staff Regulations apply to all Community institutions and may under no circumstances be disregarded by an institution.

Organization of missions at the Commission

10.5. It was also stated in the Annual Report that the organization of missions at the Commission in Brussels was unsatisfactory as there was a lack of coordination and no modern system of accounting and data processing.

With regard to coordination, the Commission replied that it would be adopting measures on consultation in respect of missions in non-European countries. The Court remarked in reply that this was

only a partial solution; coordination was essential in respect of all missions. The Commission has still not been able to achieve this overall coordination.

With regard to setting up a modern system of accounting and data processing, the Commission stated that the delay of several years in computerizing mission expenses was due to difficulties with the computer programme. To date, it has been unable to overcome these difficulties.

'International organization'

10.6. The 1978 Annual Report also criticized the overbroad interpretation (for the purposes of granting foreign residence allowances) of the term 'international organization', following a decision of the heads of administration in 1974, in that the concept now covered private international organizations as well as public international organizations.

In its reply the Commission agreed to inform the heads of administration of the comments of the Court so that the institutions could jointly examine the exact interpretation of the term 'international organization'.

After discussion, the heads of administration decided to retain the present broad interpretation, on the grounds that the increasing trend was to assimilate the status of the private international organization to that of the public international organization.

The Court is unable to share this view, since in Article 4 (1) of Annex VII of the Staff Regulations, work for an international organization is equated with work for a State. The reference must therefore be to employees of a State or a public international organization, but not of a private association or body. This is also the view of the legal service of the Commission, which in an opinion given earlier at the request of the heads of administration stated that the term 'international organization' was without doubt to be interpreted restrictively, and that a private international organization could not be understood thereby.

Bodies operating in the interests of the staff

10.7. With regard to the extra-budgetary undertakings, the Court in its 1978 Annual Report criticized the fact that those bodies that operate in the interests of the staff and their families do not have a financial and accounting system which satisfies the requirements of sound financial management. The Court proposed that a legal, financial and accounting framework be drawn up on an inter-institutional level, leading to general provisions for implementation under Article 9 (3) of the Staff Regulations.

In their replies the various institutions essentially agreed to the Court's proposals for an inter-institutional solution.

The Court found in its recent inquiries that some institutions have already drawn up proposals. No inter-institutional arrangement, however, has as yet come into being.

10.8. The Court anticipates that the institutions will act without delay on the basis of its comments from previous years.

STAFF EXPENDITURE OF THE JOINT RESEARCH CENTRE OF THE EUROPEAN COMMUNITIES

10.9. The appropriations for staff expenditure of the Joint Research Centre of the European Communities (Ispra, Karlsruhe, Geel and Petten research establishments) are financed from the appropriations of Articles 330 to 333 of Section III of the general budget of the Communities and managed by the Ispra research establishment. In the financial year 1979 a total of 120 million EUA was spent on research and investment for direct research activities. Staff expenditure represents more than 68 million EUA of this amount — about 57 % of the total appropriations.

This expenditure was examined at the Ispra research establishment and at the Commission in Brussels, where necessary. The examination concentrated in particular on

- the system of payment of remunerations,
- the management of posts,
- the application of the special provisions of the Staff Regulations.

The following findings were made:

The system of payment of remunerations

(a) Problems of organization

10.10. Processing of the remuneration of staff at the Joint Research Centre is divided between the Ispra research establishment and the Commission in Brussels.

The payrolls for officials and temporary staff in categories A and B are made up in Brussels, and those for temporary staff in categories C and D in Ispra. However, there is no corresponding separation of the personal files, which contain the basic information for the calculation of salaries. These are kept and administered centrally at the Ispra research establishment.

This arrangement considerably inhibits the necessary internal controls. Thus neither the Financial Controller nor the authorizing officer can effectively perform from Brussels their task of monitoring payrolls made up in Ispra, if at the same time all the documents justifying changes in remuneration are kept in the personal files at the Ispra research establishment and cannot, for obvious reasons, be sent to them in the original.

Moreover, this system causes administrative delays, since whenever there is a change in the personal circumstances of an official or temporary member of the staff, notices of the change and salary statements must be exchanged between Ispra and Brussels.

The Court therefore considers it advisable that the salaries of all staff be dealt with in one place only.

(b) Problems in monitoring payments

10.11. The following points give rise to comments:

- (i) In preparing the monthly payrolls, any changes in the personal circumstances of the staff must be taken into consideration. The list of these 'notices of change', which are important for determining the amount payable as salary, is prepared, e.g. for staff in Categories C and D, by one officer at the payments office in Ispra without a second officer being responsible for checking it;
- (ii) The signing of the payment order by the authorizing officer is not preceded by any check of the payrolls to ensure that all the information in them is correct and complete;
- (iii) The Financial Controller does not regularly receive carbon copies of the notices of change which would enable him to monitor the changes in the payrolls;
- (iv) There is no plausibility check in the computer programme used for the processing of salaries, whereby serious deficiencies could be exposed in good time.

The Court takes the view that the internal control procedure is not entirely satisfactory for an area of such importance as payment of salaries. The basic cause of the problem appears to be the lack of clear-cut directives for the procedure to be followed in preparing, paying, and recording payment of salaries, with the result that the method of processing is by and large left to the individual officer. Equally lacking are clear rules for the internal control procedure, both in administration and financial control, which would leave no room for doubt as to the type, scope, frequency, allocation and proof of the controls.

The Commission should instruct the relevant departments to introduce the controls proposed into the system of payment of remunerations. There should also be drafted clear directives for the process of payment and set rules for internal control.

The management of posts

10.12. At present the research establishments do not keep registers adequately identifying their posts.

It is thus virtually impossible to have an overall view of the data for individual posts: initial notification by the Commission, allocation to a section, time during which the post is occupied or vacant, and where applicable, surrender of the post to the Commission as free.

Nor are the individual jobs corresponding to individual authorized posts described with reference to the nature of the work or its level of difficulty. Such descriptions are, however, particularly essential in the field of research since individual jobs are specialized: it is impossible to make an adequate assessment of the necessity, level or use of the services involved without detailed information of the nature of the work and its requirements.

In the Court's view, proper management of posts and economical use of staff is generally speaking only possible if all the data and background information on a post under discussion and the corresponding job are readily available.

The Commission should ensure that in future such records are available at the research centres.

The application of the special provisions of the Staff Regulations

Article 92

10.13. In accordance with Article 92 ff. of the Staff Regulations, staff who occupy posts in the 'scientific and technical service' are granted pecuniary advantages. Only these officials are entitled to receive the bonuses and allowances provided, such as

- (a) bonus for inventions (Article 94);
- (b) bonus for exceptional service (Article 99);
- (c) allowance for particularly arduous working conditions (Article 100).

Article 92 expressly stipulates that the term 'scientific and technical service' must be confined to posts in the field of nuclear science.

As at 31 October 1979, of 1 682 officials and temporary staff at the Ispra research establishment, 1 310 — 78 % of the total — are classified in the 'scientific and technical service'.

Following the Council Decision of 18 July 1977 (77/488/EEC, Euratom), not more than about 600 of the above-mentioned 1 310 staff should be in posts in the field of nuclear science. About 450 staff occupy posts in other research programmes, but under Article 235 of the EEC Treaty, not under Article 7 of the Euratom Treaty. A further 250 staff hold posts in the service sector or in the computer centre.

10.14. The Court is well aware that this situation exists for historical reasons. Originally the Joint Research Centre was solely concerned with research in the field of nuclear science. Since 1973, however, it has extended its activities into the non-nuclear field. The Court is also aware of the results of an examination carried out by a Commission working party on the allocation of staff at the Joint Research Centre, which found that 50 employees appeared to be wrongly graded. The Court is of the opinion, however, that historical considerations are no justification for the situation described and that the re-grading of a mere 50 employees represents a significant underestimate.

10.15. In the course of its examination of the application of Articles 94, 99 and 100 (total 1978 payments approximately Bfrs 18 million) the Court found a number of cases where payments were made to persons not employed in the field of nuclear science. Much of the difficulty could be avoided by re-classification of these employees. Apart from the matter of grading the following points are of importance:

Bonus for inventions (Article 94)

10.16. Out of a total of 97 staff who received bonuses (total approx.: Bfrs 0.4 million) for patented inventions in 1977, 1978 and 1979, only about half occupied posts in the field of nuclear science.

In other cases staff were awarded bonuses without the patent having been granted as Article 94 requires. It was also found that Article 2 of the implementing rules does not correspond with Article 94 in that it allows the award of a bonus on the basis of an application for a patent.

Bonus for exceptional service (Article 99)

10.17. In the financial year 1978, 89 staff received bonuses (for approximately Bfrs 3 million in total), although only about half this number occupy posts in the field of nuclear science. More than a quarter of those receiving bonuses were service or computer staff, and almost a quarter were staff in other branches of research. Neither group at all fulfils the conditions of Article 92.

Moreover, examination of successful applications for bonuses showed that Article 99 and its implementing provisions had in places been very generously interpreted. Bonuses were, for example, awarded for snow-clearing. Snow-clearing can hardly be considered as an exceptional service within the meaning of the implementing provisions. Furthermore, in addition to the bonus, these employees were granted allowances for particularly arduous working conditions and overtime.

In other cases bonuses were awarded because, for example, equipment damaged in transit had to be quickly repaired so that a test series could be completed. This was in fact routine work.

The amount of the bonus unit awarded (at present Bfrs 50 000, previously Bfrs 30 000) frequently has little real relation to the 'exceptional service' rendered. This is particularly evident if it is considered that, for example, in 1978 and 1979 a member of the research staff received a bonus of only Bfrs 2 500 for an invention whereas a member of the service staff received a bonus of Bfrs 30 000 for snow-clearing.

Allowances for particularly arduous working conditions (Article 100)

10.18. Of the 550 officials who at present receive allowances, only about 250 occupy posts in the field of nuclear science. Therefore in 300 cases there is no legal basis for the granting of allowances.

Apart from this fundamental point, irregularities were also found in the application of the provisions determining the rates and conditions of the allowances (Council Regulation (EEC) No 1799/72 of 18 August 1972).

10.19. Thus for example one pyrotechnician was awarded a flat-rate allowance of 6½ hours per working day for 'work with explosive materials' although on average explosions only take place every 4 weeks, which would yield a maximum flat-rate time allowance of one hour per working day.

A further eight members of the staff (technicians and mechanics) were awarded allowances under the special working conditions: 'Handling of specific products or working with these products under particularly arduous conditions', with a time allowance of 6½ hours per working day as a daily flat rate, although they had not handled any of the specific products referred to in the above-mentioned Council Regulation, nor worked with these products under particularly arduous conditions.

Those responsible in the department explained this unusual procedure by saying that they had raised the time allowance of the pyrotechnician independently of the actual amount of time taken in order to take better account of the special dangers of working with explosives than does the Council Regulation.

In the same way, it was stated, the technicians and mechanics had to be awarded an allowance at their own assessment, because they felt exposed to exceptional nervous stress from explosions on the same site. Similar shortcomings were also encountered in other departments.

10.20. The Commission should take appropriate measures to ensure the correct application of the special provisions of the Staff Regulations in the future, in particular with regard to Article 92. It will

also be necessary to amend accordingly the implementing provisions for Article 94 and to apply those for Article 99 restrictively. Furthermore, the amount of the bonus unit for exceptional service should be examined with a view to bringing it into line with the bonus for patented inventions.

PERSONS TREATED AS DEPENDENT CHILDREN

10.21. The rules as to persons treated as dependent children are laid down in Annex VII, Article 2 (4) of the Staff Regulations. The Court examined the application of the common implementing provisions issued on this subject in each institution. At present, over 800 allowances are paid, at a cost of approximately Bfrs 40 million in 1979. It was observed that important rules are not always correctly applied.

10.22. Article 8 of the implementing provisions for instance, lays down the strict requirement that account should be taken of 'income of any kind' both of the person for whom status equal to a dependent child is claimed and of the persons who are legally obliged to maintain that person. In particular this applies to allowances and pensions but also to the rental value of the personal residence. In addition account must be taken of income from agriculture and forestry, a trade or profession, land, buildings, bank deposits and investments.

The examination of about 50 cases at the Joint Research Centre showed that the supporting documents to an application for the treatment of a person as a dependent child regularly show only the salary or pension of the person to be maintained and, where applicable, the value of his personal residence. The value of the personal residence of the person legally responsible for maintenance and his other income of the types mentioned above are never included. A large number of applicants do, however, own a private residence. There are also

other forms of income, e.g. building society deposits. It was found that these officials transferred a considerable part of their salaries to the 'Beamtenheimstättenwerk' (civil service building society), and not only for the repayment of housing loans. Similar findings were made in all the institutions.

10.23. The Court recognizes that the administrative services of the institutions would have considerable difficulty in establishing the true 'income of any kind'. Nevertheless, every possibility for establishing income should be exploited to the full. For instance, the applicant could be given a questionnaire listing every conceivable kind of income both of the person to be treated as a dependent child and of the person liable for maintenance, and be required to make a solemn declaration as to the truth of his answers.

10.24. Article 11 of the implementing provisions prescribes that the amounts mentioned in Articles 4 to 8 shall be weighted according to the weightings applicable for the country of the official's place of work and for the place of residence of the other persons concerned.

Examination on the spot showed that the weightings which came into effect from 1 April 1979 (in part with considerable changes) were applied by the Council, the Economic and Social Committee and the Court of Justice. At the Commission and the Parliament, however, the weightings were not brought up to date in those cases where this would have meant cancellation of the allowance. The Bureau of the Parliament, in its capacity as appointing authority, ordered that the 'status quo', i.e. calculation on the basis of old weightings, be maintained until appropriate inter-institutional rules are worked out.

The administration of the Commission at Brussels decided, in the case of persons entitled to an allowance at 31 March 1979, to freeze the chargeable burden for a transitional period of 5 years from 1 April 1979 at the levels obtaining at that date for countries where the chargeable burden was reduced. The Financial Controller did not withhold his approval.

10.25. The Court does not understand why the Parliament and the Commission did not apply the

new weightings in the same way as the other institutions. It is necessary in the interests of equal treatment of Community staff. There is no legal justification for not applying the new weightings since no formal steps have been taken to amend Article 11.

In this connection mention should be made of the reply of the Commission to a comment of the Court in relation to the 1977 financial year on the level of the maintenance allowance: in this reply it was stated that 'the problem connected with the amount of the presumed burden will be resolved with the introduction of the European Unit of Account'. Although the possibility now exists of reducing the chargeable burden by means of the weighting, the Commission has so far made no use of it.

10.26. The Court would raise the question whether Article 110 of the Staff Regulations should not be extended to provide that agreement among the institutions should be obligatory for all implementing provisions to Articles of the Staff Regulations that have financial effects.

In the Court's opinion the Parliament and the Commission should immediately apply the new weightings.

TRANSFERS OF EMOLUMENTS

Transfers in June 1979

10.27. On 28 March 1979 the Commission decided to introduce, on a provisional basis, 'Rules laying down the procedure for the transfer of part of an official's emoluments', in accordance with Article 17 (2) of Annex VII of the Staff Regulations, with effect from 1 April 1979. It acted on the assumption that the common agreement of the institutions, as prescribed by the Staff Regulations, would be forthcoming.

Article 5 of these Rules provides, *inter alia*, that on request, the official may once a year, in June, transfer through the institution the total amount of his net remuneration, less the regular transfers, in the

currency of his country of origin or in the currency of the country in which his institution has its seat.

The practical effect of this rule is that once a year the weighting need not be taken into consideration in the calculation of the salary. This creates considerable financial advantages for officials from countries such as Ireland, Italy or the United Kingdom for which, compared with Belgium or Luxembourg, the official weightings are considerably lower⁽¹⁾.

10.28. As a result of this rule, officials at the Research Centre, Ispra (Italy), requested that their remunerations for June 1979 be made out in Belgian francs by the Payments Office in Brussels and transferred in Italian lire to a bank account in Italy at the current daily rate of exchange.

The Financial Controller refused to authorize these transfers, since, in his view, they constituted a breach of the provisions of the Staff Regulations.

He based his decision on three grounds. Firstly, there was nothing in the provisions of Article 17 to allow the transfer of the total remuneration for the month of June. Secondly, it was not clear how far the transfer of emoluments in Italian currency was actually necessary for the payment of obligations outside Italy. Thirdly, transfers of money under Article 17 could in general only be from the place of employment to another country and not from the country where the institution has its seat to the place of employment.

10.29. The Commission decided to overrule the Financial Controller. In its decision, it refers exclusively to Article 5 of the 'Rules laying down the procedure for the transfer of part of an official's emoluments' which it had introduced on a provisional basis only. In this connection it should be noted that in respect of that part of Article 5 which the Commission relies upon in its decision, it was not possible to obtain the common agreement of the institutions because of the conflict with Article 17, and it was therefore not included in the final version

of the Rules. This means that there was no legal basis for the transfers of net remunerations made by the Commission and none has been created since.

10.30. The Communities have incurred a considerable financial loss through the procedure followed by the Commission: in the order of Bfrs 40 million for the transfers of the Research Centre officials alone.

Transfers to the 'Beamtenheimstättenwerk' (civil service building society)

10.31. In accordance with Article 17 (2) (b) of Annex VII of the Staff Regulations (as amended on 21 December 1978), an official may regularly transfer part of his emoluments through the institution which he serves, where such transfer is intended to cover expenditure arising out of commitments proved to have been regularly undertaken by the official outside the country where he carries out his duties.

In order to implement this provision 'Rules laying down the procedure for the transfer of part of an official's emoluments' were adopted, with effect from 1 April 1979, by common agreement between the institutions of the European Communities.

Expenditure regarded as justifying such transfers is, for example:

- upon presentation of the title deeds and of the mortgage agreement, mortgage repayments, spread over at least seven years, for the purchase of land for either a private dwelling or the construction, purchase or conversion of the official's main home or second home in a country of the Community;
- upon presentation of the deed, payments towards life annuities, and upon presentation of the relevant contract, life and invalidity insurance premiums or building society payments in connection with the real estate transactions referred to above.

Transfers may also be requested for education expenses (schools or university), support of dependants, and retirement pension contributions. Total transfers may not exceed 35 % of net monthly remuneration but exceptions may be made in certain cases for a transitional period.

(¹) Official, married with two children, employed in Italy, grade A 4, last step, receiving expatriation allowance: net salary, June 1979

with weighting	Bfrs 126 913
without weighting	Bfrs 170 811
Difference	Bfrs 43 898

10.32. An examination of the practical application of these provisions in all the institutions has shown that no check is made whether the sum in the savings contract is actually used for the real estate transaction. This would appear necessary, particularly in those cases where officials employed in countries where the weighting is considerably lower than that applied to the Federal Republic of Germany have concluded a savings contract with the 'Beamtenheimstättenwerk'. Due to the difference in weighting an official employed in such a country only has to pay approximately 700 DM himself for a monthly building society premium of 1 000 DM, while the Communities pay approximately 300 DM. The weighting is not however taken into account on the transfer of the savings, i.e. the official receives back 100 %. Consequently, it is understandable that officials employed in Ireland, Italy and the United Kingdom in particular, exhaust the 35 % limit in transfers to the 'Beamtenheimstättenwerk' alone or even temporarily exceed the limit under the special provisions. Some cases involve commitments for monthly building society premiums of over 6 000 DM. In many of these cases it is doubtful whether the payments are actually made for the purposes stipulated in the Rules. It appears far more likely that the motive is a straightforward financial gain, without any serious intention of engaging in a real estate transaction for personal requirements.

10.33. In view of the above considerations each individual case should be examined to ensure that the building society premiums have been used for the purposes intended. It should be required that the Communities' share in principle be paid back when used for purposes other than those stipulated.

THE SYSTEM OF INSTALLATION ALLOWANCES

10.34. The rules for granting an installation allowance — for which about Bfrs 140 million were entered in the 1979 budget — are laid down in the Staff Regulations in Article 71 and Annex VII, Article 5. Article 71 provides the basic right to 'reimbursement of expenses incurred on taking up

appointment, transfer or leaving the service' and also 'in the course of or in connection with his duties', while Article 5 of the Annex sets out the conditions for the grant of these allowances. Under these provisions an official receives an installation allowance where he fulfils one of the following conditions:

(a) The official must prove that he qualifies for expatriation allowance, i.e.

- that he is not and has never been a national of the State in whose territory the place where he is employed is situated, and
- during the five years ending six months before he entered the service did not habitually reside or carry on his main occupation within the European territory of that State. For the purposes of this provision, circumstances arising from work done for another State or for an international organization are not taken into account;
- that he is or has been a national of the State in whose territory the place where he is employed is situated but during the ten years ending at the date of his entering the service habitually resided outside the European territory of that State for reasons other than the performance of duties in the service of a State or of an international organization.

(b) The official furnishes evidence of having been obliged to change his place of residence in order to comply with Article 20 of the Staff Regulations (residence requirement).

The installation allowance may thus in principle be granted in two entirely different cases. Whereas it can be assumed in the second case that the official has incurred expenses on taking up appointment since he has had to change his place of residence, in the first case this assumption cannot necessarily be made since the right to an expatriation allowance does not depend on a change of place of residence on taking up appointment.

10.35. The Court examined the system of installation allowances and their application in practice by the different Community institutions. It was found that the provisions of Article 5 of Annex VII have to date been interpreted literally and the installation allowance has been paid not only on an actual change of place of residence but also on the sole ground of entitlement to expatriation allowance, to the following recipients:

- all officials who had been resident at their future place of employment for less than 5 years before their appointment;
- all officials who had been resident for more than 5 years before their appointment at their future place of employment if they had been working there for another State or an international organization;
- officials who, before appointment, had always or for a very long period been resident in the State of their future place of employment but whose stay there had been interrupted for a continuous period of 5 years ending 6 months before appointment;
- officials who had been resident near the borders of their future place of employment and therefore did not need to change their place of residence in order to comply with Article 20 of the Staff Regulations;
- children of employees of the Communities, of a State or of an international organization who had been appointed by a Community institution and for whom the reference periods (5 years) for residence run from the attainment of legal majority or from the date of taking up gainful employment.

The cases listed above indicate that there was no change of place of residence with the special costs usually involved. Nevertheless the Staff Regulations provide, in these cases as well, for the payment of an installation allowance and thus a reimbursement of expenses, without the officials having incurred expenses.

10.36. The Court takes the view that the present wording of Annex VII, Article 5, of the Staff Regulations, which grants an installation allowance solely on the grounds of qualification for expatriation allowance, in practice makes possible a procedure which, though no exception can be taken on legal grounds, is *de facto* unjustifiable: it regularly permits payments without the official having actually incurred expenses. There can be no question, therefore, of a real reimbursement of expenses in accordance with Article 71 of the Staff Regulations.

10.37. In the opinion of the Court, consideration should be given to whether the first condition for

the grant of installation allowance — payment of expatriation allowance — could not simply be deleted.

ELECTION TO PUBLIC OFFICE

10.38. Officials of the European Communities may be elected to public office. Pursuant to Article 15 of the Staff Regulations:

- an official who is a candidate for elective public office shall apply for leave on personal grounds for a period exceeding three months;
- the Appointing Authority shall consider the case of any official elected to such office and having regard to the importance of the office and the duties it entails for the holder, decide whether the official should continue in active employment or should apply for leave on personal grounds.

10.39. In 1979, 21 employees of the European Communities stood as candidates for elective public office, of whom 20 applied for and obtained leave on personal grounds. Of the 7 officials elected, 6 applied for leave on personal grounds for their term of office.

10.40. A few months before the election, the Bureau of the European Parliament decided to apply the provisions of Article 50 of the Staff Regulations to one member of its staff. Under these provisions

- an official holding a post in Grades A 1 or A 2 may be retired in the interests of the service by decision of the Appointing Authority.

The effect, under Article 47 of the Staff Regulations, is to terminate the service of the official, which in the case in question did occur on 31 May 1979.

10.41. The principal justification of the Bureau of the European Parliament for its retirement of the official in the interests of the service was that it was important for the Parliament to be free to dispose of the post of Secretary-General as it saw fit. This justification is not convincing however, since the post would have also remained available if the provisions of Article 15 — granting of leave on personal

grounds — had been applied. Article 40 (4) (c) provides that another person may be appointed to the post occupied by the official who applies for leave on personal grounds.

10.42. The Court would point out that the application of Article 15 involves virtually no financial burden. The decision of the European Parliament to retire the official from the service pursuant to Article 50 of the Staff Regulations on the other hand involved considerable costs.

10.43. It is not clear to the Court, therefore, why the Bureau of the European Parliament applied Article 50 and not Article 15 of the Staff Regulations in the above case.

COMPLIANCE WITH FINANCIAL PROVISIONS

10.44. At its meeting of 19 July 1979 the European Parliament decided to transfer a sum of 1 million EUA to the United Nations High Commissioner for Refugees in support of his rescue operations for shipwrecked Indochinese refugees. The appropriations required were taken from the provisional appropriations of the Parliament under Article 100 and transferred to Item 1490.

According to the remarks to Item 1490 of Section I (European Parliament) the appropriations under this item are solely for aid and subsidies for staff and their families. There should not therefore have been a transfer to the High Commissioner charged against this item. There is, moreover, no other possibility of charging this expenditure to Section I, since no appropriations are available for this type of expenditure, nor should they be available. This is the only conclusion that can be drawn from the provisions of Article 205 of the EEC Treaty, which give the Commission sole responsibility for the implementation of the budget. The individual institutions participate only to the extent of effecting their own expenditure.

10.45. The procedure adopted by the Parliament constitutes a serious breach of the EEC Treaty (Article 205) and of the Financial Regulation (Article 5) and thereby of the principles of legality and regularity. There has been an exchange of correspondence with the President of the European Parliament on this matter.

Remark of the Court on the reply of the Parliament to paragraphs 10.44 and 10.45

The Parliament justifies its course of procedure by reference to the extreme urgency of the aid.

None the less, the Court sees no reason to alter the opinion expressed by it in paragraph 10.45.

CHAPTER 11 — OPERATIONAL EXPENDITURE

SUMMARY OF CONTENTS	Paragraph reference
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Matters arising from previous years	11.5
Matters arising during the 1979 audit year:	
Acquisition and control over office supplies and equipment, etc.	11.6 and 11.7
Insurance	11.8 and 11.9
Computer Centre	11.10 and 11.11
Publishing activities	11.12
Expenditure on direct elections	11.13 to 11.19

INTRODUCTION

11.1. Expenditure upon buildings, equipment and miscellaneous administrative activities is chargeable to Title 2 of the budget. This title therefore includes most of the expenditure necessary for the daily running of the institutions of the Communities, other than that directly on staff which is charged to Title 1 (see Chapter 10 of this report). Title 2 also includes expenses of meetings, studies, publications and information, and certain subsidies,

including those to the external bodies reported on in Chapter 12 of this report.

11.2. Expenditure under Title 2 charged to 1979 accounts amounted to 235 979 331.06 EUA, as compared with an original budget appropriation of 234 776 178 EUA and expenditure in 1978 of 213 503 266.52 EUA. The following tables give summaries of the 1979 budget transactions by chapter and by institution.

Table 1 — Title 2: appropriations by budget heading

(EUA)

Chapter	Original budget	Final appropriations	Total commitments	Percentage commitments of final appropriations	Percentage of total commitments paid
	(a)	(b)	(c)	(c) of (b)	
20. Immovable property investments	622 000	1 132 000	833 091.72	73.59	29.22
21. Rental of buildings and associated expenditure	67 985 570	71 478 935	68 345 236.29	95.62	85.98
22. Movable property and associated expenditure	24 620 868	34 660 913	30 096 427.39	86.83	74.07
23. Current administrative expenditure	32 301 340	33 290 730	28 021 839.05	84.17	78.56
24. Entertainment and representation expenses	1 197 030	1 392 030	1 145 601.04	82.30	76.68
25. Expenditure for formal and other meetings	19 370 360	19 656 360	15 994 422.50	81.37	85.17
26. Expenditure on studies, surveys and consultations	12 792 100	14 892 100	14 662 801.64	98.46	36.63
27. Expenditure on publishing and information	29 322 030	32 471 530	32 025 120.54	98.63	69.32
28. Subsidies for balancing of budgets (1)	43 143 700	43 143 700	41 341 828.98	95.82	98.82
29. Subsidies and financial contributions	3 421 180	3 970 180	3 512 961.91	88.48	74.73
Total	234 776 178	256 088 478	235 979 331.06	92.15	80.03

(1) Includes total expenditure of Office for Official Publications, see also Chapter 10, Tables 3 and 4.

Table 2 — Title 2: appropriations of each institution

(EUA)

Institution	Original budget (a)	Final appropriations (b)	Total commitments (c)	Percentage commitments of final appropriations (c) of (b)	Percentage of total commitments paid
Parliament	20 169 838	33 890 738	26 763 556.72	78.97	52.20
Council	30 665 300	31 130 300	25 536 701.56	82.03	73.49
Commission	171 649 040	178 253 040	172 460 674.73	96.75	85.16
Court of Justice	4 758 140	4 758 140	4 349 614.12	91.41	72.02
Economic & Social Committee	5 540 000	5 725 000	4 999 920.44	87.33	94.64
Court of Auditors	1 993 860	2 331 260	1 868 863.49	80.17	74.10
Total	234 776 178	256 088 478	235 979 331.06	92.15	80.03

11.3. The differences between the original and final budget figures shown above derive from within-the-title transfers made during the year under powers delegated in the Financial Regulation, from increases to the appropriations for the European Parliament of 4 434 900 EUA authorized by supplementary budget No 2 ⁽¹⁾, and from authorized transfers from other titles including Title 10: provisional and reserve budget appropriations.

11.4. During 1979, the institutions committed on average 92.15 % of the appropriations available under Title 2, and payments in liquidation of these commitments amounted to 80.03 %. Table 2 above shows, however, that a considerably lower rate occurred in respect of the European Parliament's payments against its commitments. This was particularly under Chapters 21 and 22, and was due primarily to delays in the preparation of buildings in Brussels and Strasbourg. In its examination, the Court satisfied itself that legal obligations had been necessarily and properly incurred during the year, thus validating the charging of these commitments to the 1979 appropriations even though the delays in completion necessitated their carry-over for payment in the financial year 1980.

MATTERS ARISING FROM PREVIOUS YEARS

11.5. The Court has continued its liaison with the institutions and in particular with the Committee on Budgetary Control of the European Parliament on matters arising from earlier reports. It welcomed the initiative taken by the heads of administration in establishing an inter-institutional working group to consider certain of the recommendations made in the Court's Special Report on Accommodation Policies of the Community Institutions ⁽²⁾.

MATTERS ARISING DURING THE 1979 AUDIT YEAR

Acquisition and control over office supplies and equipment, etc.

11.6. During the year the Court made a special study of the procedures for acquisition and control

of office supplies and equipment, etc. The records showed that at 1 January 1979 holdings of these items on inventory or in stock had an historic cost value of 38.9 MEUA and that during 1979 purchases totalling 14.3 MEUA were charged mostly to Chapter 22. A factual summary of the Court's findings and of observations arising thereon was sent to the institutions for their comments on 2 June 1980. In the light of their replies, the Court adopted on 24 September 1980 a Special Report under Article 206 a of the EEC Treaty. This was sent to the institutions in November 1980, and will be published in the Official Journal.

11.7. The observations commented on, *inter alia*, the absence of common standards of quality and cost, and recommended that the institutions take greater steps to coordinate their purchasing activities. It recommended that articles most commonly required should, as far as possible, be purchased through centrally negotiated contracts and that consideration should be given to the formation of one Central Advisory Committee on Procurements and Contracts. Criticisms were also made of the present stock and inventory records, weaknesses in which seriously limited the soundness of the institutions' financial management by restricting their ability to stocktake and evaluate their asset holdings.

Insurance

11.8. The Court has raised with the Commission the question of whether assets should be insured. While taking the overall view that the risk of loss should normally be covered by insurance, the Commission informed the Court that it considered each category of risk on its merits. Thus it had decided not to insure against breakage of windows, nor against theft of furniture, because it considered the premiums out of proportion to foreseeable losses.

11.9. In 1978, 310 operations were insured, under 143 policies, by the Commission covering risks against fire and water damage, losses during transit, special risks for certain equipment or for short-term activities. The Court noted that, in 1979, some 175 000 EUA was expended from Chapter 21 exclusively to insure the buildings occupied by the Commission, and their contents, against fire and water damage, against which claims of only 29 708 EUA (12 500 EUA in 1978) had been made in the year. Though no evaluation had been made of the balance of advantage for such insurance, and though the only major claims in the past few years had been

⁽¹⁾ OJ No L 157, 25. 6. 1979.

⁽²⁾ OJ No C 221, 3. 9. 1979.

one of 460 000 EUA in 1974 and one of 67 500 EUA in 1973, the Commission took the view that it could not leave property of this nature uninsured. It had not considered carrying the risk itself, even though this is done by many of the Member States in their national administration. The Court recommends that this question be thoroughly examined and costed, and that future policy as regards insurance be based on the results of such studies.

- When would the Commission's computer management planning service become fully operative?
- To what extent was the payment of 4.0 MEUA for the contract hire of external computer technicians a cost-effective solution to a staffing problem?

Remark of the Court on the reply of the Commission to paragraphs 11.10 and 11.11

The Court's findings and observations on these and other related aspects, summarized in the light of the Commission's replies, were adopted by the Court on 6 November 1980 under Article 206a of the EEC Treaty. They were sent in a Presidential letter to the institutions in November 1980.

Computer Centre

11.10. After international tendering the Commission in 1976 selected for its Computer Centre the 2980 system of International Computers Ltd. (a UK manufacturer). The contracts specified that acceptance tests would take place in February 1979, but in the event provisional tests were not undertaken until June/July 1979 when they revealed certain inadequacies. Though further tests were commenced in December 1979, no final decision as to the system's acceptability had been made by April 1980. Costs amounting to 14 MEUA for the highly complex work of installing and operating the system and of adapting the Commission's applications had been charged to Chapter 22 by the end of 1979.

11.11. On 14 May 1980 the Court raised with the Commission a number of questions which included the following:

- Whether it was sound financial management and, if so, on what grounds, to rent the computer hardware rather than to buy it, and whether an economic evaluation had been made? In particular the Court observed that the contract included rental of 130 terminals for a minimum of 60 months at a rate of 55 300 EUA per month, at which rate 45 months equalled the purchase price;
- Whether the Commission was entitled to any financial compensation for delay, particularly since certain additional costs had arisen (the Court identified amounts totalling 2.3 MEUA)?
- On what grounds did the Commission justify payment to ICL of 5 % on all sub-contracts, and what is the total liability?
- Under what terms acceptance had finally been negotiated, and whether this resulted in adequate technical capacity at tendered prices?

Publishing activities

11.12. The Court also made a special study during the year of the publishing, printing and reproduction activities of the Communities. It ascertained that these cost some 45 MEUA *per annum*, the main elements of which were:

MEUA		Chapters
19	Externally printed publications including 10 MEUA for the Official Journal	Mostly 27
10	Operating costs of Office for Official Publications (mostly publications)	28
10	Operating costs of printing workshops in the institutions (mostly internal documents)	11, 21, 22 & 23

Output measured in A4-sized pages amounted to 1 887 million sheets, 1 193 million being for externally available publications. On 24 April 1980, the Court wrote to the institutions detailing its factual findings on this matter and their replies are under consideration.

Expenditure on direct elections

11.13. Voting for the direct election of Members of the European Parliament took place throughout the Member States in June 1979. For this, the Commission and the European Parliament expended some 26.8 MEUA in three main categories of activity.

	MEUA	included payments in 1979
(a) Mounting non-political campaigns in each Member State aimed at informing and stimulating electoral interest	8.43	7.78
(b) Grants to external bodies working towards the same ends	2.76	1.00
(c) Grants to the political groups towards their election expenses	15.53	8.15
Total	26.72	16.93

11.14. No particular audit comment arises from the sample checks carried out by the Court on the expenditure at (a).

11.15. In reply to paragraph 9.35 of the Court's 1978 Annual Report, the Commission stated that it had issued reminders to all organizations who had not submitted utilization accounts for the grants of 1 256 719.81 EUA issued by it under (b). Subsequently, the Court found that, although in most cases the Commission had obtained reports on the activities subsidized, in very few cases was accounting received which gave adequate indication that

the sums had been properly expended for the purposes intended. The Court re-emphasizes the need for the Commission to obtain satisfactory evidence in support of this expenditure or to claim repayment in its absence.

11.16. The 15.53 MEUA under (c) was paid by the European Parliament to finance the political group's information campaigns on direct elections. The Court first requested the audited accounts of the political groups for this expenditure, together with the auditors' reports, on 16 March 1979 in a letter to the President of the European Parliament. On 29 January 1980, it was informed that at that date no accounting had been forwarded by the groups for these grants. Further requests for this documentation were sent to the Chairman of the Committee on Budgetary Control as a result of which the Court obtained direct access to the records and accounts of the political groups.

11.17. Apart from some minor outstanding questions of documentation, which the Court has requested but not yet received, the control of this expenditure can be considered as finished. Different, and in some cases rather primitive, accounting systems have been applied by the political groups, but the Court has generally found reasonable documentation for the amounts spent by the groups on the information campaigns on direct elections.

11.18. The final accounts of the groups show that an amount of about Bfrs 5 million (123 000 EUA) remains unspent. The Court regrets that no decision was taken by the Parliament as to the recovery of this surplus, which should have been brought to account in the 1979 accounts; it recommends that a decision be taken to establish a claim in the Parliament's 1980 accounts of the amounts in question.

11.19. The Court also recommends that uniform rules be established as far as the political groups' accounting for subventions received from Parliament are concerned.

CHAPTER 12 — SUMMARIES OF REPORTS ON EXTERNAL BODIES

SUMMARY OF CONTENTS	Paragraph reference
Summary of principal comments	12.0
Background	12.1 and 12.2
Summary of financial information	12.3
Comments arising from the accounts	12.4 to 12.7
Recommendations made in previous years which have not yet been fully implemented	12.8 to 12.12
Comments arising from an examination of the accounting systems and procedures during 1979	12.13 to 12.21
Financial management of external bodies	12.22 and 12.23
Conclusions	12.24

Summary of principal comments

12.0. The principal comments included in this chapter are:

- (a) No change has been made to the capital of the Euratom Supply Agency amounting to 303 163.89 EUA, which is not fully employed 12.4
- (b) No financial regulation for the Euratom Supply Agency has yet been prepared 12.8
- (c) A satisfactory system of internal control has not yet been introduced in the European Schools 12.12 and 12.22

BACKGROUND

12.1. In addition to its responsibility for auditing the accounts of all revenue and expenditure of the Communities, the Court is responsible for auditing the accounts of all bodies set up by the Communities insofar as this is not precluded by the relevant constituent instrument. Accordingly, annual audits are carried out on the following bodies set up by the Communities:

- the Euratom Supply Agency
- the European Centre for the Development of Vocational Training (Berlin)
- the European Foundation for the Improvement of Living and Working Conditions (Dublin), and

— the European Schools (9 schools)⁽¹⁾ and the Office of the Board of Governors of the European Schools.

12.2. The Court prepares a separate annual report on each of these bodies and sends it to the relevant discharge or governing authority. The Court sends its observations to the bodies concerned and takes their replies into account when drawing up its final report. This chapter contains a summary of the most important points arising in those reports. It also highlights issues to which the Court wishes particularly to draw the attention of the Commission, which provides, by way of subsidies paid under Titles 2 and 3 of its budget, the bulk of the finances for the operation of these bodies.

SUMMARY OF FINANCIAL INFORMATION

12.3. Table 1 sets out the use of appropriations in 1979 (1978 for the European Schools) in respect of each of the external bodies for which the Court has made a report.

COMMENTS ARISING FROM THE ACCOUNTS

Euratom Supply Agency

12.4. The Court pointed out that, in addition to its annual subsidy from the Commission, the Agency has paid-up capital of 303 163.89 EUA. This has never been employed because the Agency has not in practice been entrusted with a number of substantive activities envisaged in its constituent instrument, for instance, acting as an exchange agency for ores, source materials and special fissile materials.

European Centre for the Development of Vocational Training (Berlin)

12.5. Inadequate accounting for missions resulted in some 1978 expenditure (4 364 EUA) being charged against the 1979 budget. Moreover, the allocation to the year 1978 of part of this amount was changed without the approval of the financial controller.

European Foundation for the Improvement of Living and Working Conditions (Dublin)

12.6. As in previous years, over-budgeting was evident with regard to staff expenditure, where only 69 % of final appropriations were committed. Whilst this is a higher degree of utilization than in the previous year, the Court considers that attention should still be drawn to such over-budgeting, which it ought to be possible to reduce further.

European Schools

12.7. Although the latest report of the Court relates to the 1978 accounts, considerable progress has been made towards the objective of bringing the audit of the European Schools completely up-to-date. By the end of 1980 it is anticipated that the audit will be completely on a current-year basis.

RECOMMENDATIONS MADE IN PREVIOUS YEARS WHICH HAVE NOT YET BEEN FULLY IMPLEMENTED

In its 1978 reports the Court made the following recommendations which have not been implemented to date.

Euratom Supply Agency

12.8. The necessary modifications to the Agency's statute as a result of the introduction of the EUA have not yet been made. Moreover, a Financial Regulation for the Agency has not yet been prepared. This should be done as soon as practicable.

⁽¹⁾ The European Schools are: Bergen, Brussels I, Brussels II, Culham, Karlsruhe, Luxembourg, Mol, Munich and Varese.

European Centre for the Development of Vocational Training (Berlin)

12.9. No reduction in the cost of the Vocational Training Bulletin was achieved in 1979. Although a 25 % reduction is being sought for 1981, the overall cost is likely to remain unacceptably high. The Court asked the Centre to examine ways of making further reductions and indicated likely areas where they could be achieved.

European Foundation for the Improvement of Living and Working Conditions (Dublin)

12.10. The supplementary group insurance scheme, for which the Financial Controller's refusal of authorization was endorsed by the Court in its 1978 report, but which was authorized by the management board of the Foundation, continued throughout 1979.

12.11. The Foundation was set up to study ways of improving living and working conditions. So far it has only initiated work on matters related to working conditions.

European Schools

12.12. As in previous years, the Court found, in the year under review, a complete lack of any internal control function in the European Schools. This point is explained in detail in paragraph 12.22.

COMMENTS ARISING FROM AN EXAMINATION OF THE ACCOUNTING SYSTEMS AND PROCEDURES DURING 1979**Euratom Supply Agency**

12.13. During the course of its audit the Court requested the Agency to instruct its bankers to furnish directly to the Court any information required in connection with the audit. The Director-General of the Agency replied that he 'had been informed by

the services of the Commission that it would not be appropriate' as 'Article 180 bis, paragraph 3, of the Euratom Treaty effectively provides only for communication by the institutions of the Communities to the Court of Auditors, at its request, of any document or information necessary for the accomplishment of its task and does not authorize the Court to contact directly third parties ...'.

The Agency is therefore unwilling to allow its bankers to confirm directly to the Court certain financial information, suggesting instead that it will itself request the specific information for the Court from its bankers and transmit the information to the Court. Such an arrangement, however, would not meet the Court's requirements. Independent verification of bank balances by responsible third parties is a basic audit procedure. Direct communication provides the only complete assurance as to the completeness and authenticity of the information provided.

The Court is of the opinion that Article 180 bis, paragraph 3, of the Euratom Treaty should not be interpreted so as to exclude independent audit verification by responsible third parties. The refusal by the Agency (on advice from the Commission) to accede to this request is of deep concern to the Court. The Court wishes to know why the Commission considers that such confirmation of bank balances should not be obtained.

European Centre for the Development of Vocational Training (Berlin)

12.14. There is no system of standard project control files, nor is there a standard recording system for the activities of the project research officers. These officers have considerable freedom of action and few financial guidelines. No systematic attempt is made to evaluate the cost of services included in contracts, to make explicit comparison with standard costs or to obtain the maximum results at minimum cost. The Court asked the Centre to remedy these defects.

European Foundation for the Improvement of Living and Working Conditions (Dublin)

12.15. The Court found that the Foundation, for reasons of administrative convenience, paid the

employer's contribution under various overseas social security schemes to the individual staff members for subsequent transfer by the staff members to the social security authorities concerned. The Court reminded the Foundation of its duty to make social security deductions from staff salaries and to remit these, together with the employer's contribution, directly to the organizations concerned.

12.16. The Court found that the Foundation has quite an elaborate system for approving research contracts before they are signed, but the evaluation of the cost of services included in the proposed research contracts involves no systematic attempt to obtain maximum results at minimum cost. The Court recommended that such an evaluation be undertaken for future research contracts.

12.17. In its examination of the accounting records for capital expenditure incurred by the Foundation to date, the Court concluded that these records were not sufficiently detailed to allow a proper financial control function to be exercised by the Foundation or by the Commission. The Court recommended that the Foundation should set up properly detailed accounting records for future capital expenditure projects. The Commission should oversee the introduction of these records.

European Schools

12.18. The Court noted that the Bergen, Varese and Brussels I Schools had failed to make income tax and social security deductions from local contract staff and that there was one part-time secondary teacher in service in the Brussels I School since 1961 who had no contract of employment. The Court recommended that these matters be rectified without delay.

12.19. Also at the Brussels I School the Court noted the failure to take any action with regard to the prolonged incapacity of a teacher, and in particular the failure to notify the seconding national authority. The Court recommended that standard procedures be adopted to deal with similar occurrences in future.

12.20. Overpayments of salaries and allowances were noted in several schools. The Court is con-

vinced that, had adequate internal controls existed, these and other errors and malpractices would not have occurred.

12.21. With regard to overpayments generally, the Court considers that every effort should be made to recover the sums involved and recovery should only be waived by reasoned decision by the Board of Governors, rather than by the school management.

FINANCIAL MANAGEMENT OF EXTERNAL BODIES

12.22. On the basis of its examination of the systems and accounts of the external bodies, the major weakness in financial management identified by the Court was the lack of an adequate internal control function in the European Schools. In its report, the Court stated that what was required was the appointment of a suitably qualified accountant reporting to the representative of the Board of Governors with responsibility for:

- (i) preparing detailed written instructions on procedures to be followed by all schools in implementing the budget, executing and recording financial transactions and compiling accounts;
- (ii) carrying out continuous internal control checks on accounting and administrative systems and practices in each school to ensure that consistent accounting practices are applied in the interpretation and application of regulations and that consistent solutions are adopted to solve administrative problems.

In the absence of this function, the Court is of the opinion that it would be inappropriate for the Board of Governors to grant discharge to the schools without, at the same time, providing for its introduction. The Court considers that as the Commission is the major provider of funds to the schools' system it should insist on the introduction of this function. In its resolution accompanying the decisions granting discharge on the implementation of the general budget for the 1978 financial year, the European Parliament expressed a formal reserve in respect of the discharge for the European Schools and said that it will consider the issues further in the light of a report from the Committee on Budgetary Control.

12.23. The Court has recently commenced a cost-effectiveness study of the Berlin Centre and of the Dublin Foundation.

action on inadequacies pointed out in its reports on various external bodies.

CONCLUSIONS

12.24. The Court has found that in certain cases there has been a lack of urgency in taking corrective

The relative independence of these bodies and their remoteness from the policy-making centres of the Communities should not be an inhibiting factor in this regard, particularly where the Commission exercises a financial control function in addition to providing subsidies.

Table 1 — Use of appropriations

(EUA)

External body	Final appropriations	Payments	Carried forward to next year	% carried forward ⁽¹⁾	Appropriations cancelled	% cancelled ⁽¹⁾
1979						
Euratom Supply Agency	995 600	724 668	28 072	2.8	242 860	24.4
Berlin Centre	3 220 000	2 308 397	734 073	22.8	177 530	5.5
Dublin Foundation	2 590 000	1 261 742	884 116	34.1	444 142	17.1
Total	6 805 600	4 294 807	1 646 261	24.2	864 532	12.7
1978						
European Schools ⁽²⁾	39 231 286	37 582 314	146 868	0.4	1 502 104	3.8

⁽¹⁾ As compared with final appropriations.

⁽²⁾ Exchange rate used: 1 EUA = 39.6543 Bfrs (accounts are published in Belgian francs).

THE EUROPEAN DEVELOPMENT FUNDS

The audit on the spot applied to some hundred projects spread over the four Funds representing nearly

500 MEUA. The percentage of the investments examined ranged from 48 % to 65 % of the total EDF aid received by these countries.

The Court has not yet made visits to countries which have only been associated with the Community since the Lomé Convention because the number of projects and their state of development was not yet sufficient to permit an in-depth analysis covering a significant period.

On the occasion of its visits the Court examines not only investment projects but also other forms of development aid such as Stabex, training, emergency aid and food aid. It also examines the administration of operating advances for the Commission's delegations and of advances for certain projects carried out under the EDF.

0.2. The Court wishes to stress that its missions received a cordial welcome from government and local authorities in the ACP countries they visited. It would also like to mention that it was afforded full and very helpful cooperation by the Commission's departments.

0.3. At the end of each visit the results of the enquiries were embodied in detailed reports which were sent to the appropriate departments of the Commission who could then send their comments to the audit sector concerned at the Court. In this report the Court will attempt to summarize, by type of operation financed by the EDF, the findings made by the Court from the documents or on the spot.

0.4. In general, projects financed by the EDF are satisfactory and appreciated by the local authorities and population. The responsibility and competence of the local Commission delegations are also recognized, in particular by sources of finance other than the Community, who do not hesitate to leave the management and supervision of co-financed projects entirely in their hands.

In the comments which follow the Court has avoided identifying the countries and projects which were visited because only a small proportion of associated countries could be visited and the situations on which comments are made may well occur in other areas.

The Court's aim is to throw light on a number of weaknesses which consistently recur in many of the projects and which reduce their effect by causing:

- delays
- cost overruns
- reduction of targets.

Each authority responsible for the project, at whatever stage — from planning to final reception by the local authorities — should pay special attention to the points made below. Particularly when finalizing the financing agreement the Commission should try to take more account of the lessons of past experience, not only in terms of the failures but also of the successful projects to date.

Remark of the Court on the reply of the Commission to paragraph 0.4.

In general, the Court has not considered it necessary to comment on the lengthy replies of the Commission, except where called for by the inadequacy of certain replies. Elsewhere, the Court considers that the extent to which the Commission's replies cast doubt upon, or qualify, the comments of the Court, or more often confirm them, is sufficiently apparent from a reading of its comments and the replies of the Commission.

It does indeed appear to the Court that a large number of the Commission's replies, notwithstanding their great detail, do no more than to confirm the Court's view.

Overestimation of the human, financial or administrative resources of recipient countries

0.5. Under this heading may be grouped a number of different causes which have, in the past, had an unfavourable effect on several projects:

- (a) Land tenure: numerous agricultural projects run into difficulties because the local authorities have not settled problems concerning rights over the land before the works begin, in particu-

lar, failing to compensate the former occupants or to establish the title of the new farmers.

The Court considers that, when there are likely to be problems over rights to the land, the financing agreement should set them out and link the start of a project with the presentation by the recipient country of a binding programme for settling those problems.

- (b) Failure to observe contractual obligations in financing agreements. Often local authorities are unwilling or unable to meet these obligations thus giving rise to the risk of the EDF investments being delayed or unable to be exploited. In general the contributive, technical and financial capacity of the recipient country has been overestimated from the start.

Poor quality of preparatory studies

0.6. The quality and useful life of a future project will depend on both the general studies before the financing decision and the detailed design work before the project is carried out.

Studies often fail to go deeply enough into the ability of recipient States to provide their contribution to a project (as described in 0.5 (a)).

Moreover the Court notes that in infrastructure works the type of soil, the quantities of earth-moving involved and even the line of the road too often differ, when the work comes to be carried out, from that predicted in the study.

In the case of most buildings and installations visited the Court found that if equipment is a little complicated (and thus more expensive) it is usually out of order.

Failure to adapt projects to local conditions

0.7. The architectural design of buildings often betrays ignorance of the climatic conditions and of the constraints arising from tradition in the recipient countries; at the same time it sometimes provides for an unnecessarily luxurious finish which contrasts with the local environment.

It does not seem that the consultant firms or the staff of the EDF have yet been able to define the specifications needed for some buildings and instal-

lations in order to meet local needs. Too many of the buildings visited showed problems with leaky roofs and windows, ventilation and thermal insulation of the rooms, sanitary installations, flimsy electrical wiring. The policy of isolated studies, which draw no lessons from past experience, multiplies waste and failures.

Effects of commodity price policy

0.8. In several agricultural projects the Court noted that the official price paid to farmers was too low in relation to the real price attainable on the open market. This in some cases led to progressive abandonment of crops, especially industrial crops, in favour of other, more lucrative, crops. In other cases agricultural produce is disposed of on a more remunerative foreign parallel market. The Court would lay stress on the connection which sometimes exists between a policy of artificially low prices, a drop in production or black market exports and possible Stabex transfers.

0.9. Problems of technical assistance and of local management

- (a) The part played by expatriate technical assistance personnel remains crucial in most projects.
- (b) The problem of local management is constant and worrying and does not seem to admit of any solution in the near future. It appears in various forms:
 - excessive staffing of national organizations for managing projects;
 - turnover of management: good local management generally remains on the same project for a very short time, being soon promoted in their service or absorbed into the private sector;
 - for the same job the pay of local management is far lower than that of technical assistants.

Unnecessary risks from marginal savings

0.10. During its visits, the Court noted in several cases that the exhaustion of appropriations for a

project, or the concern to remain within a limit, has had unfortunate consequences.

In the same way the desire to leave the local authorities responsible for a part, often very small, of a project sometimes prevents the project becoming operational.

0.11. Failure of the Commission to act in cases of claims by ACP States on European firms

- (a) Following the collapse of a bridge and the refusal of the contractor to act, the Supreme Court of one recipient country, relying particularly on the expertise of consultants who have regularly worked for the EDF, ordered the European firm responsible for the construction to bear 90 % of the cost of rebuilding.
- (b) A local organization wrongly released a European bank from its obligation under guarantees for a substantial amount.

In the two cases the Commission staff do not seem to have given sufficient help to the country concerned in the pursuance of its claim, on the grounds that it had no standing in the matter.

The Court considers that the Commission should study the possibility of inserting substitution clauses in financing agreements to allow it, at the request of recipient countries, to recover certain debts or at least to use the means of pressure available to it.

Remark of the Court on the reply of the Commission to paragraph 0.11

The correspondence files made available to the Court do not contain any document that would allow it to judge the Commission's efforts to persuade the European bank to reimburse the amounts given as guarantees.

SECTION I — INVESTMENT PROJECTS

A. Agricultural and agricultural industry projects

1.1. Eighteen large agricultural projects, representing a total investment of over 121 MEUA were examined both on the basis of documents and on the spot. They are concerned with the improvement of over 110 000 hectares of agricultural land for the preparation of 22 000 hectares of pasture, 26 000 hectares of rice, 5 500 hectares of coconut palm, 4 300 hectares of tea, 3 500 hectares of sugar cane, 2 350 hectares of pyrethrum, 2 000 hectares of coffee and the remainder for a variety of crops, particularly food crops.

The three consequences of defects in the implementation of the projects are: delays, cost overruns and reductions in the programme.

Delays

1.2. There were delays in the implementation of several projects. The transfer of a badly-sited rice mill to another production area has not yet taken place although it was decided on in 1974 and financed by the EDF in 1976. A tea-growing research station designed to serve a tea plantation was in action eight years before work was begun on the plantation itself.

Exceeding of estimates

1.3. An excess of 15.7 % over the cost estimates occurred on one irrigation development, of 27 % on another (or of 18.6 % per hectare if account is taken of the rather larger area developed). New financing was provided in 1973 for the overrun on a project dating from 1967 for growing pyrethrum (the flowers of which are dried to provide a natural insecticide powder).

Reduced programmes

1.4. In other cases a part of the planned development has been abandoned in the course of the work. A tea-growing programme for 500 hectares was

reduced to 300 hectares; now the extension, which was expected to be financed out of the fourth EDF, has been abandoned.

1.5. Moreover delays, cost overruns and partial abandonment often go together, which suggests that they have causes in common.

A fattening centre for cattle intended for slaughter, where all three defects occur, is in danger of being a total ruin. All three defects were also found in an irrigation project. A tea-growing project shows both an overrun of 6.8% and a reduction in area of 20.6% compared with the estimates.

1.6. In many cases these losses in efficiency are due to defective programming and a failure to coordinate the different facilities provided. In one country, tea-processing capacity has not increased as fast as the area planted and as production; a part of the fresh tea produced has had to be thrown away and the harvesting work of hundreds of workers or families has been partly wasted. Delays in the completion of another tea plantation and of an extension to a nut-growing project made the nurseries provided useless, as the seedlings were too old by the time they might eventually have been used.

Inadequate studies

1.7. Another cause of ineffectiveness lies in poor or incomplete studies. In one project for rural dams the inadequacy of the studies and improvisation in the course of the work (particularly in siting) caused abnormally high costs and a reduction in the programme.

The tea-growing project where the seedlings could not be used in time had been badly studied in relation both to the plantations (siting, division between village and large-scale plantations) and to the processing plant — for which the capacity had been decided without taking into account the seasonal nature of the annual deliveries of picked tea.

1.8. It must be recognized, in the case of one country visited, that sometimes projects are halted by the hostile attitude of leading local figures or even by the administrative authorities. This occurred

in the case of a market-gardening area where the produce can only be marketed with great difficulty because of competing interests supported by the local sub-prefect.

By way of contrast, the remarkable results from a rice-growing area irrigated by total water control are due to a great extent to responsible management by the local administrators and a well-devised accounting system, quite apart from the technical merits of the development.

Design mistakes

1.9. There have been technical design mistakes in a number of projects. The choice of a copra oven, specified by the research institute responsible for managing a coconut palm project, proved mistaken by reason of its cost and of its technical performance and almost jeopardized a whole crop. A last minute initiative was needed on the part of the local manager who succeeded in reproducing from memory an old and tried design of oven which was both simple and inexpensive.

In an irrigation area the main embankment had not been properly compacted and the water channels did not stand up to being filled with water. This area had to be abandoned pending redevelopment, which is due soon.

The installation platform of a solar pump is liable to be swept away if there is an exceptional spate in the river on the banks of which it stands.

Human factors

1.10. In certain countries the human factors are too often neglected. Thus persons with prior rights to land have been evicted and expropriated without just compensation. In a sugar complex belonging to a semi-public corporation fires occur which are probably to be regarded as reprisals by the hundreds of farmers whose land was taken without any compensation.

In another project the methods of distributing land and of granting titles have been anarchic, resulting in the land being cornered by a few persons and an extension of a system of share-cropping with no

security. In some small-holding schemes the instructors, who are paid, albeit very badly, had allotted to themselves one and sometimes two holdings which they employ others to farm.

Inadequate human and financial resources

1.11. Developing countries often lack regular budgetary resources and trained manpower. A regional development organization, in these circumstances, can only function with the help of external aids of which the EDF is one.

For this reason these countries have great difficulty in providing for the maintenance of the technically advanced equipment provided for them. One of the three 180 kW generating sets in the pumping station of an agricultural project has been out of action since December 1978 for lack of spare parts. Failure of a second set would jeopardize a whole rice crop. One may also criticize the unnecessary use of expensive imported materials, for instance the excessive use of cement in schools and dispensaries (pyrethrum project), the unnecessary size of installations (tracks in a project for agricultural settlement), the exaggerated size of the administrative and management staff (same project).

A project which absorbs too many scarce resources — finance, trained manpower, rich land, water, etc. — invites the charge that it has no demonstration value as it cannot be repeated, let alone made widespread. This is the case with a project for settlement on new land; out of 20 000 square kilometres of land theoretically suitable for development only some tens of square kilometres have in fact been put into cultivation in the six years that the project has been in existence. Furthermore, this project which settled 590 families of farmers in 1979, is run by a local organization of some 1 000 persons, half of whom are based in the capital, at a great distance from the project.

1.12. The success of many projects appears to depend on the active presence of technical assistance (cases of the same settlement project and of irrigation developments). One project for pyrethrum-growing and one for regional development went into decline with the withdrawal of technical assistance. The Court noted that in some countries some technical assistants do not properly realize that hierarchically speaking they come under national authorities.

In one country at two different projects (provision of a reservoir and a coconut-growing project) things have gone as far as open conflict between expatriate technical assistants and the local persons in charge of the projects. This antagonism is felt particularly when an expatriate technical assistant who has been for many years in charge of a well-managed project finds himself superseded by a less-efficient local manager. The reverse may happen also: a project badly managed by the technical assistant and the arrival of a dynamic local manager.

External financing

1.13. To ensure the long-term viability of agricultural projects they should generally receive external financing for long enough to cover a complete financial cycle and allow working capital to be rebuilt.

As long as the original users of equipment bought on credit have not completed repayment, a project for this type of farming cannot be considered 'launched' and self-sustaining. Lack of working capital will make it impossible for an agricultural marketing organization to adequately finance a crop-year, particularly in the case of rice. This accounts for the re-emergence of the former middlemen. In one regional project the farmers sell their standing crops to merchant moneylenders for lack of an adequate organization for seasonal loans.

It is true that in certain cases, in spite of adequate initial financing, those in charge of projects use up their working capital to meet current running costs.

1.14. Very often upkeep and running costs are in inverse proportion to the cost of the investment. In any financing proposal a study should be made of whether or not to adopt comparatively expensive solutions at the investment stage, in order to reduce the load of recurrent costs to be borne by the country.

Preference has been given more and more in irrigation schemes to total water control with concreted channels, which is certainly more expensive than

mere controlled flooding of an area. But since the investment costs are never passed on to the farmer, the former is more attractive and profitable to him than the latter.

Prices paid to farmers

1.15. Producers' prices are often fixed too low in relation to the real price attainable on the market and therefore result either in a fall in production (cotton, pyrethrum) or diversion into parallel markets (rice). By way of contrast high prices in one country have encouraged a remarkable increase in the production of niébé (a kind of bean consumed locally).

1.16. Active participation of the farmers in the construction and management of irrigation schemes for rice, good training of the settlers in a project for bringing new land into use, the employment of local craftsmen for producing implements for animal traction — all increase the possibility of the population affected taking responsibility for a development. On the other hand the results achieved in an agricultural development in an arid region may be jeopardized for lack of training and of a sufficient awareness on the part of the farmers of the benefits of the development being undertaken.

1.17. In a large project for a sugar complex financed in part by the EDF in the form of grants, a special loan and risk capital and in part by a loan from the European Investment Bank out of its own funds, it cannot be confirmed from the Commission's files that the Bank has provided the Commission with the information required under its mandate from the Commission for the management of the loan on special conditions. The Commission and the delegation in the country have virtually no file on the project concerned.

Remark of the Court on the reply of the Commission to paragraph 1.17

The 'annual reports' which are said to be provided by the European Investment Bank on the project in question are extremely short. The 1978 report, for example, consists of one page recapitulating well-known basic information and no more than a few lines of really new information.

1.18. The comments made above do not call in question the very favourable assessment of the agricultural projects financed by the EDF, taken as a whole.

The Court has particularly noted the technical and agricultural merits of several projects based on land improvement (putting new land into use, actions against erosion, dams); certain decisive successes in particular fields (elimination of the tsetse fly); the miraculous achievements of water projects in the tropical zone restoring greenness and fertility to previously arid regions (irrigation, market-garden wells, dams); the benefit of afforestation operations; the efforts made on the one hand to train the farmers so as to consolidate the achievements of a settlement project or to diversify socio-economic activities (same project), and on the other to simplify the administrative and business management of projects and make it more flexible (regional development structure).

The Court notes with particular interest some integrated development operations in which a thorough knowledge of the region pointed the way to a series of complementary operations (introducing stock-raising into an agricultural region, campaigns for vaccination and breed-improvement, development of cultivation by animal traction, creation of irrigated rice-growing areas, well-digging, training of young farmers, women's activities, etc.).

In most of these projects the dynamic intervention of the delegation in the country was felt most positively.

B. Road infrastructure projects

1.19. Eight road projects and several bridges in four different countries were examined on the basis of documents and on the spot. They represented an investment of the order of 155 MEUA and comprised the construction (with bridges) of about 1 800 kilometres of road with a bitumen surface, generally about 6 metres wide.

1.20. From the technical point of view the roads visited were excellent: some were over ten years old and still in very good condition.

1.21. From the point of view of their utility most of the roads were undeniably urgently needed since the four countries visited were either landlocked or

islands. It is nevertheless true that some roads are based more on a political desire to have a road network than on an analysis of the economic return.

The World Bank refused to finance one of these roads because traffic did not reach the minimum level of economic return (250 vehicles a day); the Commission did finance it considering, quite rightly, that it would provide a second access route to two countries nearly 1 500 kilometres from the sea which previously had only one route, at least in the rainy season.

1.22. The following comments apply to most road projects:

- (a) Exceeding the time set for completion in the agreement: in three road projects the delay in completion was 2, 4 and 8 years. In the last case the file is not yet closed as a result of a dispute with the contractor begun in 1977. The work began in 1963.
- (b) Exceeding the estimates: one road which was to cost 5 MEUA cost, in the end, 11.2 MEUA; another cost 10 MEUA against an original estimate of 7.7 MEUA. The study, financed by the EDF, for a third road estimated the cost at 3.8 MEUA; in the end it cost 16 MEUA, paid for by other financing bodies.

1.23. There are three main causes for these estimates being exceeded:

- (a) In the last ten years the average cost of a kilometre of road has risen by 140 % particularly as a result of the explosion in oil prices. For example, the price of bitumen has quadrupled in the last six years.
- (b) Inadequate studies. This often shows up in an inadequate appreciation of quantities, of the type of soil, of the line of the road, etc. In one case the line of the road had to be settled as the construction machines advanced.
- (c) Changes are sometimes introduced in the course of the work, particularly on the initiative of the local authorities: changes in the surfacing, in the line, in bridges, viaducts, etc. These changes are sometimes notified to the contractor in a manner which is questionable from a legal point

of view and not only increase costs but have also, on several occasions, led to disputes. In one country the Commission agreed to share in financing a road bridge over a little-used railway in flat country; the railway soon after goes through the neighbouring town without any fencing whatever.

Remark of the Court on the reply of the Commission to paragraph 1.23

The Court considers that the necessity of the investment has in no way been demonstrated.

1.24. In other cases the Commission's wish to stay within the financial limit of a project leads to savings of negligible amounts, while reducing the total viability of the project and damaging the Community's reputation:

- (a) The bridges for a double-track road were built with a single track not only on straight stretches but also on the approaches to bends.
- (b) As the allocations were exhausted the last 11 kilometres of a 147-kilometre road were not given the final layer of bitumen which would have represented 1.5 % of the total cost of the road. As a result this stretch is deteriorating rapidly.
- (c) For the construction of a road which eventually cost 29.3 % more than the estimate the Commission accepted the lowest tender on the grounds that 'it is the only tender which can be fitted into the appropriations available'. The consultants and the local authorities who were together responsible for supervising the works considered the tender unrealistic and the contract had to be cancelled in the course of construction.
- (d) In 1962 the Commission financed the building of a suspension bridge near the sea in a country where cyclones are frequent. The central tower was placed off-centre so that it would stand on a rock and save the cost of deep foundations in the river-bed. The fact that a cable-stayed bridge was built in a cyclone area, the inability of local manpower to maintain a high-technology bridge (which is moreover unique in Africa) and the choice, for reasons of economy, of an asymmetrical bridge all explain why the bridge col-

lapsed in 1974. Rebuilding entailed expenditure of 1.4 MEUA of which 675 000 EUA was wrongly charged to exceptional aid.

Remark of the Court on the reply of the Commission to paragraph 1.24

- (a) *The Court cannot see what tradition could be opposed to the construction of double-track bridges.*
- (b) *The Court maintains that the unrealistic nature of the tender was adequately shown by the comparative study of the tenders carried out by the consultancy firm, which meticulously examined each price and revealed that certain prices of the firm in question were excessive.*

Within the Commission itself it was considered that withdrawal was 'foreseeable', since an internal EDF note of 20 March 1968 spoke of 'enormous risks'.

- (c) *Staff of the Commission who had earlier been questioned by the Court during an on-the-spot visit had in fact confirmed that the bridge collapsed due to a design error in the bolsters and lack of supervision.*

1.25. Generally speaking, current upkeep of the roads visited was adequately carried out by the local authorities; the real problem, however, arises eight to ten years after opening when the road requires a complete resurfacing which is often beyond the financial and technical resources of the country concerned. For roads, as for agricultural projects, each financing proposal should bring out the relationship between the original investment cost and the subsequent cost of upkeep.

C. Health and social welfare projects

1.26. The Court examined a group of health and social welfare projects representing an investment of the order of 45 343 MEUA: hospital infrastructure and equipment projects (18 866 MEUA), projects for piped water and wells (23 324 MEUA) and a project for the development of a 67-hectare site for social housing (3 153 MEUA). As the site-development project does not call for any special comment, mention will be made only of investments in the fields of health and water-supply for health or social purposes.

Hospital buildings and equipment

1.27. Twenty-five hospitals and thirty dispensaries in three countries with a total investment of 18.9 MEUA were examined on the basis of documents; of these, three hospitals and four dispensaries were examined on the spot.

The Community's contribution to health development took the form of financing hospital buildings (13 211 671 EUA), installations and equipment (4 823 430 EUA) and technical assistance (studies and supervision of works — 791 762 EUA).

The following examples illustrate the range of establishments financed by the Fund:

	Area	Total cost	Beds
University hospital	31 000 m ²	8 409 000, EUA	710
Hospital centre	400 m ²	48 000 EUA	10
Dispensary	100 m ²	37 649 EUA	2

1.28. Its examination of the projects on the basis of documents and on the spot leads the Court to make the following comments:

- (a) There is a tendency to neglect small projects in favour of large ones.

In one country two completely finished dispensaries financed under exceptional aid await use because the Commission thought it advisable to leave the local authorities, whose financial difficulties are well known, to bear the cost of connection of water and electricity supplies and of the provision of a number of beds. Yet in the same country the Commission agreed to finance a university hospital at a total cost of 8 409 MEUA.

This hospital, with ultra-modern equipment costing 3 235 MEUA, has remained largely unused since its completion in 1973. It is heart-rending to note that besides this ultra-modern construction which is virtually standing idle there is a 50-year-old hospital where 1 600 patients have to be crowded in at the rate of three for two beds. In spite of its lack of use the new hospital and its equipment are now being renovated and this work is being charged to the EDF.

- (b) The running costs of the university hospital, which are borne by the recipient country, were not properly examined by the Commission and were underestimated.

The financing proposal for the hospital devoted only about 10 lines out of 15 pages to an estimate of running costs and the conclusion was that they were within the country's budgetary capacities. It turns out that if the hospital were functioning at the present time it would cost 300 000 EUA a year, which is nearly a quarter of the national budget for health. As the country cannot meet this cost, this ultra-modern construction is 90 % unused.

In another country the Commission delegation itself asserts that 'normal running costs should be carefully studied since the amounts allocated in the national budget for this purpose are definitely inadequate'.

In one country, connection of 16 dispensaries to water and electricity supplies has been abandoned for lack of funds.

- (c) The shortage of medical staff when projects are taken over persists afterwards.

In one project (a district hospital) the surgical building and the operating theatre are used only twice a month by a visiting surgeon from a hospital in another town. The surgical block in another health centre consists of two operating theatres although there is only one surgeon. In countries visited so far by the Court's staff it has been noted that, on average, one doctor theoretically looks after 50 000 inhabitants. The fact that most of the doctors practise in the towns means that the proportion is much more unfavourable in rural areas.

In all the projects examined, there were far too few medical auxiliary staff and this hindered the full effectiveness of the hospitals and dispensaries.

- (d) The existence of equipment out of order or even not installed several years after delivery indicates a widespread shortage of qualified technicians, bad after-sales service on the part of suppliers or a shortage of specialized medical staff. This is illustrated by the example of a small hospital unit where the generator and the pump for the well were out of order, WCs, wash-basins and air-conditioning were not in use, radio-

graphy equipment was not yet installed, and autoclave sterilizers, two microscopes, and some laboratory and analysis equipment were unused because there were too many of them or because no need was felt for them.

- (e) The excessive size of the buildings or their unsuitability for the climate or the environment arise because too much liberty is given to the European architects.

The Commission department concerned wrote in June 1964: 'the planning of the (university) hospital can in no way express a view on the architectural design. It must leave the architect complete liberty as concerns siting, functional arrangements and the type of construction to adopt'. This *laissez-faire* attitude has also been noted in other cases and results in buildings which do not stand up well to the local climate (bad weather, excessive heat, dust).

In a recent report, a Commission delegate was also concerned at this problem, writing to the Commission: 'Most of the comments and criticisms made against us are justified, for there have been serious errors in the design of buildings. The architectural plans would never have been drawn up in this way by an architect aware of the climate in which the building must operate... and should never have received an 'administration and Commission' approval. When it comes to design it would be a good idea to make use of someone who knows the country'.

In two cases the EDF has taken on additional expenditure caused by the bad design of buildings: repairs amounting to 280 000 EUA and an amount of 130 000 EUA for the acquisition of air-conditioning and fans — which were out of action at the time of the Court's two visits.

1.29. To sum up: the Community's contribution in the field of health in the three countries has been large. But financing something like a European university hospital entails running costs which the recipient countries are unable to bear. Moreover it requires a medical, medical auxiliary and technical staff which is generally not available.

One may wonder whether financial help should not be concentrated on less expensive decentralized medicine of a mainly preventive and educative nature which would reach more of the population

and would yield a greater return by attacking the endemic ills of the countries concerned: above all, bad eating habits, but also, in particular, malaria and bilharzia. Finally, it is necessary to impose a greater control on the architects where the financing of buildings is involved.

Water-supply for health and social purposes

1.30. Four comprehensive schemes of projects for piped water and a project for 964 wells representing an amount of 23.32 MEUA in two countries were examined on the basis of documents and on the spot.

1.31. The EDF financing provided a range of structures from a water-tower with purification plants and piping inlets to wells, drinking fountains and watering troughs. They have made a material contribution to the population's water-supply both in quantity and quality.

1.32. Its examination of the projects on the basis of documents and on the spot leads the Court to make the following comments:

- (a) Unlike the majority of EDF projects these works do not entail major maintenance problems.

In both countries maintenance is performed competently by the management responsible for running the grid. In one project for water and electricity supply, installations financed by the first EDF are still working; the equipment is in working order and gives satisfaction except that most of the remote controls are out of order for lack of skilled workers and spare parts.

In another project installations of 15 years ago continue to provide the town with water.

- (b) In the matter of studies, estimates of population growth have proved inaccurate for 4 projects. Two cases of overestimating growth have led to certain installations (private connections, drinking fountains) being under-used or not used at all. In two other cases underestimation of growth will make it necessary to extend the installations in the near future.

Estimating is obviously difficult: accuracy depends on the validity of censuses and statistics in the recipient countries and on how up-to-date they are.

- (c) Charges are the main problem in piped water-supply. In three areas of the same country the water points, where a charge is made, are neglected by the nomads who prefer to get their water free at traditional waterholes in spite of the sometimes doubtful quality.

In the same country the charges in provincial towns are almost double those in the capital with the result that the public supply is under-used: in one area 9 out of 12 drinking fountains are not used.

In another country users are reluctant to use the drinking fountains at which the official water-seller charges four times the price he pays to the water company (0.25 EUA a cubic metre).

1.33. In two Sahel countries the EDF has financed the provision of over a thousand wells with a particularly low failure rate (5.5 %). The meeting of this elementary need is especially appreciated by local inhabitants who had formerly to go several kilometres on foot to obtain water. The wells are satisfactorily maintained by the local authorities, though they often become muddied and polluted through use, by reason of the less than hygienic means of drawing water and of the presence of cattle.

In one Sahel village the Court team observed that the population continued to dig by hand deep uncased wells in sandy soil with a minimal output, apparently because they live nearer to these wells than to the high-output modern well.

In one agricultural development financed by the EDF it was necessary to provide individual wells, as the farmers refused to share a well among two or three.

1.34. To sum up, the water-supply operations proved excellent technically, the main difficulties being, in the case of schemes for piped water, the charges which virtually put them out of the reach of the poorest and, in the case of wells, ancestral habits which are hard to change.

D. Educational infrastructure projects

1.35. The Court examined a large number of educational infrastructure projects on the basis of documents and on the spot: primary and secondary schools, training colleges, technical training centres and a medical school, which had been financed by the EDF for a total of 25 400 000 EUA.

1.36. As regards the design of the projects, comments need to be made on the preliminary studies, on the architecture, on the materials used and on the employment of local firms.

- (a) Educational structures are generally built and equipped according to European techniques. Local authorities are often unwilling to take their own traditions and customs into consideration or to use the materials specified with a view to reducing current maintenance costs. Laterite bricks and local stone are unfortunately often neglected in favour of concrete.
- (b) In one case, a second set of preliminary studies was made necessary by a change of site. In another case the studies did not fully describe the installations.
- (c) Educational buildings often fail to fit into the climatic and socio-cultural environment. Insulation against heat does not go with a large area of window. Some finishes, such as mosaics or artistic panels made a sad contrast with the almost universal surrounding deprivation.

When a number of primary schools were renovated the windows were replaced by metal slatted shutters which were better suited to local conditions.

- (d) Sanitary installations are often provided with outlet pipes which are too small. A good many of these installations (toilets and sinks) are permanently blocked. The lighting system is poorly protected against all kinds of deterioration. Deficiencies and faults are often mentioned in the record of the provisional or final acceptance. This, unfortunately, does not always give rise to action being taken.

1.37. Turning to the execution: the coordination of the works, delays, the care given to finishes, the equipment of buildings, compliance with EDF management procedures and with sound financial management all call for a number of comments:

- (a) In one case the time taken by a national body to connect up the site to the electric mains caused considerable delays in carrying out the works. In another case pumps and pressure-boosters for water were installed in school buildings when the water-tower which makes them superfluous was in the process of construction.
- (b) Not all the works are carefully carried out. Generally, roofs are leaky; a primary school collapsed, apparently because the foundations were not protected. In one country the buildings of all primary schools require extensive repairs after ten years in service.
- (c) Operational and teaching equipment does not correspond to what is required. Any sophisticated equipment (kitchen equipment) is abandoned at its first breakdown, which often happens in the first few months after it is put into service. Repairs are a problem because of lack of funds, difficulties in supply of basic spare parts and, above all, lack of qualified manpower to effect them. In one case, 70 % of the equipment supplied by a European firm for a mechanical workshop was defective on delivery.

Other equipment has never been used (laboratory autoclave) because there is no real need for it. On the one hand some machine-tools used in technical trainings are the only ones of their type in the country; on the other, basic apparatus (such as microscopes) is not available in sufficient numbers.

- (d) In one country several training centres were not finished at all because funds for the projects were exhausted: doors and windows consist of corrugated iron strengthened by a framework of rough timber, with nailed-on hinges. The result is not altogether an aid to teaching.

1.38. EDF management procedures are not complied with in all cases:

- (a) An advance of funds to a consultancy firm (about 1 600 EUA) was not guaranteed, contrary to the general specification. The whole of this firm's taxes and duties in the ACP country (about 8 000 EUA) are reimbursed by the Commission in spite of the provisions to the contrary in the contract between it and the Commission.

(b) In another country the administration paid retentions to the contractor at provisional acceptance although they should have been blocked until faults were remedied. Contractors have had to be threatened with being excluded from EDF invitations to tender in order to get them to remedy faults established at provisional acceptance. For some schools the gap between provisional and final acceptance has reached five years.

1.39. As far as the use of the projects is concerned, mention should be made of the conditions in which they are occupied and of the practical value of the investment.

With two exceptions the educational buildings cater for the expected numbers or more.

In most cases the buildings are well maintained. In the remainder they have gradually deteriorated for lack of funds and qualified manpower to maintain them.

1.40. Whenever technical assistance is well represented on the teaching or administrative staff of the school it functions satisfactorily. In several schools the technical assistance provided under bilateral aid also has an operating budget and this facilitates the running of the whole.

1.41. In conclusion: all the projects financed by the EDF fulfil their purpose in spite of any mistakes being made in carrying them out or even of any wasteful expenditure. The point for criticism in the buildings is the use of techniques which are too complicated for local firms to carry out periodic maintenance. Some establishments are only able to function because of technical assistance.

E. Industrial projects

1.42. Apart from the agri-industrial projects discussed at 1.1 et seq., the Court examined on the basis of documents, and on the spot, two slaughterhouses, several power-stations and electricity distribution networks, an industrial estate and a solar installation; these represented a total investment of about 48 MEUA.

1.43. Slaughterhouses

- (a) The buildings of the two slaughterhouses are satisfactory in design and construction.
- (b) However, one of them was the subject of three preliminary studies which partly overlapped, while the consultant employed for the second produced mediocre studies, was in connivance with a potential tenderer and was guilty of negligence in the supervision of the works.

One may express surprise that a European technical assistant of 23, with only a law degree, was sent out under a contract financed by the EDF by a consultancy firm, in response to a request for 'a very high-level officer with sound experience' to carry out a study on the operation of the project.

- (c) In a second slaughterhouse part of the equipment is out of order either because it is too sophisticated or because it has not been maintained for lack of funds. The lack of funds is due in particular to the total absence of any accounting system resulting in dubious management practices, even though the project was allotted 3 technical assistants at a cost of 335 000 EUA during the first 3 years of operation. Moreover, the slaughterhouse only operates at 50 % of capacity because the farmers prefer to slaughter their cattle in secret, thus avoiding slaughtering charges and obtaining up to double the official price paid by the administration.
- (d) In this slaughterhouse, as in others, the flooring (tiles) had not stood up to the inevitable shocks in this type of trade and there are numerous holes which encourage the stagnation of stale water.

Electricity

1.44. In one central-African landlocked country the EDF financed the greater part of the high-tension distribution grid and is now co-financing a large power-station for an amount of 40 MEUA which represents about a third of the total EDF aid to this country since 1958.

The Commission also ensured that the grid was connected to those of two neighbouring countries. The

project enables the economy of the country, which has known frequent disturbances of its power supply, to develop the mining industry, to take advantage of its hydro-electric resources and to make a considerable reduction in its oil imports.

(a) The studies for the hydro-electric station were described as mediocre by the staff of the Commission but, as the invitation to tender was imminent the Commission did not think it expedient to re-work them. The weakness of the geological studies led to the local authorities agreeing to an abnormal variation in the specification which might have expensive consequences. The variation protects the contractor in the event of any geological or hydrological contingency which might occur in a project which consists of boring a tunnel 2 700 m long and 2.5 m in diameter.

(b) Following a dispute between the Commission and the local authorities about two tenders differing by 50 000 EUA, the award of a contract for the electricity network was delayed for seven months.

Finally the two competing tenderers settled the matter by forming a syndicate.

The Commission accepted this solution in order to avoid new delays and an even greater increase in costs and it agreed to accept a tender some 1.5 MEUA higher than the original.

(c) The distribution network and the control stations visited were operating normally and seemed to be perfectly well maintained.

Industrial estate

1.45. A financing agreement was signed in 1969 for the construction of an industrial estate of 32 hectares which should permit the installation of some fifty firms. The project cost about 1 600 000 EUA of which 290 000 were for the studies and supervision of the work.

(a) The works contract, which was not awarded until September 1972, went to a firm whose tender was 12 % above the lowest. The Commission staff, contrary to the procedure in force, accepted the argument of the local authorities

that it would be wrong to give a monopoly to the firm who had submitted the lowest tender and had recently won other contracts.

(b) According to the Commission delegate the consultants entrusted with supervision of the works lacked the necessary experience.

(c) The industrial estate should have been completed in 1973. The works were finished in 1977 but soil-mechanics studies were carried out afterwards in order to reassure any interested firms. A new financing was granted in 1978 for a final clearing of the site.

(d) It was not until July 1979 that the estate was occupied by some twenty small firms, of whom nearly half are car-repair workshops, at the extremely favourable rent of 0.05 EUA/m².

Solar energy

1.46. Two solar pumps, working on the thermodynamic principle, were financed by the EDF at an amount of 550 000 EUA. The first experimental pump is working at two-thirds of its theoretical capacity. Since the pumps are experimental one may ask if it was desirable to finance two of them, especially in view of the fact that the second pump has not yet found a user and has been stored in the factory since 1979.

SECTION 2 — MICROPROJECTS

General outline

2.1. The Lomé Convention provided that an amount of 20 MEUA, to be deducted from the ordinary grant aid of the EDF, may be used to finance microprojects. The initiative for the operations must come from the local community which will benefit from them; apart from the EDF contribution they are to be financed by the local community and the State. Maintenance is the responsibility of the local community.

The proposals for microprojects are drawn up by the ACP country concerned in annual programmes which in practice contain 1 to 180 projects. In the

interests of speed and efficiency the procedures for decision and financing have been greatly eased at Commission level: annual programmes are no longer submitted to the Fund Committee but are under the direct authority of the Commission. The Commission's approval of the microprojects within the limits of the annual programme is, in practice, given by the Commission delegate in the ACP country on receipt from the local administration of an estimate covering the whole of the microprojects. An advance of 80 % is then paid to whoever is responsible for the project on receipt of a detailed estimate of the works; the balance is paid when the completed project has been accepted and supporting documents submitted.

Position at 31 December 1979

2.2. During 1979 twenty new programmes were accepted (18 in the ACP countries and 2 in OCT) to a total of 6 030 MEUA. Overall estimates were submitted for 4 898 MEUA and advances made of 1 542 MEUA.

At 31 December 1979, 49 programmes were being carried out in 32 countries to a total value of 16 485 MEUA out of which advances and payments had been made to a total of 7 412 MEUA.

Comments

2.3. In practice the concept of annual programmes is a fiction: of the 13 annual programmes adopted in 1976 and 1977 not one had been closed by December 1979. Closure of a first programme is not a condition for the financing of a second or even a third in the same country. Out of a total of 32 countries, 14 recipients of this form of aid have two or three annual microproject programmes running.

The accounting system does not reflect reality: in fact payments recorded in the accounts represent both advances and final payments (after advances had been cleared). In several countries only advances have been paid, without any supporting documents having been produced. In some countries, in addition to the advance paid to the managing body, further payments have been made on the

basis of supporting documents, instead of being set off against the advance. In other countries the balance of 20 % for some microprojects has been paid to the managing body even when the project had not been completed and no supporting documents had been produced: this is contrary to the conditions set out in the financing agreements.

Examination by the Court of Auditors

2.4. The Court examined 14 microprogrammes in 10 countries on the basis of documents and a number of microprojects on the spot in two ACP countries. This examination leads it to make the following comments:

- (a) The Commission's efforts in the direction of speed and efficiency have been frustrated by the slowness of the national administrations in submitting their estimates. For five microprogrammes dating from one or several years ago no detailed estimate has yet been submitted. This explains why few microprojects have been completed to date. To judge from the latest reports in the hands of the Commission only 4 of the 12 microprojects decided on in July 1977 have been completed in Upper Volta, 12 out of 14 in Senegal, 25 out of 180 in Madagascar, none out of 6 in Gambia, none out of 18 in the Solomon Islands, none out of 10 in Kenya and 16 out of 21 in Cameroon.
- (b) Three countries submitted as estimates only the annexes to the financing agreement with few improvements. Many estimates are made too low, in order to stay within the financial limits of the project and thus receive the Commission's approval.
- (c) In four countries the programmes are too ambitious. There are too many projects and, as they are dispersed over the whole of the country, assistance and supervision by the delegations becomes illusory.

In two countries, the programmes adopted do not answer the description of microprojects, i.e. small-scale operations, carried out quickly, with participation in the construction and maintenance by the local community which benefits from them. In one country the projects accepted (bridges and dykes) are technically too difficult for unskilled labour to carry out; in another the building of a submersible bridge ran into the same difficulties.

- (d) A stricter check should be kept on microproject estimates by the Commission delegations, and on the annual programmes by the Commission itself, particularly since an advance of 80 % is paid to the body in charge of the project and it is difficult to recover the money if the project is not completed.

There should also be better supervision of the execution of the microprojects, if only by spot checks. Such supervision is made difficult by the number and the wide dispersion of the projects. In one country the disappearance of the promotor of a project and the fraudulent conversion of funds to the extent of some 16 500 EUA could probably have been avoided, or at least the order for recovery of the funds could have been issued much earlier.

The Commission at Brussels does not ask for the reports required by the financing agreements, contenting itself with those which are sent to it voluntarily. Most of the reports in its hands are over a year old.

- (e) The contribution of the local communities in cash and kind sometimes causes problems.

In two countries local communities questioned the contribution they were to make because they had enjoyed similar aid from other bodies without any similar requirement to participate.

- (f) In two cases there is doubt about the initiative of the local communities. In one of them the delegation observed hostility to microprojects on the part of the communities. This case is, however, exceptional.

2.5. However, it is right to note that, as a general rule, microprojects are welcomed very favourably by local communities.

The Court was able to observe on the spot the genuine success achieved by the projects and the satisfaction of the communities which benefit. It is true to say that microprojects have all the more success as they are directed towards the most deprived, that they meet real priority needs and that the delegations are able to stimulate and check on the progress of the works.

SECTION 3 — GENERAL TECHNICAL COOPERATION

A. Training projects

3.1. Training projects are carried out under technical and financial cooperation as provided for in Title 4 of the Lomé Convention.

The training programmes consist of scholarships for studies or practical training, the provision of instructors, the organization of seminars and various other measures.

At 31 December 1979 training expenditure committed under the 4th EDF amounted to 107 747 642 EUA. Final commitments amounted to 60 846 147 EUA — 56.5 % of total commitments. Payments at 19 293 001 EUA represent scarcely 20 % of total commitments. Total commitments for a dozen ACP States account in value for half of the total financing decisions.

Training expenditure may be broken down into scholarships (85 %), specific vocational training projects (9 %) and expenditure of a more general training interest (6 %).

Managing bodies

3.2. During 1979 the European organizations entrusted with the administration of EDF scholarships accounted for advances totalling 9 888 536 EUA. The balance of advances not yet accounted for is 10 898 729 EUA. At the beginning of May 1980 the Commission had checked the statements detailing the use made of the advances for the year 1978-79 in the case of only two of the eight managing bodies, the other organizations not having presented their statements by the agreed dates.

There are no supporting documents for some payments. Several payments have been made which were only due in part.

Comments arising from visits

3.3. The choice for the award of scholarships is made by the administration of the recipient country. The delegation takes no part in this stage of the procedure. In one ACP country the delegation makes no secret of its doubts about the justification and merits of some candidatures.

The scholarships are paid to the students by the establishment they attend. The establishments receive quarterly, half-yearly or even annual advances for this purpose. The advances due to one institute have been suspended because of a lack of clarity in its accounts. The Commission staff are not allowed to verify the use of EDF grants.

A few months from the end of Lomé I, commitments had been entered into for less than 50 % of the multiannual education programme of a certain ACP State. Other expenditure on technical assist-

ance unconnected with training was charged to the programme.

In another ACP country the EDF reimburses medical expenses to its scholarship holders enrolled in a regional institution while it does not do this for its scholarship holders in other, purely national, establishments. In fact there are no rules which lay down in which cases medical expenses should be paid by the EDF. It happens that the cases covered are becoming more and more numerous for ACP students studying in an ACP country other than their own.

For students studying in their own country the EDF scholarships are equal to national scholarships. For those studying in Europe the EDF scholarships, at the same level as scholarships granted by the Member States under bilateral aid agreements, are generally more generous than those granted by the ACP country to its students in Europe. For students studying in Africa, outside their own country, EDF scholarships are also different from national scholarships.

Training projects — Expenditure at 31 December 1979

(EUA)

	Total commitments	Final commitments	Payments
General expenditure	6 038 500.00	2 765 859.76	484 959.76
Specific projects	9 921 142.00	3 781 662.65	1 465 735.58
Scholarships	91 688 000.00	54 198 624.83	17 242 305.70
Training periods	100 000.00	100 000.00	100 000.00
Total	107 747 642.00	60 846 147.24	19 293 001.04

B. Trade promotion

3.4. At 31 December 1979 financing decisions accepted as a charge to the fourth EDF for trade promotion gave rise to total commitments of 32 002 288 EUA; of this, final commitments arising from signed agreements or contracts amounted to 16 277 642 EUA. A few months before the expiry of the Lomé I Convention, payments amounted to 8 619 891 EUA, i.e. 27 % of total commitments and 53 % of final commitments. All the aid is in the form of grants with the exception of 1.7 MEUA which is divided into two special loans.

3.5. Total commitments for trade promotion operations vary greatly from one ACP State to another. For example, one single ACP State enjoys aid for trade promotion in different forms to a total of 2.8 MEUA or 8.9 % of the total commitments for this type of aid.

Commitments totalling 6 402 000 EUA represent the 1979-80 indicative programme for participation in international trade events for all ACP States. The programme is divided into 5 different sections: fairs and exhibitions (3 549 000 EUA), seminars (440 000 EUA), information and publicity (975 000 EUA),

trade missions (825 000 EUA) and coordination and administration of the programme (613 000 EUA).

Final commitments for the programme amount to 2 011 256 EUA or 39 % of total commitments. Payments amount to 951 999 EUA or 15 % of the programme. Final commitments are brought to account half-yearly on the basis of decisions to take part in trade promotion events, but in the case of three fairs the decision was taken after the opening of the fair.

3.6. In 1979 the EDF financed 151 stands at 22 fairs or specialized shows for 42 ACP States and 2 economic associations. The Fund bore the cost of between one and ten stands per ACP State.

In 18 fairs held in Member States the EDF paid for the installation of the stands. The floor-space is provided free by the Member States. In the four fairs held in Africa rent was, with one exception, met by the Fund. Preparation of the stands is done

under private treaty contract after restricted invitation to tender. This invitation to tender was made on 19 January 1979 for all the international commercial events in 1979 in which the ACP States or other beneficiaries could participate at the Community's expense. The invitation to tender provided for a separate tender for each fair. Thus up to a dozen or more tenders were received by the Commission for each of the fairs. One firm obtained the contract for twelve fairs to a value of 0.3 MEUA or 45 % of the expenditure on this item. Another firm was entrusted with six fairs or 23 % of the expenditure.

3.7. Expenditure on coordination and administration represents 10 % of the 1979 programme but 20 % of the payments made in 1979 for the programme as a whole. Expenditure refers entirely to the salaries of five persons employed by the European Association for Cooperation (EAC) and made available to the Commission for full-time employment in its departments, not exclusively for the benefit of ACP States.

Trade promotion — Expenditure at 31 December 1979

	(EUA)		
	Total commitments	Final commitments	Payments
General expenditure	14 023 799.34	5 424 592.57	1 811 684.44
Commercial structures	1 868 400.00	1 127 981.33	750 257.67
Fairs and exhibitions	14 950 088.17	9 675 068.03	6 031 062.14
Marketing	1 160 000.00	50 000.00	26 851.20
Total	32 002 287.51	16 277 641.93	8 619 855.45

SECTION 4—TECHNICAL SUPERVISION AND DELEGATED FINANCIAL CONTROL

A. European Association for Cooperation (EAC)

4.1. The balance sheet, the revenue and expenditure account and the balances of the accounts of the EAC for 1979 were sent to the Court on 23 April 1980, i.e. after 31 March which is the last date laid down for forwarding in the financial regulation for the fourth EDF.

Although this represents a notable improvement compared with the previous year it must be borne in mind that these accounts do not contain expenditure paid from the overseas imprest funds during December 1979.

Remarks on the accounts

4.2. Payments made by the EAC on behalf of the EDF were 34.65 MEUA for the year 1979. The

expenditure consists of operating costs of the Commission delegations in ACP States and OCT, personnel costs of the delegations and technical assistance for EDF projects and cooperation staff under special contracts working in Europe. Moreover, the EAC pays scholarships for students resident in Belgium.

4.3. For the closing of the accounts, no comparison was made by the Commission or by the EAC between the amount due to the EDF according to the EAC accounts (5.68 MEUA) and the amount due from the EAC in the EDF accounts (25.63 MEUA). This is an inadmissible gap in internal control which prevents the detection of possible errors.

Thus in the 1979 accounts the charging of an advance of 467 625 EUA from the EDF to exchange differences was not picked up in time by the EAC, with the result that this amount was included in the suspense account in the balance-sheet of the fourth EDF at 31 December 1979. This lack of control of operations is also noticeable in the fact that, for example, simple transfers from one bank account to another have been awaiting clearance for over a year whereas they could have been finally accounted for immediately after the transfer.

Remark of the Court on the reply of the Commission to paragraph 4.3

— With regard to the EDF advance of 467 625 EUA: the Court maintains that even if the booking error was detected and corrected in the EAC accounts, it still appeared in the EDF accounts at 31 December 1979;

— with regard to the fact that no transactions are held awaiting clearance: the 'statement of EDF revenue and expenditure at 31 December 1979' drawn up by the EAC mentions an amount of about 1.94 MEUA as 'expenditure to be checked and cleared' (cf. also in this connection, the second paragraph of the reply of the Commission itself to paragraph 4.4);

— with regard to the finalization of any transfer of funds upon receipt of the advice note showing that the transfer has been made — the Court can cite to the contrary the case of a transfer of 50 000

Kenyan shillings in January 1978 which still appeared in the EAC balance sheet at 31 December 1979 among the expenditure to be cleared.

4.4. Some expenditure by imprest administrators in delegations has not been cleared after over a year and sometimes longer. It is necessary for expenditure requiring clearance to be regularly examined and to give rise to the issue of a demand for repayment after a certain time.

4.5. In two cases at least recovery of advances to overseas staff for car purchase was carried out very belatedly.

Remark of the Court on the reply of the Commission to the first sub-paragraph of paragraph 4.5

The vehicles are used for personal as well as official purposes.

4.6. The Auditor of the EAC is an official under the authority of a Director-General of the Commission, who acts as President of the Board of Directors of the EAC, and of a Director of the Commission, who is also the managing director of the EAC. This hierarchical relationship does not seem compatible with the necessary independence which should be enjoyed by an auditor.

Comments of staff management

4.7. At 31 December 1979, the 42 Commission delegations in the ACP States and OCT employed 221 staff holding contracts with the EAC and 911 local staff. Of the 221 staff holding contracts with the EAC, there were 42 delegates and 179 advisers or attachés of whom 48 were employed as agricultural experts, 31 as economists, 72 as technicians and 28 for administrative duties. The EAC should make sure that vacancies in positions of this kind receive sufficiently wide publicity in the Member

States. The same applies to the recruitment for overseas technical assistance (74 persons) and for other experts employed under contract for a fixed period. Of these latter, the EAC had 'special contracts' with 34 experts and 'cooperation staff' contracts with 11.

All those under special contracts and some of the cooperation staff are employed in the departments of DG VIII of the Commission and engage in duties similar to those of officials. Expenditure on these experts is counted as EDF expenditure although they carry out some duties in relation to non-associated countries.

Although the Commission undertook in 1976 not to continue with this type of recruitment, two new contracts were signed in July 1979 and January 1980.

B. Imprest system

4.8. In the four countries visited the Court examined the imprest system which records the operational expenditure of the delegation and the imprest system in respect of four agricultural projects.

4.9. Examination of supporting documents for operational expenditure of the delegations and of cash, bank, telex, telephone and postage accounts gave entire satisfaction with the following exceptions:

- The requirement of obtaining prior authorization from the EAC office in Brussels for various categories of current expenditure whenever they exceed a very low limit (200 or 300 EUA, according to the category of expenditure) should be eased so as to avoid, for example, recurrence of the case where telexing for authorization amounted to 20 % of the expenditure concerned.
- In the interests of economy, the internal rule under which the supporting documents for a very limited number of small payments need not be photocopied and sent to Brussels should be made more flexible and extended to other minor maintenance and operational payments. The delegations should be reminded of this rule, which in most cases they do not apply.
- Rules for the keeping and administration of inventories of movable property at the delega-

tions should be drawn up by the Commission and sent to them as soon as possible.

- For the fleet of vehicles the Commission's policy is to seek a balance between the different European makes of car within each delegation; from the point of view of sound financial management this policy does not seem economical or rational. In one island State the fleet of the delegation comprised five cars of a make almost unknown in the country, the delegate's car itself being one of the two or three models of this kind. In another country the delegation had kept for its own use a cross-country vehicle of non-Community make which had been financed by the EDF and which should have been returned to the local authorities on completion of the project for which it had been acquired.
- In the same delegation each local employee has, in theory, an annual maximum for the reimbursement of his medical expenses (50 to 70 EUA per year). When this maximum is reached the delegate reserves himself the right to authorize that this limit be exceeded after the examination of the medical records of the person concerned. In a bordering country the delegate applies a system which is similar but more flexible and with maxima ten times as high.

Remark of the Court on the reply of the Commission to the penultimate sub-paragraph of paragraph 4.9

The Court finds it difficult to believe that a car representing the only model of its kind in the country was chosen on the basis of 'above all the after-sales service provided'.

4.10. The Court considers that decisions such as the above are arbitrary in their treatment of employees and that it is vital that the Commission should draw up consistent rules as soon as possible both for the medical expenses and the reimbursement of travel expenses of local staff.

4.11. The examination of the imprest funds of two of the four agricultural projects examined calls for very serious reservations on the part of the Court:

- In the first project numerous reimbursements have been made on the basis of bills which have in no way the usual characteristics of a support-

ing document. They are notes written by the person responsible for the project claiming reimbursement for petrol and spare parts and for payment of travel and subsistence allowances, etc. In this connection the Court noted that the daily travel allowance for the local director amounted to 22.3 EUA against 2.2 EUA for his driver, the proportion being the same for the meals allowance (5 EUA against 0.5 EUA).

Contrary to the rules in force, US \$ 27 000 was paid in 1977 into a Swiss bank account on behalf of an expert concerned with the project.

- In the second project the regularity of several supporting documents is as doubtful as in the first. Operating costs of vehicles and machinery appear to have been reimbursed both on the basis of bills and by means of a fixed sum per kilometre based on an estimate of the same costs.

To avoid the recurrence of such cases in the future, the Court recommends that the Commission should fill this gap by providing every administrator of imprest funds with a handbook setting out what a supporting document should contain in order to be taken into account.

Remark of the Court on the reply of the Commission to paragraph 4.11

The Court is of the opinion that the documents mentioned by the Commission do not offer any guarantee of the validity of the expenditure which they were supposed to justify.

SECTION 5 — EXCEPTIONAL AID

5.1. By reason of the great similarity with emergency aid financed under Article 950 of the general budget of the Communities exceptional aid to ACP States faced with serious difficulties resulting from natural disasters or comparable extraordinary circumstances, to quote the definition in Article 59 of the Lomé I Convention, has been dealt with at the same time under paragraphs 9.32 to 9.42 in Part I of this report.

5.2. It seemed to the Court that comparing the two forms of emergency aid granted in similar cir-

cumstances would better illustrate the points they have in common and also the one or two differences between them.

SECTION 6 — STABILIZATION OF EXPORT EARNINGS (STABEX)

6.1. At 31 December 1979 106 transfer decisions had been made in favour of 37 ACP States and OCT in respect of the four years 1975, 1976, 1977 and 1978 for 23 different products totalling 323 804 068 EUA.

6.2. The transfer decisions in respect of 1978 amounted to 163 960 618 EUA for ACP States and to 268 323 EUA for the OCT ⁽¹⁾.

For the four years of application of the Convention non-repayable transfers represented 62 % of the transfers awarded to ACP States.

For OCT the proportion was 55 %.

For transfers requiring cross-checking between export statistics provided by the ACP State and the import statistics of the EEC, the ACP State export statistics were used as the basis in a third of the cases. For another third, use was made of EEC import statistics converted to fob; the last third represents intermediate methods.

6.3. In application of Article 18 (2) of the Lomé Convention, the Council of Ministers decided on 31 October 1979 to authorize the advance use of a part of the annual instalment for 1979 and apply it to 1978.

The remainder of the total allocation at 31 December 1978 for the last year of application of the Lomé Convention (1979) is 67 519 935 EUA for ACP States (including repayments from certain recipient countries of 2 332 097 EUA to reconstitute the fund) and is made up as follows:

⁽¹⁾ Including ACP States which have acceded to the Convention but which were formerly OCT.

Stabex
Financial development of Stabex

(EUA)

	1975*	1976*	1977*	1978*
Allocation available (1)	375 000 000	295 014 123	257 878 187	229 148 456
Increase in allocation** (2)	—	—	5 000 000	—
Reconstitution of allocation (3)	—	—	—	2 332 097
Amount available before transfers (4)				
(4) = (1) + (2) + (3)	375 000 000	295 014 123	262 878 187	231 480 553
Transfers (5)	79 985 877	37 135 936	33 729 731	163 960 618
Balance to carry forward (6)				
(6) = (4) - (5)	295 014 123	257 878 187	229 148 456	67 519 935

* Year of application.

** Council Decision.

Application of Stabex transfers

(EUA)

	1975*	1976*	1977*	1978*
Cumulative balances carried forward (1)	—	—	32 878 187	75 815 123
Annual instalment (2)	75 000 000	70 014 123	76 666 667	76 666 667
Drawn in advance (3)	4 985 877	—	—	11 478 828
Transfers (4)	79 985 877	37 135 936	33 729 731	163 960 618
Balance to carry forward (5)				
(5) = (1) + (2) + (3) - (4)	—	32 878 187	75 815 123	—

* Year of application.

N.B. The annual instalment is one fifth of the allocation less any amount drawn in advance during the previous year. The last instalment represents the balance of the allocation available after taking any reconstitutions into account.

For the OCT the balance available at 31 December 1979 out of the total allocation was 11 784 661.EUA, of which 776 565 EUA represented reconstitution.

6.4. Advances under Article 19 (6) of the Convention totalling 6 172 000 EUA were decided in favour of two ACP States.

6.5. For the year 1978, two ACP States received 98 501 237 EUA or 60 % of the total transfers for that year.

6.6. To the extent of a transfer of 7 586 943 EUA, the Commission took into account the fall in export earnings from iron-ore pellets although this commodity is not in the Stabex list. Article 17 (1) of the Convention includes iron-ore, which it defines as iron-ore and roasted pyrites. Iron-ore pellets, which are another derived product, are not mentioned.

Iron-ore pellets are moreover explicitly listed as a new product in the mining section of the second Lomé Convention. Instead of keeping to a strict interpretation of the Convention the Commission

has searched for a political compromise in agreeing to make an exceptional transfer relating only to the year 1978.

There is a danger that too wide an interpretation of the Convention in regard to Stabex will hamper its correct application in the future. To the example quoted above must be added those mentioned in previous annual reports of the Court:

- adding the earnings from the export of several commodities for calculating the dependence threshold of one commodity;
- the choice of particular reference years other than the four years preceding the year of application;
- the acceptance of late applications.

6.7. The Court noted during its visit that a Stabex correspondent was unable to explain how the export statistics were made up and that transfers made two years previously had not yet been used. The local authorities did not really know what to do with the money and thought it preferable to freeze the funds and wait until they were certain not to have to reconstitute them.

6.8. In a second ACP State visited by the Court, nine firms of varying legal status act as Stabex correspondents. Five of the firms received 55 % of the Stabex transfers paid to the country. Collection of statistical data on exports by Stabex correspondents and sending them to the Commission has been a source of great difficulty and some data are not available to the Commission departments.

An error in copying figures used in the cross-checking caused an increase in the transfer for 1977 and an overpayment of 106.000 EUA to be recovered by the Commission.

6.9. In a third ACP State visited by the Court, Stabex was functioning satisfactorily for cotton but very unsatisfactorily for groundnuts. Supplying monthly and annual statistics has been a source of

great difficulty. The trouble over groundnuts appears to be due to two factors:

- (a) The prices policy and the marketing system for groundnuts discourage producers and induce them to turn rather to food crops or the production of cotton. The other consequence is massive illegal exports of groundnuts to neighbouring countries.
- (b) The fall in export figures for this country after the years 1974-75 is not due solely to natural causes or to the uncertainties of world markets but above all to the conclusion of exclusive contracts with foreign-based international companies. The transfer on which the Commission decided in this case essentially represented an attempt on its part to put an end to this troublesome case.

Remark of the Court on the reply of the Commission to paragraph 6.9 (a) and (b)

The Commission has not replied to the comments made by the Court.

6.10. Turning to the reconstitution of resources: the New Hebrides (a Franco-British condominium) are required to reconstitute an amount of 1 430 863 EUA of which 1 103 499 EUA refers to a transfer for 1975 and 327 364 EUA to a transfer for 1976. Only the British authorities have reconstituted their 50 % of the amount claimed, the French authorities have not made any repayment.

6.11. The annual reports on the use of Stabex funds to be sent to the Commission by States receiving Stabex transfers (Article 20 of the Lomé Convention) continue to be late in arriving and incomplete.

6.12. At the close of the operations covered by the Lomé Convention the Commission should draw general conclusions on the overall effect of the Stabex system on the economic development of the ACP States.

ACP States receiving Stabex transfers
(Cumulative figures for years of application 1975 to 1978)

(MEUA)

ACP State	For 1978	Total for 1975 to 1978	% of total column
Senegal	65.10	65.10	20.68
Mauritania	33.40	37.00	11.75
Niger		22.65	7.20
Tanzania	5.47	20.70	6.58
Benin	4.61	20.02	6.36
Ivory Coast		15.00	4.76
Ethiopia		14.42	4.58
Uganda	7.01	13.70	4.35
Sudan	9.32	11.95	3.80
Swaziland	5.49	8.86	2.81
Guinea-Bissau	3.60	8.81	2.80
Liberia	7.59	7.59	2.41
Congo		7.36	2.34
Upper Volta	5.23	7.26	2.31
Gabon		6.70	2.13
Mali	3.89	5.89	1.87
Ghana		5.18	1.65
Chad	4.67	4.67	1.48
Cameroon		4.07	1.29
Central African Republic	3.08	3.98	1.27
Sierra Leone		3.97	1.26
Togo	0.95	3.62	1.15
Madagascar		2.90	0.92
Samoa	0.78	2.84	0.90
Gambia	2.49	2.49	0.79
Fiji		2.12	0.67
Somalia		1.93	0.61
Burundi		1.49	0.47
Tonga	0.24	1.15	0.37
Cape Verde	0.43	0.78	0.25
Rwanda	0.61	0.61	0.19
Total ACP	163.96	314.81	100.00
Total OCT ⁽¹⁾	0.27	8.99	
Grand total	164.23	323.80⁽²⁾	

⁽¹⁾ Figures from following table.

⁽²⁾ Transferred before 31. 12. 1979:

Transferred after 31. 12. 1979:

296.63

27.17

Total 323.80

OCT or former OCT receiving Stabex transfers
(Cumulative figures for years of application 1975 to 1978)

(MEUA)

Recipient country	1978	Total 1975 to 1978	% of total
Kiribati		2.28	25.40
Solomon Islands		2.17	24.17
Comoros	0.22	1.90	21.08
New Hebrides		1.43	15.91
Jibuti		0.69	7.69
Belize		0.34	3.81
Tuvalu	0.05	0.18	1.94
Total	0.27	8.99	100.00

Breakdown of Stabex transfers by commodity
(Cumulative figures for years of application 1975 to 1978)

(MEUA)

Commodities	Total	% of total
Groundnuts, groundnut oil and oilcake	118.36	36.55
Iron-ore	57.42	17.73
Wood, rough and sawn	38.89	12.35
Cotton	32.69	10.10
Sisal	20.58	6.36
Coffee	14.50	4.48
Leather and raw hides	8.40	2.81
Palm and palm-kernel oil	7.80	2.41
Tea	5.28	1.63
Copra and coconut oil	4.28	3.26
Bananas	2.49	0.77
Cocoa and cocoa paste	1.52	0.47
Cloves	1.14	0.58
Gum arabic	0.85	0.26
Pyrethrum	0.61	0.19
Ylang-ylang		0.05
Total	314.81	100.00

SECTION 7 — INDUSTRIAL COOPERATION

7.1. In pursuit of its verification and audit responsibilities the Court also examined the use made of the grant for 1979 to the ACP-EEC Centre for Industrial Development (CID) out of the fourth EDF.

7.2. The total allocation available for 1979 was 3 560 605 EUA. The total is made up of allocations for 1979 (2 729 446 EUA) and carry-overs from the previous year (831 159 EUA or 35% of the budget amount for that year). 59 % and 65 % of the allocation for the year and the carry-overs respectively were paid out. Payments of 398 263 EUA out of appropriations for intervention expenditure in the

1979 budget amount to 34 % of the budget appropriations. At the final closure of the financial year 1978 at 31 December 1979 and after the use of the carry-overs, appropriations amounting to 285 304 EUA were cancelled — which represented 12 % of the corresponding initial budget. The audit found that all the unpaid budget appropriations, whether committed or not, are carried over to the next year. The revenue and expenditure account does not include receipts. There is no budget heading for miscellaneous receipts, and those relating to 1977 and 1978 still await posting.

7.3. Turning to administration, the Court finds that the checking of statements of travel expenses, for example, is not strict enough.

In 1979 the CID undertook a more thorough examination of the statements of expenditure submitted by certain expert bodies to justify the use of advances received under contracts concluded with the CID. In this way inadequately supported expenditure has been rejected. In order to avoid future disputes with these organizations over expenditure, the CID has decided to include in contracts a fixed sum to cover repayable expenditure. This step may be expedient from the administrative point of view but is less so from the point of view of sound financial management or of audit.

SECTION 8 — ANALYSIS OF THE ACCOUNTS OF THE EUROPEAN DEVELOPMENT FUNDS

8.1. The European Development Funds (EDFs) continue to be administered outside the budget of

the Community. In accordance with the Financial Regulation of 27 July 1976 applicable to the fourth European Development Fund ⁽¹⁾, balance sheets and revenue and expenditure accounts of the Funds drawn up as at 31 December 1979 are to be forwarded to the Court of Auditors by 31 March 1980. This was done on 29 May 1980, and on an unofficial basis as in the previous year. At the time of drafting this report the documents had not yet been approved by the Commission.

It is regrettable that the Court is obliged to base its judgment on accounts which are forwarded very late and are not even final.

Moreover, the content and presentation of the balance sheet and revenue and expenditure account of the four EDFs do not comply with the provisions of the financial regulations applying to them. In fact they do not adequately show either the balance sheet of the EDF at 31 December 1979 or the revenue and expenditure relating to the year 1979.

The first three European Development Funds

8.2. The conventions concerning the first three EDFs covered the years 1959 to 1975. Yet the accounts for none of the Funds have been closed so far. The position is summarized in the following table.

⁽¹⁾ OJ No L 229, 20. 8. 1976, p. 9.

Evolution of the first three European Development Funds
(Cumulative position at 31 December 1979)

(MEUA)

	1st EDF 1959 to 1964	2nd EDF 1964 to 1970	3rd EDF 1970 to 1975	Total
A. Available resources:				
Initial appropriations	581.25	730.00	905.00	2 216.25
Transfer of remainders				
from 1st EDF	- 11.58	11.15	0.43	—
from 2nd EDF	—	- 6.75	6.75	—
Miscellaneous non-allo- cated revenue	token entry	0.08	0.22	0.30
Total (a)	569.67	734.48	912.40	2 216.55
B. Utilization of funds:				
Financing decisions (glo- bal commitments)	569.64	733.24	894.06	2 196.94
Contracts concluded (final commitments)	569.29	729.44	854.27	2 153.00
Payments (b)	568.70	726.44	801.35	2 096.49
C. Appropriations not yet utilized (a—b)	0.97	8.04	111.04	120.06

8.3. At 31 December 1979 appropriations not yet utilized amounted to 120.06 MEUA against 162.06 MEUA at the end of the previous year; 356 projects were in progress: 7 under the first EDF, 58 under the second EDF and 291 under the third EDF, against 468 at 31 December 1978.

New financing decisions under the second and third EDFs were still being made in 1979: one under the second EDF and six under the third.

As it has done for several years, so far in vain, the Court can only recommend once more closing current projects under the first EDF and ceasing to make new financing decisions under the second EDF.

B. The fourth European Development Fund

8.4. The fourth association convention, known as the Lomé Convention, was signed on 28 February

1975, and came into force on 1 April 1976. It expired on 1 March 1980, 5 years after signature. The association consisted at 31 December 1979 of the nine Member States of the European Community and 58 States in Africa, the Caribbean and the Pacific (ACP).

8.5. The Convention established commercial, industrial, financial and technical cooperation between the signatories and, for this purpose, created a European Development Fund (fourth EDF) with an original appropriation of 3 000 MEUA for the ACP States, plus 150 MEUA for the overseas territories and departments of Member States of the European Community. It is to be noted that, in addition, the European Investment Bank (EIB) has undertaken to provide from its own funds 400 MEUA in the form of loans, 10 MEUA of which are set aside for overseas countries and territories.

8.6. At the end of 1979 the fourth EDF appropriations for ACP States had changed as follows in consequence of:

- the transfer of former overseas countries and territories (OCT) to the ACP system: + 58.3 MEUA,
- the accession of new ACP States: + 9.5 MEUA.

In addition French overseas departments were allocated an additional 2 MEUA.

Allocation of the fourth EDF appropriations at 31 December 1979 according to the Commission accounts

	(MEUA)			
	ACP	OCT	Total	%
Grants	2 145.2	41.6	2 186.8	69
Special loans	445.6	28.1	473.7	15
Risk capital	97	4	101	3
Stabex	380	20	400	13
Appropriations	3 067.8	93.7	3 161.5	100

The most recent Council Decision (79/309/EEC of 19 March 1978) provides for a reserve of 12 126 MEUA for OCT to which is added 2 MEUA for the French overseas departments. The total of 14 126 MEUA was shown in the accounts of the Commission as 9.9 MEUA for grants to the OCT and 4.2 MEUA for special loans to OCT; there was no Council decision to this effect.

8.7. The resources administered under the fourth EDF also include interest earned by funds on deposit. Receipts of this nature, to be allocated to

ACP States, amounted to 16.7 MEUA at 31 December 1979.

8.8. New forms of aid appeared with fourth EDF, in particular the system intended to stabilize export earnings (Stabex), the furtherance of regional cooperation (300 MEUA) and microprojects (20 MEUA).

8.9. For 1979 the volume of operations undertaken in each category under the fourth EDF may be summarized as follows:

Value of operations in 1979

Type of intervention	Financing decisions (global commitments)	Contracts concluded (final commitments)	Payments
Miscellaneous grants	332	270	205
Exceptional aid	25	21	30
Interest subsidies	11	11	12
Special loans	62	83	43
Risk capital	16	20	12
Stabex	123	123	118 ⁽¹⁾
Total 1979	569	528	420
Total 1978	564	535	326

⁽¹⁾ 3·11 MEUA repaid to reconstitute Stabex was deducted from the payments in the revenue and expenditure accounts.

At 31 December 1979, two months before expiry of the Convention, the utilization of the appropriations was as follows:

Utilization of the fourth EDF at 31 December 1979

	in MEUA	%
A. Cumulative appropriations	3 161	100
Amount not yet allocated to recipient countries	238	8
B. Amount allocated to recipient countries	2 923	92
Amount not yet allocated by financing decisions	700	22
Amount allocated by financing decisions	2 223	70
Amount not yet committed by contract	710	22
Amount committed by contract	1 513	48
Amount not yet paid	521	17
C. Amount paid for supplies, work or services	992 ⁽¹⁾	31

⁽¹⁾ 3·11 MEUA repaid to reconstitute Stabex was deducted from the payments in the revenue and expenditure accounts.

Although the rate of payments appears to have quickened (420 MEUA in 1979 against 326 MEUA in 1978), the payments in respect of 20 countries still amount to less than 25 % of their allocation, including 6 countries which are entitled to special attention under Article 48 of the Lomé Convention.

8.10. 3·11 MEUA repaid to reconstitute the Stabex fund was deducted from the Stabex payments in the revenue and expenditure accounts for the financial year 1979. This adjustment of receipts against payments is contrary to Article 40 of the Financial Regulation.

8.11. Following the Council Decision of 29 June 1976 and the Council Agreement of 28 March 1977, the appropriation of the fourth EDF was increased by 9·4385 MEUA, which was to be paid by the European Investment Bank to the Commission upon request. This payment was to have been made from payments of interest, reimbursement of loans upon special conditions and of capital that had been granted under the three previous Funds and were held by the European Investment Bank pending the Commission's instructions. At 31 December 1979 these sums amounted to 12·11 MEUA, but the Commission has still not called for payment.

8.12. The computerized accounting system urgently needs to be improved in order to reduce the constant delay in the preparation of the periodic accounts and to avoid the often serious errors in the trial balances.

ANNEX I

**Information and statistics relating
to the general budget of the European Communities
and
to the European Development Funds**

Preliminary remarks

1. Source of financial data

The financial data in this Annex have been drawn from the revenue and expenditure accounts ⁽¹⁾ and the balance-sheets of the European Communities and of the European Development Funds and from other detailed financial records provided by the Commission.

2. Change of monetary unit

This Annex sets out not only the situation for the year under review, but also a series of historical developments.

The introduction of the European unit of account (EUA) into the general budget poses certain problems in this respect. 1977 was the last year in which the budget was expressed in IMF units of account (u.a.). As from 1978 it has been drawn up and executed in EUA. Since these two units are calculated on different bases they are not directly comparable. In view of this the statistics on the general budget given here show, without conversion, the amounts for the years prior to 1978 in u.a. and those for 1978 and 1979 in EUA.

The problem has been resolved as follows in respect of the European Development Funds: after the introduction of the EUA in the fourth Fund, it was agreed that for the first three Funds, which were originally drawn up in u.a., the conversion rate 1 u.a. = 1 EUA would be adopted. The time series of all the Funds can thus be expressed in EUA.

3. Presentation of financial data

Financial data are expressed in millions of u.a. (until 1977) or in millions of EUA (as from 1978); they have been rounded off to 10ths of a million.

As the figures have been rounded off, the totals shown in the tables do not always correspond to the exact sum of the amounts presented, so that slight differences may be found in the additions.

⁽¹⁾ For the financial year 1979: Revenue and expenditure account and balance-sheet of the budget 1979 (document COM (80) 233) and the relevant amendments (document COM (80) 565).

4. Abbreviations and symbols

EC	European Community(ies)
ECSC	European Coal and Steel Community
EEC	European Economic Community
EAEC or Euratom	European Atomic Energy Community
EAGGF	European Agricultural Guidance and Guarantee Fund
GNP	Gross national product
VAT	Value added tax
FC	Financial compensation
DM	Deutsche Mark
FF	French franc
LIT	Italian lira
HFL	Guilder
BFR	Belgian franc
LFR	Luxembourg franc
UKL	Pound sterling
IRL	Irish pound
DKR	Danish crown
u.a.	Unit of account
m.u.a.	Millions of units of account
EUA	European unit of account
MEUA	Millions of European units of account
IMF	International Monetary Fund
EMS	European monetary system
MCA	Monetary compensatory amount
DA	Differentiated appropriations
NDA	Non-differentiated appropriations
CA	Commitment appropriations
PA	Payment appropriations
AFC	Appropriations for commitment
AFP	Appropriations for payment
AC	Automatic carry-overs
NAC	Non-automatic carry-overs
D	FR of Germany
F	France
I	Italy
NL	Netherlands
B	Belgium
L	Luxembourg
UK	United Kingdom
IRL	Ireland
DK	Denmark
EUR 9	Total of the 9 Member States of the European Communities
EDF	European Development Fund
AASM	Associated African States and Madagascar
ACP	African, Caribbean and Pacific States
OCT	Overseas countries and territories
OD	French overseas departments
Stabex	Stabilization of export earnings
FR	Financial Regulation of 21 December 1977
OJ	Official Journal of the European Communities
S	Budgetary section
T	Budgetary title
Ch	Budgetary chapter
—	Nil
0,0	Data between zero and 0,05
%	Percentage

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Part I: General budget of the European Communities

1. Background information on the general budget

Summary

1.1. Origin of the general budget

The general budget was created by the merger Treaty ⁽¹⁾ (Article 20). It replaced on 1 January 1968 the three separate EC budgets, which existed before then: the ECSC estimate of administrative expenditure, the EEC budget and the Euratom administrative budget. The Euratom research and investment budget was incorporated in 1971.

1.2. The legal basis

The general budget is governed by the financial provisions of the Treaties of Paris ⁽²⁾ (Article 78 ECSC) and Rome ⁽³⁾ ⁽⁴⁾ (Articles 199 to 209 EEC and Articles 171 to 183 Euratom) and by amendments resulting from the merger Treaty ⁽¹⁾, the Council Decision on own resources ⁽⁵⁾, the Treaty of Luxembourg ⁽⁶⁾, the Treaty of Accession ⁽⁷⁾ and the Treaty of Brussels ⁽⁸⁾.

A Financial Regulation ⁽⁹⁾ governs the details of the establishment and implementation of the budget and of the presentation and audit of accounts. The Financial Regulation is supplemented by further specific enactments governing the details of budgetary implementation.

1.3. Main budgetary principles prescribed by the Treaties and the Financial Regulation

The budget is authorized in advance for one financial year (*annuality*). The budget presented must be *in balance*. Budgetary revenue is to be used without distinction to finance all expenditure entered in the budget (*non-affectation*). All items of revenue and expenditure of the Community are to be included in the budget (*unity*). All items of revenue and expenditure are to be entered in full in the budget and in the accounts without any adjustment against each other (*gross principle*). There are some exceptions to these general principles.

1.4. The financing of the budget

During the period 1968 to 1970 the financing of the general budget was, after allowing for certain *other revenue* (including ECSC contributions), ensured by *fixed-key financial contributions* of the Member States.

As from 1 January 1971, pursuant to the Council decision on own resources ⁽⁵⁾, the fixed-key financial contributions were to be replaced progressively by *own resources* (customs duties, agricultural levies, sugar levies and VAT up to a maximum of 1 % of a uniform EC assessment basis). Until it became possible to apply the uniform VAT basis, financial contributions would continue to be paid by the Member States. As from 1975 these financial contributions were to be calculated on the basis of the *gross national product (GNP)* shares of the Member States. In 1979 own resources included VAT for the first time. This was paid by Member States other than the FR of Germany, Ireland and Luxembourg, which continued to pay GNP-financial contributions.

For the period 1971-77 a system of '*dynamic brakes*' limited the year-to-year variation of the total share of each Member State ⁽¹⁰⁾.

A special mechanism provided by the Accession Treaty (Article 131) was applied in 1978 and 1979 in order to limit the increase of the shares of the United Kingdom, Ireland and Denmark. This was effected by means of *financial compensation* carried out between the Member States outside the budget.

1.5. Content and structure of the budget

The general budget comprises the administrative expenditure of the ECSC and the corresponding revenue, the revenue and expenditure of the EEC and the revenue and expenditure of Euratom.

The budget consists of *five separate sections* subdivided into statements of (estimated) revenue and expenditure: (I) *Parliament*, (II) *Council* (annexed: *Economic and Social Committee*), (III) *Commission*, (IV) *Court of Justice*, (V) *Court of Auditors*.

Within each section, revenue and expenditure are classified under *budgetary lines (titles, chapters, articles and items)* according to their type or the use to which they are to be applied ⁽¹¹⁾.

⁽¹⁾ Merger Treaty (8 April 1965): Treaty establishing a Single Council and Single Commission of the European Communities.

⁽²⁾ Treaty of Paris (18 April 1951): Treaty establishing the European Coal and Steel Community (ECSC).

⁽³⁾ Treaty of Rome (25 March 1957): Treaty establishing the European Economic Community (EEC).

⁽⁴⁾ Treaty of Rome (25 March 1957): Treaty establishing the European Atomic Energy Community (Euratom).

⁽⁵⁾ Council Decision 70/243/EEC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Community own resources (OJ No L 94, 28. 4. 1970).

⁽⁶⁾ Treaty of Luxembourg (22 April 1970): Treaty amending certain budgetary provisions of the European Communities' Treaties and of the merger Treaty.

⁽⁷⁾ Treaty of Accession (22 January 1972): Act concerning the conditions of accession and the adjustments to the Treaties.

⁽⁸⁾ Treaty of Brussels (22 July 1975): Treaty amending certain financial provisions of the European Communities' Treaties and of the merger Treaty.

⁽⁹⁾ Valid from 1. 1. 1978: the Financial Regulation of 21. 12. 1977 (OJ No L 356, 31. 12. 77), as amended by Council regulation No 1252/79 of 25 June 1979 (OJ No L 160, 28. 6. 1979).

⁽¹⁰⁾ See articles 3(3) and 4(1) of the Council Decision 70/243 of 21. 4. 1970 on own resources.

⁽¹¹⁾ For the presentation of this annex a special nomenclature classifying expenditure by *sectors* is adopted (see Diagrams Nos 2, 3 and Tables II, III of this annex).

1.6. The types of budget appropriations

The following types of appropriations are distinguished in the budget:

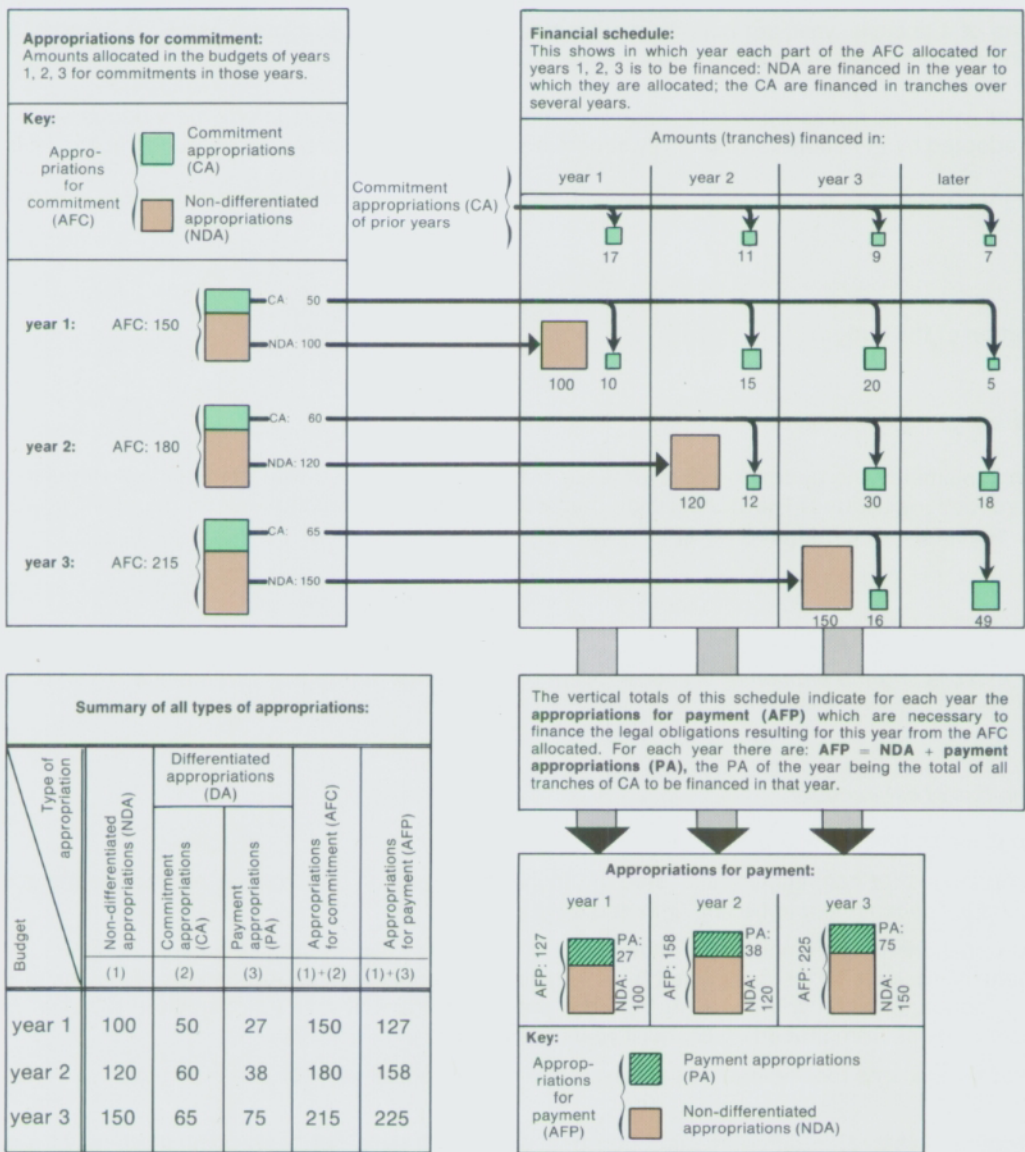
- (a) *Differentiated appropriations (DA)* are used to finance multiannual activities in certain sectors. They comprise *commitment appropriations* and *payment appropriations*:
 - *commitment appropriations (CA)* cover, for the current financial year, the legal obligations to be entered into for activities whose implementation extends over several financial years. They are accompanied by a schedule showing the incidence of expenditure planned for the years concerned.
 - *payment appropriations (PA)* cover expenditure arising from commitments entered into in the current financial year and/or preceding financial years.
- (b) *Non-differentiated appropriations (NDA)* cover for annual activities both commitments and payments in the same financial year.

Thus it is possible to establish the following two totals:

- the total of *appropriations for commitment (AFC)* = *non-differentiated appropriations (NDA)* + *commitment appropriations (CA)* ⁽¹⁾
- the total of *appropriations for payment (AFP)* = *non-differentiated appropriations (NDA)* + *payment appropriations (PA)* ⁽¹⁾.

Revenue raised in the budget is to cover the appropriations for payment. Commitment appropriations are not financed until the corresponding payment appropriations have been entered in the budget.

The following simplified scheme (with illustrative amounts) shows the impact of these types of appropriations in each budget year:



(1) Note: It is important to note the differences between *appropriations for commitment* and *commitment appropriations* and between *appropriations for payment* and *payment appropriations*. The two terms *commitment appropriations* and *payment appropriations* are used exclusively in the context of *differentiated appropriations*.

1.7. The monetary unit

Until 1977 the budget was established and implemented in *IMF units of account (u. a.)*: 1 u. a. = 0,88867088 g gold (= 1 US dollar between 1934 and 1972).

From 1978 the budget is established and implemented in *European units of account (EUA)*; 1 EUA corresponds to the total of the following amounts of the currencies of the EC Member States:

0,828 DM + 0,0885 UKL + 1,15 FF + 109 LIT + 0,286 HFL + 3,66 BFR + 0,14 LFR + 0,217 DKR + 0,00759 IRL.

1.8. The establishment of the budget

For each financial year (running from 1 January to 31 December) each Institution, before 1 July of the year preceding that in which the budget is to be implemented, draws up *estimates of its expenditure*. The Commission enters these estimates in a *preliminary draft budget*, and, not later than 1 September of the same year, places this before the Council, which, with Parliament, constitutes the *budgetary authority*. The Council establishes the *draft budget* and forwards it to Parliament not later than 5 October of the same year. Parliament can *propose modifications* to the draft budget for *obligatory expenditure* ⁽¹⁾ and *make amendments* for *non-obligatory expenditure* ⁽²⁾; these modifications and amendments are submitted to the Council. For obligatory expenditure the Council acts as the last instance. For non-obligatory expenditure Parliament may, within the limits of a *maximum rate of increase*, exercise its right of amendment as last instance. The President of Parliament declares that the *budget has been finally adopted*. However, Parliament may *reject the draft budget* and ask for a new draft to be submitted ⁽³⁾.

If at the beginning of a financial year the budget has not been voted, particular provisions of the Treaties and the Financial Regulation relating to the authorization of expenditure are to be applied ⁽⁴⁾.

Amending budgets (which do not alter the total amount of the annual budget) or *supplementary budgets* (which alter the total amount) can be adopted by the budgetary authority according to the same general procedure as the annual budget ⁽⁵⁾.

The final budgetary allocation to a specific budgetary line can be modified by *transfers* ⁽⁶⁾ (virements) from other budgetary lines.

1.9. Implementation of the budget

1.9.1. Responsibility for implementation

The Commission implements the budget on its own responsibility in accordance with the Financial Regulation and within the limits of the appropriations allotted. The Commission confers upon the other Institutions the requisite powers for the implementation of the sections of the budget relating to them.

1.9.2. Implementation of revenue

This consists of *establishing the entitlements* and *recovering the revenue* due to the Communities (own resources and other revenue).

1.9.3. Implementation of expenditure

(a) Appropriations for commitment.

- The appropriations for commitment allocated in the initial budget can undergo certain modifications until the *final appropriations for commitment* to be implemented are obtained:

Final appropriations for commitment = initial budget (NDA and CA) ± supplementary and amending budgets ⁽⁵⁾ + supplementary receipts ⁽⁷⁾ ± transfers ⁽⁶⁾ + remaining commitment appropriations from the preceding financial year ⁽⁸⁾ + non-automatic carry-overs ⁽⁹⁾ from the preceding financial year (uncommitted NDA) + released commitment appropriations from preceding financial years.

- The final appropriations for commitment are available in the financial year for use in the form of *commitments entered into*.
- Non-utilization in year: Non-differentiated appropriations, which have not been committed, may be *carried over non-automatically* to the next financial year ⁽⁹⁾. Unutilized commitment appropriations (remaining at the close of the financial year) *remain available* for the next financial year ⁽⁸⁾.
- Appropriations which are not to be utilized are *cancelled*.

(b) Appropriations for payment of the financial year.

- These, like the appropriations for commitment, undergo modifications leading to the *final appropriations for payment*:
Final appropriations for payment = initial budget (NDA and PA) ± supplementary and amending budgets ⁽⁵⁾ + supplementary receipts ⁽⁷⁾ ± transfers ⁽⁶⁾.
- The final appropriations for payment are available in the financial year for use as *payments*.
- Non-utilization in year: Appropriations not paid may be carried over to the next financial year in the form of *automatic* ⁽¹⁰⁾ or *non-automatic* ⁽⁹⁾ carry-overs.
- Appropriations which are not to be utilized are *cancelled*.

(c) Appropriations for payment carried over from the preceding financial year (automatic and non-automatic carry-overs).

- In each financial year these appropriations (after possible transfers) are also available for use as payments ⁽¹¹⁾.
- Appropriations remaining unpaid after carry-over are cancelled, except in certain cases where carry-overs can be repeated ⁽¹²⁾.

1.9.4. *The revenue and expenditure account and the balance of the financial year*

After the closure of each financial year the *revenue and expenditure account* is drawn up and the *balance of the year*, which is to be carried forward and entered in the budget of the next financial year, is determined ⁽¹³⁾.

1.10. **Presenting the accounts**

Not later than 1 June of the year following the financial year, the Commission forwards to Parliament, Council and the Court of Auditors the accounts showing the implementation of the budget; the accounts include the *revenue and expenditure account* and the *balance sheet* and must be accompanied by an analysis of the financial management ⁽¹⁴⁾.

1.11. **External audit**

Before 1977 the external audit was ensured by the Audit Board of the European Communities.

As from 1977 the external audit of the general budget is carried out by the *Court of Auditors* ⁽¹⁵⁾. The Court of Auditors examines the accounts of revenue and expenditure of the general budget and considers whether revenue has been received and expenditure incurred in a *lawful and regular manner* and whether *the financial management has been sound*. The audits may be carried out *before the close of the financial year* in question. The audits may be performed *on the spot in the Institutions and in the Member States*. The results of the Court's examinations are set out in an *annual report* and in specific *observations and opinions*.

1.12. **Discharge and follow up**

As from 1977 the following provisions are applicable ⁽¹⁶⁾: Parliament, on the recommendation of the Council, gives, before 30 April of the second year following the financial year in question, *discharge to the Commission* on the implementation of the budget. To this end the Council and Parliament in turn examine the accounts presented by the Commission and the annual report of the Court of Auditors.

The Institutions must take appropriate action on the comments appearing in the decisions giving discharge and give an account of the measures taken ⁽¹⁷⁾.

⁽¹⁾ Obligatory expenditure is that resulting necessarily from the Treaties or from acts adopted in accordance with them.

⁽²⁾ Other than obligatory expenditure.

⁽³⁾ For details concerning the budgetary procedure see Articles 78 of the ECSC Treaty, 203 of the EEC Treaty and 177 of the Euratom Treaty.

⁽⁴⁾ See Article 8 of the Financial Regulation.

⁽⁵⁾ See Article 1 (5) of the Financial Regulation.

⁽⁶⁾ See Article 21 of the Financial Regulation.

⁽⁷⁾ See Article 87 of the Financial Regulation and Article 91 (2) of the modified Financial Regulation.

⁽⁸⁾ See Articles 6 (2) (a) and 88 (3) of the Financial Regulation.

⁽⁹⁾ See Article 6 (1) (b) of the Financial Regulation.

⁽¹⁰⁾ See Articles 6 (1) (c), 6 (2) (b) and 88 (4) of the Financial Regulation.

⁽¹¹⁾ In the following tables and diagrams the total of the payments against appropriations for payment of the financial year plus the payments against the appropriations for payment carried over from the preceding financial year are called **annual payments**.

⁽¹²⁾ See Article 108 (3) (a) and 108 (3) (b) of the Financial Regulation.

⁽¹³⁾ See Article 27 of the Financial Regulation and Article 15 of the Council Regulation (ECSC, EEC, Euratom) No 2891/77 (OJ No L 336, 27. 12. 1977). The calculation of the balance of 1979 is illustrated in diagram No 7 of this annex.

⁽¹⁴⁾ See Articles 73 to 77 of the Financial Regulation.

⁽¹⁵⁾ See Articles 78 (e, f) of the ECSC Treaty, 206 and 206 (a) of the EEC Treaty, 180 and 180 (a) of the Euratom Treaty and Articles 78 to 84 of the Financial Regulation.

⁽¹⁶⁾ See Articles 78 (g) of the ECSC Treaty, 206 (b) of the EEC Treaty, 180 (b) of the Euratom Treaty.

⁽¹⁷⁾ See Article 85 of the Financial Regulation.

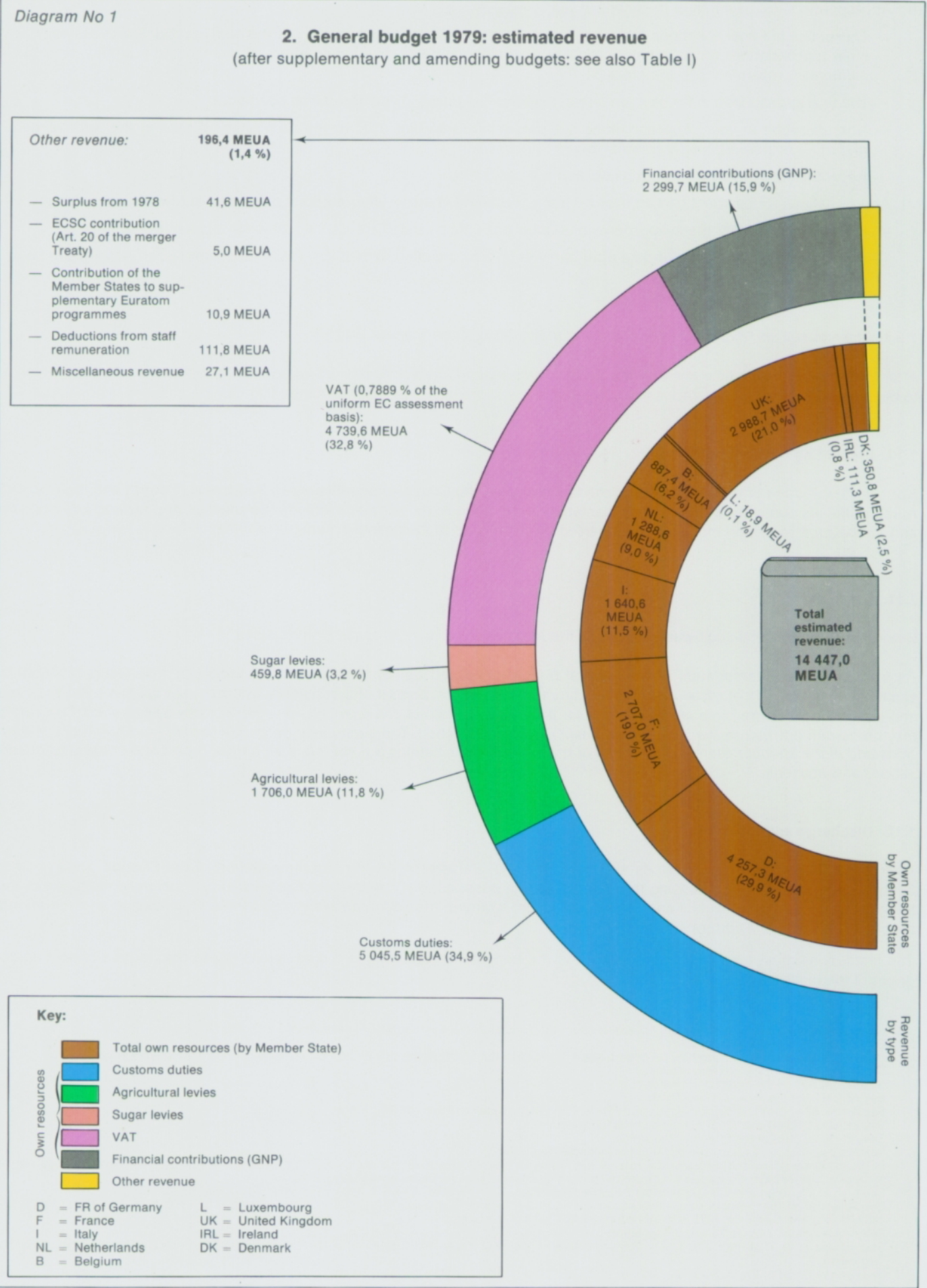


Diagram No 2

3. General budget 1979: estimated expenditure — appropriations for payment
(after supplementary and amending budgets: see Table III, column 2)

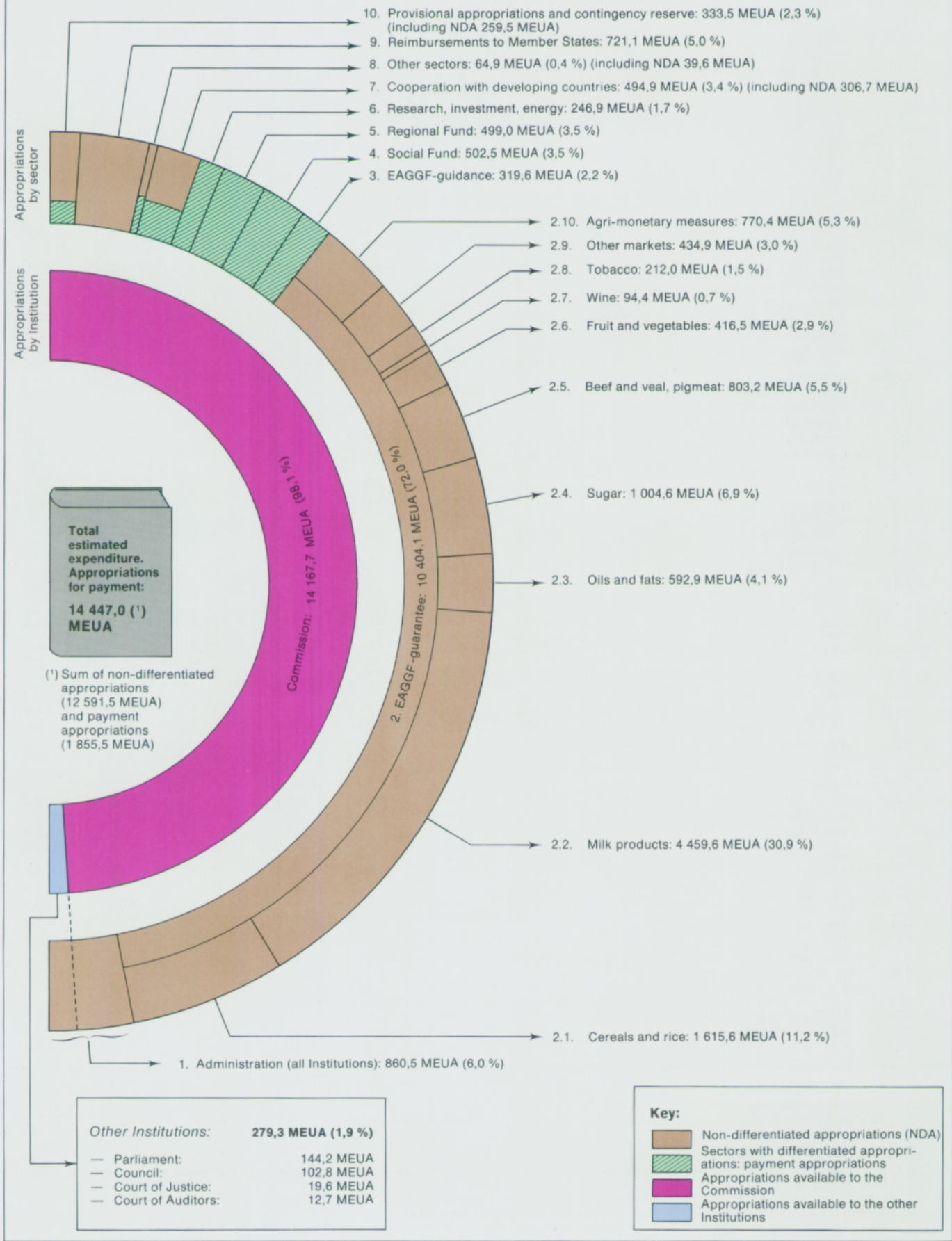


Diagram No 3

4. General budget 1979: appropriations for commitment
(after supplementary and amending budgets; see Table II, column 2)

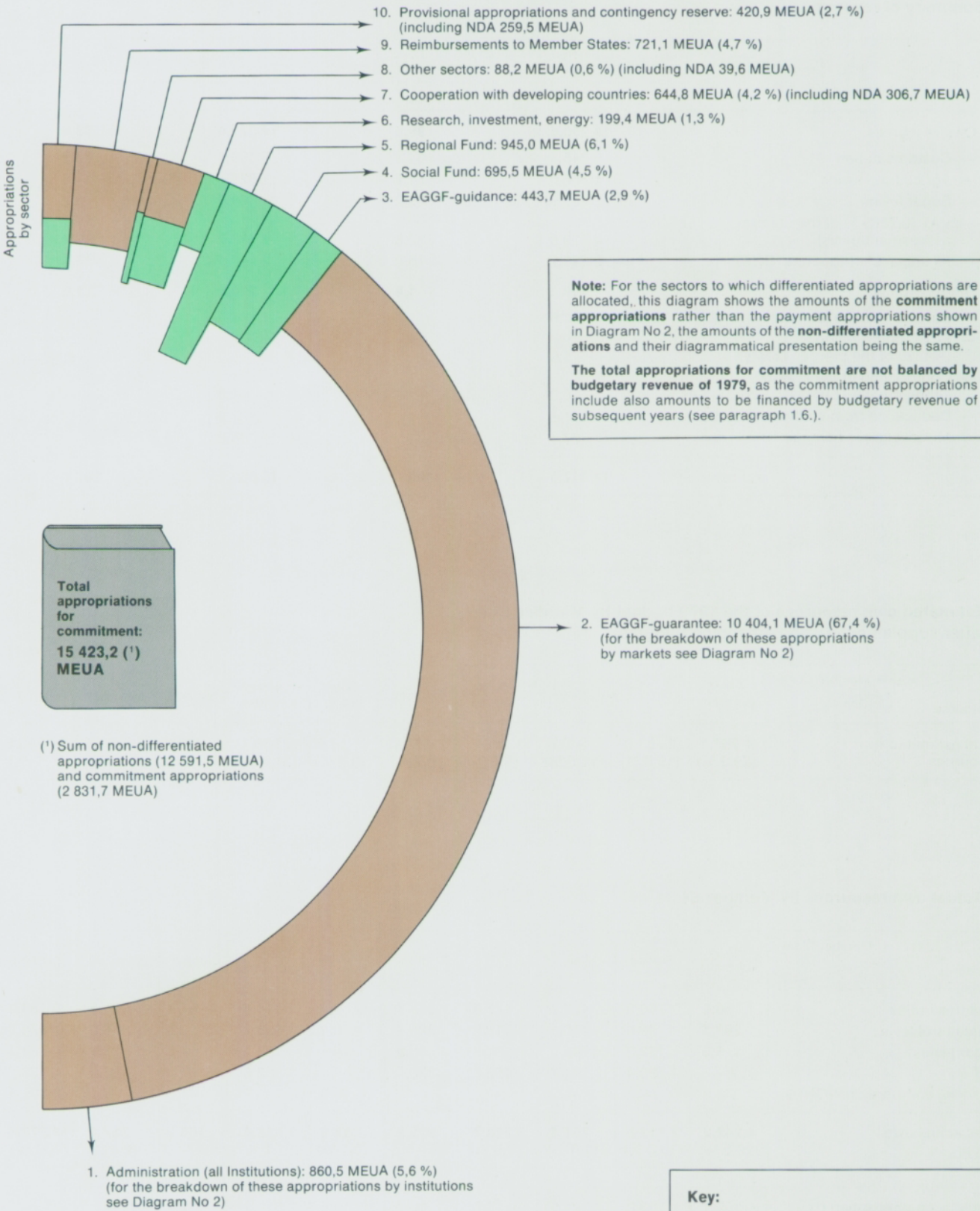


Table I
5. Estimated and actual revenue in 1979

A. Summary of revenue

	Estimated revenue of the 1979 budget (after supplementary and amending budgets)		Actual revenue in 1979	
	MEUA	%	MEUA	%
1. Own resources	14 250,6	98,6	14 372,4	98,4
— Customs duties	5 045,5	34,9	5 189,1	35,5
— Agricultural levies	1 706,0	11,8	1 678,6	11,5
— Sugar levies	459,8	3,2	464,9	3,2
— VAT (0,7889 % of the uniform assessment basis)	4 739,6	32,8	4 737,7	32,4
— Financial contributions (GNP)	2 299,7	15,9	2 302,1	15,8
2. Other revenue	196,4	1,4	230,2	1,6
— Surplus from 1978	41,6		41,6	
— ECSC contribution (Art. 20 of the merger Treaty)	5,0		5,0	
— Contribution of the Member States to supplementary Euratom programmes	10,9		10,9	
— Deductions from staff remuneration	111,8		107,9	
— Miscellaneous revenue	27,1		64,8	
Total revenue	14 447,0	100	14 602,7	100

B. Estimated own resources of the 1979 budget by Member State
(after supplementary and amending budgets)

(MEUA)										
Member State Resource	FR of Germany	France	Italy	Nether- lands	Belgium	Luxem- bourg	United Kingdom	Ireland	Denmark	EUR 9
Total estimated own resources	4 257,3 (29,9 %)	2 707,0 (19,0 %)	1 640,6 (11,5 %)	1 288,6 (9,0 %)	887,4 (6,2 %)	18,9 (0,1 %)	2 988,7 (21,0 %)	111,3 (0,8 %)	350,8 (2,5 %)	14 250,6 (100 %)

C. Actual own resources by Member State

(MEUA)										
Member State Resource	FR of Germany	France	Italy	Nether- lands	Belgium	Luxem- bourg	United Kingdom	Ireland	Denmark	EUR 9
Customs duties	1 586,6	754,2	497,2	485,6	335,7	3,8	1 344,6	57,1	124,3	5 189,1
Agricultural levies	263,7	96,5	410,6	313,2	229,7	0,1	353,2	3,6	8,0	1 678,6
Sugar levies	146,3	152,3	45,9	37,8	30,9	—	26,1	4,6	21,1	464,9
VAT	—	1 720,4	747,7	453,6	329,6	—	1 302,6	—	183,9	4 737,7
Financial contributions (GNP)	2 245,6	—	—	—	—	14,9	—	41,6	—	2 302,1
Total actual own resources	4 242,2 (29,5 %)	2 723,5 (19,0 %)	1 701,4 (11,8 %)	1 290,2 (9,0 %)	925,8 (6,4 %)	18,8 (0,1 %)	3 026,4 (21,1 %)	106,9 (0,7 %)	337,4 (2,4 %)	14 372,4 (100 %)
Financial compensation ⁽¹⁾	+ 165,1	+ 163,0	+ 91,9	+ 53,9	+ 40,7	+ 0,6	— 512,9	— 2,2	—	—
Actual shares after financial compensation	4 407,2 (30,7 %)	2 886,5 (20,1 %)	1 793,2 (12,5 %)	1 344,1 (9,3 %)	966,5 (6,7 %)	19,4 (0,1 %)	2 513,5 (17,5 %)	104,6 (0,7 %)	337,4 (2,4 %)	14 372,4 (100 %)

(1) Extra-budgetary financial compensation between Member States (Article 131 of the Act of Accession).

Table II

6. Appropriations for commitment available in 1979 and their utilization

(MEUA)

Utilization of appropriations Sector (the corresponding lines in the general budget are shown in brackets: section (S), title (T), chapter (Ch))		Type of appropriation: non-differentiated appropriations (NDA) commitment appropriation (CA)	1979 budget (after supplementary and amending budgets)	Final appropriations 1979 ⁽²⁾ (after adjustments by: transfers, supplementary receipts, CA remaining from 1978, released CA)	Commitments entered into in 1979 ⁽³⁾	Carry-overs to 1980			Cancellations
						NDA carried over non-automatically (Art. 6 (1) (b) of the FR)	CA remaining at the close of 1979 (Art. 6 (2) (a) and 88 (3) of the FR)	Total of carry-overs	
		(1)	(2)	(3)	(4)	(5)	(6)	(7)= (5)+(6)	(8)= (3)-(4)-(7)
1. Administration (all Institutions)		NDA	860,5	862,7	781,7	3,2	—	3,2	77,8
1.1. Commission (S III: T1 and 2)		NDA	581,2	583,4	555,1	0,1	—	0,1	28,2
1.2. Parliament (S I)		NDA	144,2	144,2	112,8	2,7	—	2,7	28,7
1.3. Council (S II)		NDA	102,8	102,8	87,3	0,4	—	0,4	15,1
1.4. Court of Justice (S IV)		NDA	19,6	19,6	16,9	—	—	—	2,7
1.5. Court of Auditors (S V)		NDA	12,7	12,7	9,6	—	—	—	3,1
2. EAGGF-guarantee (S III: T 6 and 7, Ch 88)		NDA	10 404,1	10 404,1	10 404,1	—	—	—	—
2.1. Cereals and rice (Ch 60, 61)		NDA	1 615,6	1 608,3	1 608,3	—	—	—	—
2.2. Milk products (Ch 62)		NDA	4 459,6	4 491,0	4 491,0	—	—	—	—
2.3. Oils and fats (Ch 63)		NDA	592,9	606,3	606,3	—	—	—	—
2.4. Sugar (Ch 64)		NDA	1 004,6	939,8	939,8	—	—	—	—
2.5. Beef and veal, pigmeat (Ch 65, 66)		NDA	803,2	852,1	852,1	—	—	—	—
2.6. Fruit and vegetables (Ch 68)		NDA	416,5	441,5	441,5	—	—	—	—
2.7. Wine (Ch 69)		NDA	94,4	61,3	61,3	—	—	—	—
2.8. Tobacco (Ch 70)		NDA	212,0	225,5	225,5	—	—	—	—
2.9. Other markets (Ch 67, 73, 74, 88)		NDA	434,9	468,9	468,9	—	—	—	—
2.10. Agri-monetary measures (Ch 75, 78)		NDA	770,4	709,4	709,4	—	—	—	—
3. EAGGF-guidance (S III: Ch 80 to 86)		CA	443,7	665,9 ⁽¹⁾	460,3 ⁽¹⁾	—	182,4	182,4	23,2
4. Social Fund (S III: Ch 50 to 53)		CA	695,5	823,9	774,5	—	49,3	49,3	—
5. Regional Fund (S III: Ch 55, 56)		CA	945,0	1 010,3	962,1	—	48,2	48,2	—
6. Research, investment, energy (S III: Ch 32, 33)		NDA+CA	199,4	454,4	317,8	—	111,8	111,8	24,9
6.1. Research and investm. (Ch 33)		CA	142,4	330,6 ⁽⁴⁾	248,5	—	78,7	78,7	3,4
6.2. Energy (Ch 32)		NDA	—	1,0	1,0	—	—	—	0,0
		CA	57,0	122,9	68,3	—	33,1	33,1	21,5
7. Cooperation with developing countries (S III: T 9)		NDA+CA	644,8	929,4	691,1	4,0	184,1	188,1	50,2
7.1. Food aid (Ch 92)		NDA	287,3	296,0	296,0	—	—	—	—
7.2. Financial aid (Ch 93 to 96)		NDA	19,4	57,9	51,1	4,0	—	4,0	2,8
		CA	338,1	575,5	344,0	—	184,1	184,1	47,4
8. Other sectors (S III: Ch 30, 31, 34, 35, 36, 37, 39, 47, 58, 59, 87, 89)		NDA+CA	88,2	165,2	82,8	2,8	55,2	58,0	24,4
		NDA	39,6	50,6	43,5	2,8	—	2,8	4,3
		CA	48,6	114,6	39,3	—	55,2	55,2	20,1
9. Reimbursements to Member States (S III: Ch 40, 57)		NDA	721,1	966,5	966,5	—	—	—	—
9.1. 10 % of own resources (Ch 40)		NDA	721,1	721,1	721,1	—	—	—	—
9.2. Subsidies and compensations EMS (Ch 57)		NDA	—	245,4	245,4	—	—	—	—
10. Provisional appropriations and contingency reserve (S III: T 10)		NDA+CA	420,9	46,4	—	—	—	—	46,4
		NDA	259,5	8,2	—	—	—	—	8,2
		CA	161,4	38,2	—	—	—	—	38,2
Total	Non-different. appropriations	NDA	12 591,5	12 647,0 ⁽²⁾	12 543,9 ⁽³⁾	9,9	—	9,9	93,2
	Commitment appropriations	CA	2 831,7	3 681,8	2 897,0	—	630,9	630,9	153,9
	Appropriations for commitment	NDA+CA	15 423,2	16 328,8 ⁽⁴⁾	15 440,9	9,9	630,9	640,8	247,1

(1) Excluding an amount of 44,9 MEUA representing the re-utilization of amounts released in accordance with Council Regulation (EEC) No 3171/75; this amount is included in Table III, 'Appropriations carried over from 1978'.

(2) Excluding non-automatic carry-overs from 1978 which are also available for commitments.

(3) Excluding the commitments entered into against non-automatic carry-overs from 1978.

(4) Including 14,1 MEUA representing supplementary receipts received in respect of services performed on behalf of outside bodies.

Table III

7. Appropriations for payment available in 1979 and their utilization

(MEUA)

Utilization of appropriations Sector (for the corresponding budgetary lines see Table II)		Type of appropriation: Non-differentiated appropriations (NDA) Payment appropriations (PA)	A. Appropriations for payment of the 1979 budget							B. Appropriations for payment carried over from 1978				C. Total of payments made in 1979
			1979 budget (after supplementary and amending budgets)	Final appropriations 1979 (after adjustments by transfers and supplementary receipts)	Payments made in 1979	Carry-overs to 1980			Cancellations	Automatic and non-automatic carry-overs (after transfers)	Payments made in 1979	Carry-overs to 1980 (Art. 108 (3) (a, b) of the FR)	Cancellations	
						Automatic carry-overs (Art. 6 (1) (c), 6 (2) (b), 88 (4) of the FR)	Non-automatic carry-overs (Art. 6 (1) (b) of the FR)	Total of carry-overs						
		(1)	(2)	(3)	(4)	(5)	(6)	(7)= (5)+(6)	(8)= (3)-(4) -(7)	(9)	(10)	(11)	(12)= (9)-(10) -(11)	(13)= (4)+(10)
1. Administration (all Institutions)		NDA	860,5	862,7	727,2	54,6	3,2	57,7	77,8	53,9	45,8	—	8,1	772,9
1.1. Commission		NDA	581,2	583,4	524,0	31,1	0,1	31,2	28,2	29,8	27,9	—	1,9	551,9
1.2. Parliament		NDA	144,2	144,2	98,7	14,1	2,7	16,8	28,7	14,5	10,4	—	4,2	109,0
1.3. Council		NDA	102,8	102,8	79,8	7,5	0,4	7,9	15,1	8,5	6,7	—	1,9	86,5
1.4. Court of Justice		NDA	19,6	19,6	15,7	1,2	—	1,2	2,7	0,7	0,6	—	0,1	16,3
1.5. Court of Auditors		NDA	12,7	12,7	9,0	0,6	—	0,6	3,1	0,3	0,2	—	0,1	9,2
2. EAGGF-guarantee		NDA	10 404,1	10 404,1	10 404,1	—	—	—	—	30,4	30,4	—	—	10 434,5
2.1. Cereals and rice		NDA	1 615,6	1 608,3	1 608,3	—	—	—	—	—	—	—	—	1 608,3
2.2. Milk products		NDA	4 459,6	4 491,0	4 491,0	—	—	—	—	30,4	30,4	—	—	4 521,4 (7)
2.3. Oils and fats		NDA	592,9	606,3	606,3	—	—	—	—	—	—	—	—	606,3
2.4. Sugar		NDA	1 004,6	939,8	939,8	—	—	—	—	—	—	—	—	939,8
2.5. Beef and veal, pigmeat		NDA	803,2	852,1	852,1	—	—	—	—	—	—	—	—	852,1
2.6. Fruit and vegetables		NDA	416,5	441,5	441,5	—	—	—	—	—	—	—	—	441,5
2.7. Wine		NDA	94,4	61,3	61,3	—	—	—	—	—	—	—	—	61,3
2.8. Tobacco		NDA	212,0	225,5	225,5	—	—	—	—	—	—	—	—	225,5
2.9. Other markets		NDA	434,9	468,9	468,9	—	—	—	—	—	—	—	—	468,9
2.10. Agri-monetary measures		NDA	770,4	709,4	709,4	—	—	—	—	—	—	—	—	709,4
3. EAGGF-guidance		NDA+PA	319,6	304,2	91,2	213,0	—	213,0	—	858,6	312,2	435,4	111,1	403,4
		NDA	—	—	—	—	—	—	—	571,9	128,3	435,4	8,2 (5)	128,3
		PA	319,6	304,2	91,2	213,0	—	213,0	—	286,7	183,9	—	102,9	275,1
4. Social Fund		PA	502,5	530,0	296,8	233,2	—	233,2	—	299,5	298,8	—	0,7	595,7
5. Regional Fund		PA	499,0	499,0	160,0	339,0	—	339,0	—	353,2	353,2	—	—	513,1
6. Research, investment, energy		NDA+PA	246,9	267,9	141,9	125,6	—	125,6	0,4	146,9	112,0	—	34,9	253,9
6.1. Research, investment		PA	196,4	217,4 (1)	140,5	76,5	—	76,5	0,4	100,7	84,6	—	16,1 (5)	225,1
6.2. Energy		NDA	—	1,0	0,3	0,7	—	0,7	0,0	—	—	—	—	0,3
		PA	50,5	49,5	1,1	48,4	—	48,4	—	46,2	27,4	—	18,8	28,5
7. Cooperation with developing countries		NDA+PA	494,9	541,6	230,7	304,1	4,0	308,1	2,8	210,8	174,7	—	36,1	405,4
7.1. Food aid		NDA	287,3	296,0	158,9	137,1	—	137,1	—	100,1	100,1	—	—	259,0
7.2. Financial aid		NDA	19,4	57,9 (2)	45,8	5,3	4,0	9,3	2,8	6,4	6,2	—	0,2	52,0
		PA	188,2	187,7	26,0	161,7	—	161,7	—	104,3 (4)	68,4	—	35,9	94,4
8. Other sectors		NDA+PA	64,9	85,4	34,1	44,2	2,8	47,0	4,3	84,6	54,2	22,5	7,9	88,3
		NDA	39,6	50,6	23,1	20,4	2,8	23,2	4,3	60,9	33,5	22,5	4,9 (5)	56,6
		PA	25,3	34,8	11,0	23,8	—	23,8	—	23,7	20,7	—	3,0	31,7
9. Reimbursements to Member States		NDA	721,1	966,5	839,4	127,0	—	127,0	—	60,8	60,4	—	0,4	899,9
9.1. 10 % of own resources		NDA	721,1	721,1	666,1	55,0	—	55,0	—	60,8	60,4	—	0,4	726,6
9.2. Subsidies and compensations EMS		NDA	—	245,4	173,3	72,0	—	72,0	—	—	—	—	—	173,3
10. Provisional appropriations and contingency reserve		NDA+PA	333,5	27,0	—	—	—	—	27,0	—	—	—	—	—
		NDA	259,5	8,2	—	—	—	—	8,2	—	—	—	—	—
		PA	74,0	18,8	—	—	—	—	18,8	—	—	—	—	—
Total	Non-differentiated appropriations	NDA	12 591,5	12 647,0	12 198,8	345,1	9,9	355,0	93,2	884,5	404,8	457,9	21,8	12 603,6
	Payment appropriations	PA	1 855,5	1 841,3	726,5	1 095,7	—	1 095,7	19,2	1 214,4	1 037,0	—	177,4 (3)	1 763,5
	Appropriations for payment	NDA+PA	14 447,0	14 488,3	12 925,3	1 440,8	9,9	1 450,7	112,4	2 098,9	1 441,8	457,9	199,2	14 367,1

(1) Including 11,3 MEUA representing supplementary receipts received in respect of services performed on behalf of outside bodies.

(2) Including a 'transfer' of 30,0 MEUA from carry-overs from 1978 'Financial Aid (PA)'.

(3) Payments between institutions have not been deducted from the total payments.

(4) After a 'transfer' of 30,0 MEUA to the 1979 appropriations 'Financial Aid (NDA)'.

(5) Including adjustments to balances of commitments due to changes in EUA rates: 6,7 MEUA under 'EAGGF-guidance' and 1,3 MEUA under 'Other sectors (Ch 58)'.

(6) Including a reduction of carry-overs from 1978 (0,2 MEUA), which are not covered by receipts received in respect of services performed on behalf of outside bodies.

(7) Further payments of 203,5 MEUA covering expenditure relating to 1979 have been charged against 1980 appropriations; see corresponding explanations in Chapter 4 of the annual report.

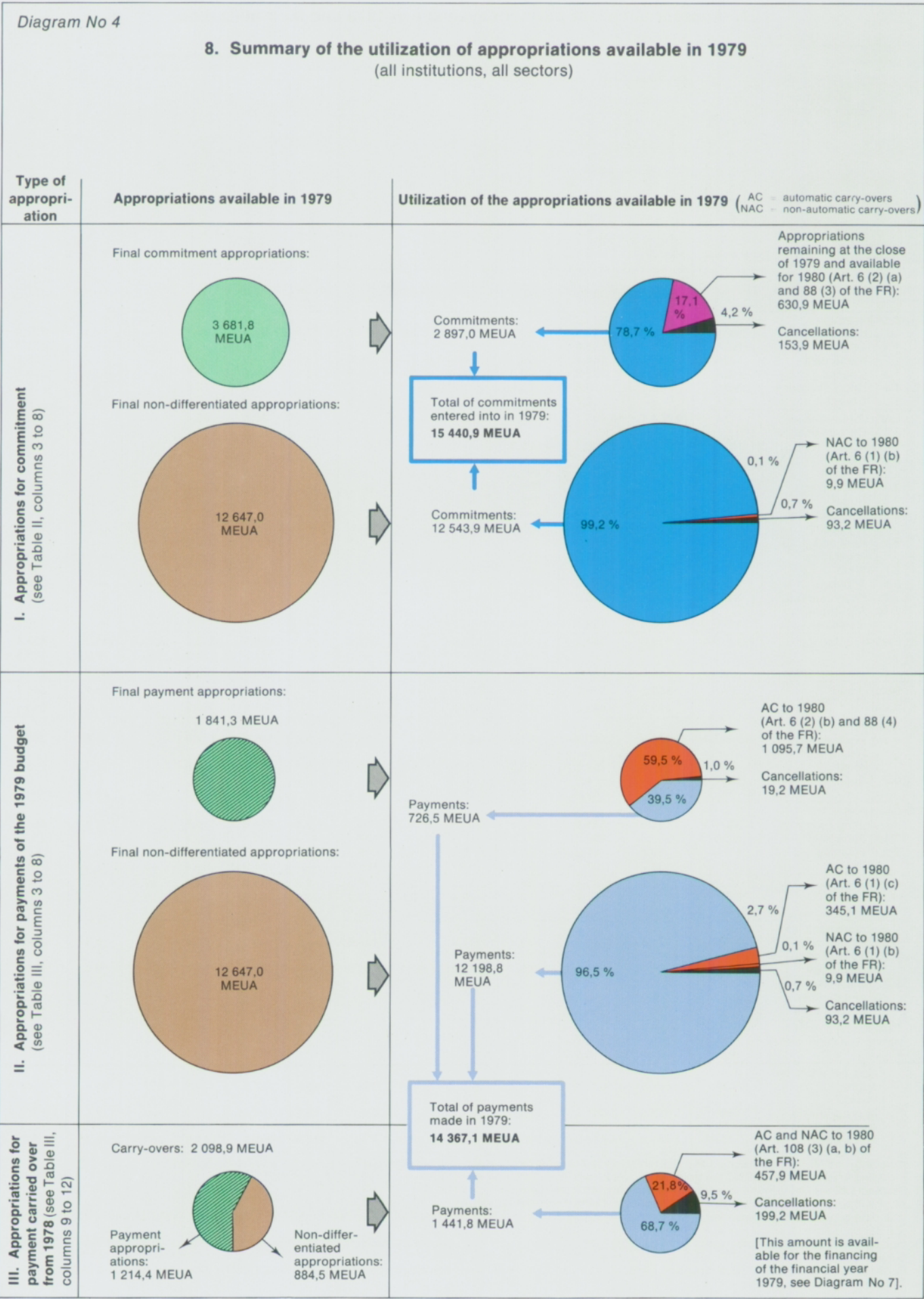
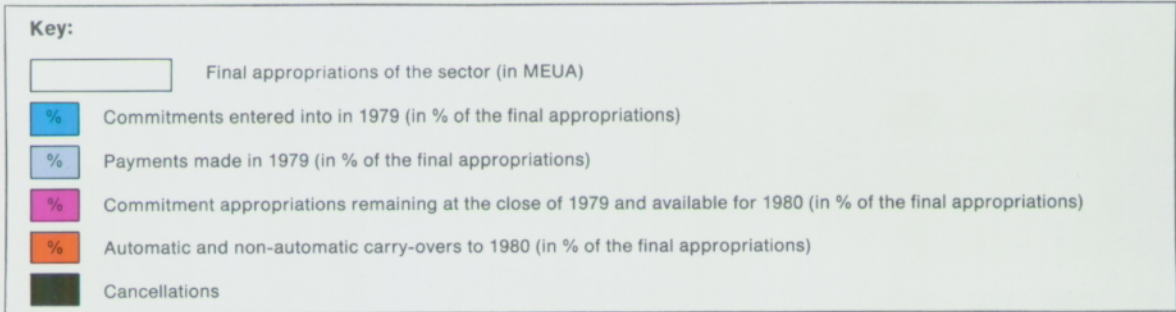
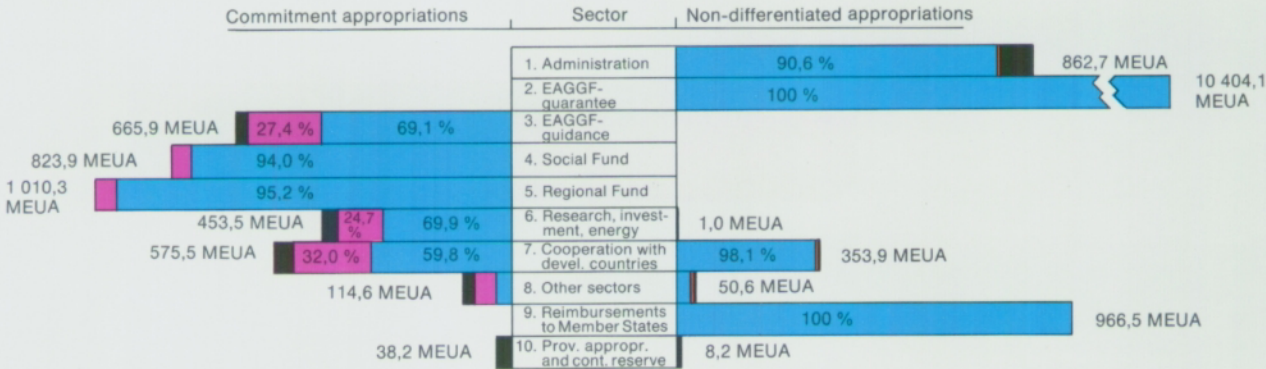


Diagram No 5

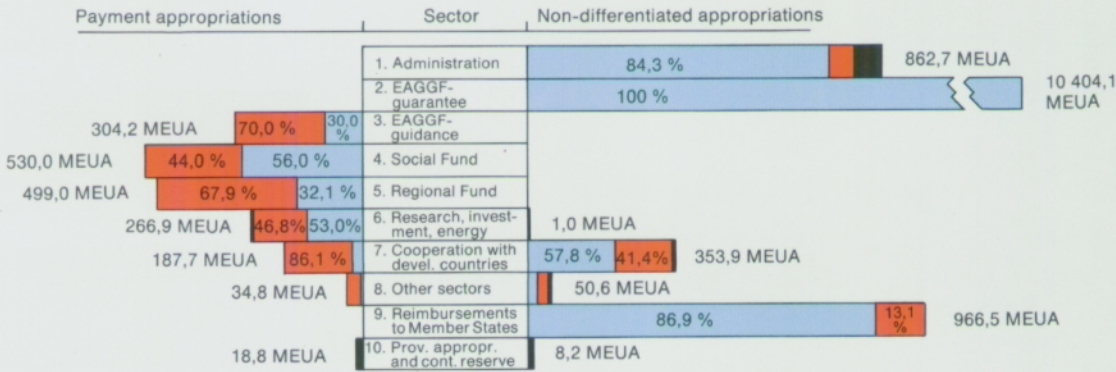
9. Utilization of appropriations available in 1979 – by sector



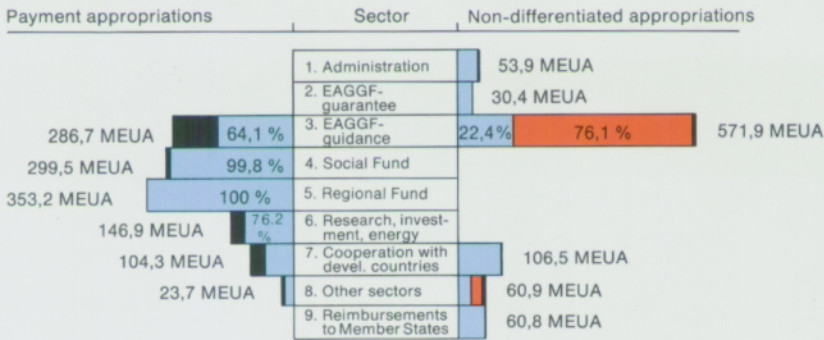
I. Utilization of the appropriations for commitment available in 1979:
(See Table II, columns 3 to 8)



II. Utilization of the appropriations for payment of the 1979 budget:
(See Table III, columns 3 to 8)



III. Utilization of the appropriations for payment carried over from 1978:
(See Table III, columns 9 to 12)



10. Actual own resources in 1979 — by Member State
(for detailed figures see Table I-C)

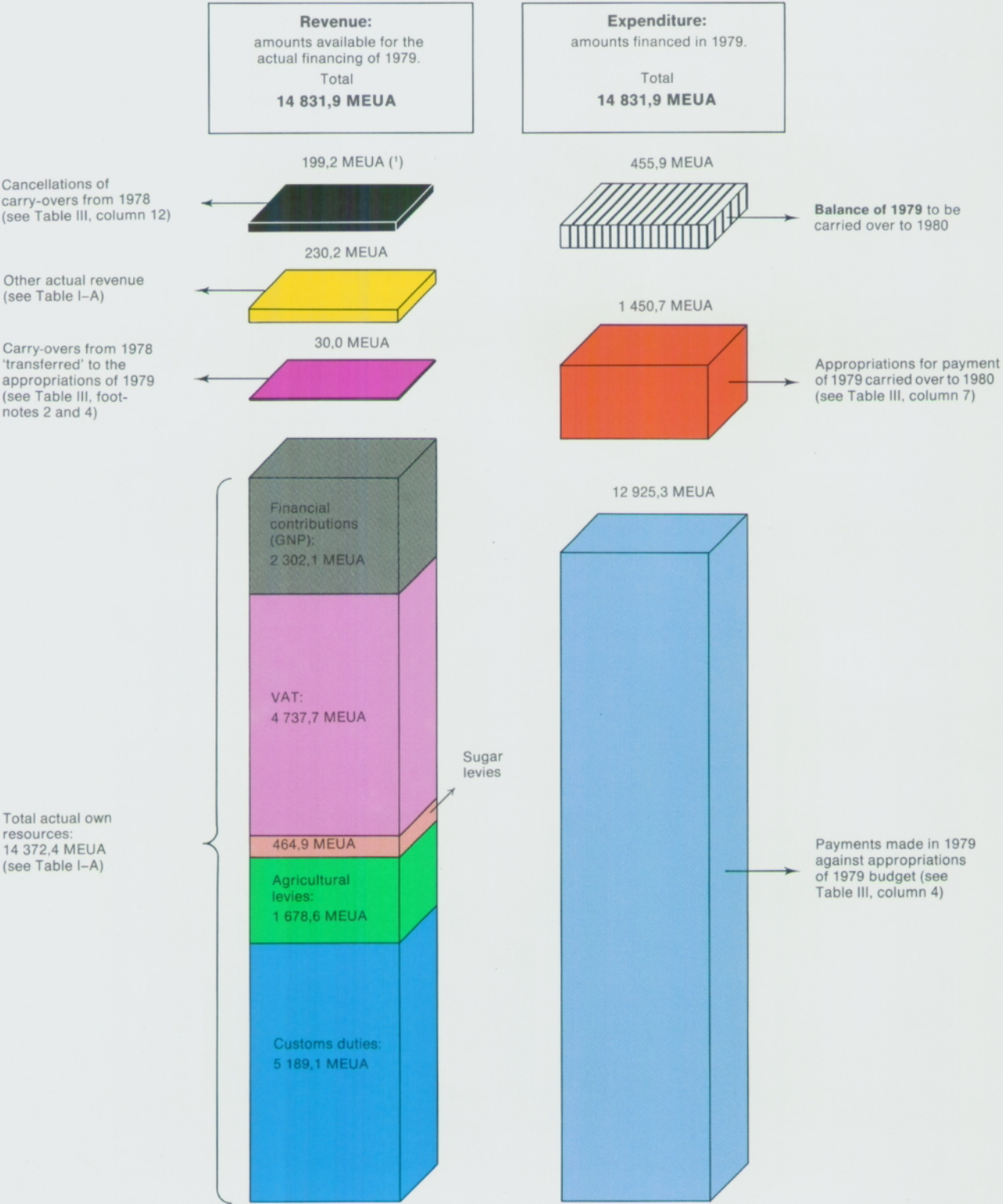
Diagram No 6



Diagram No 7

11. The revenue and expenditure account and the balance of the financial year 1979

(application of Article 15 of Council Regulation (ECSC, EEC, Euratom) No 2891/77)



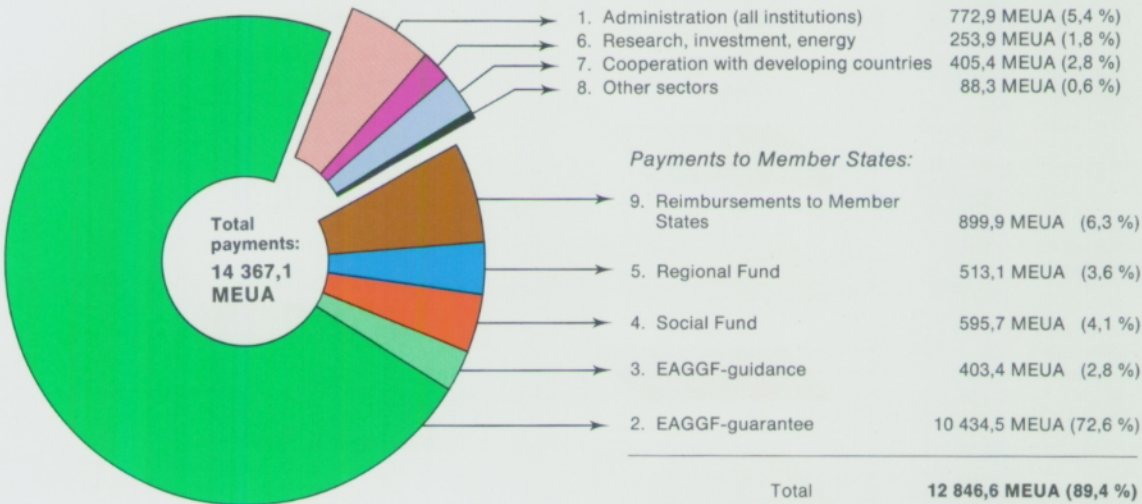
(1) This amount of 199,2 MEUA has already been financed in previous financial years. Cancellation of this amount (after nonutilization) makes it available for the actual financing of the financial year 1979.

Diagram No 8

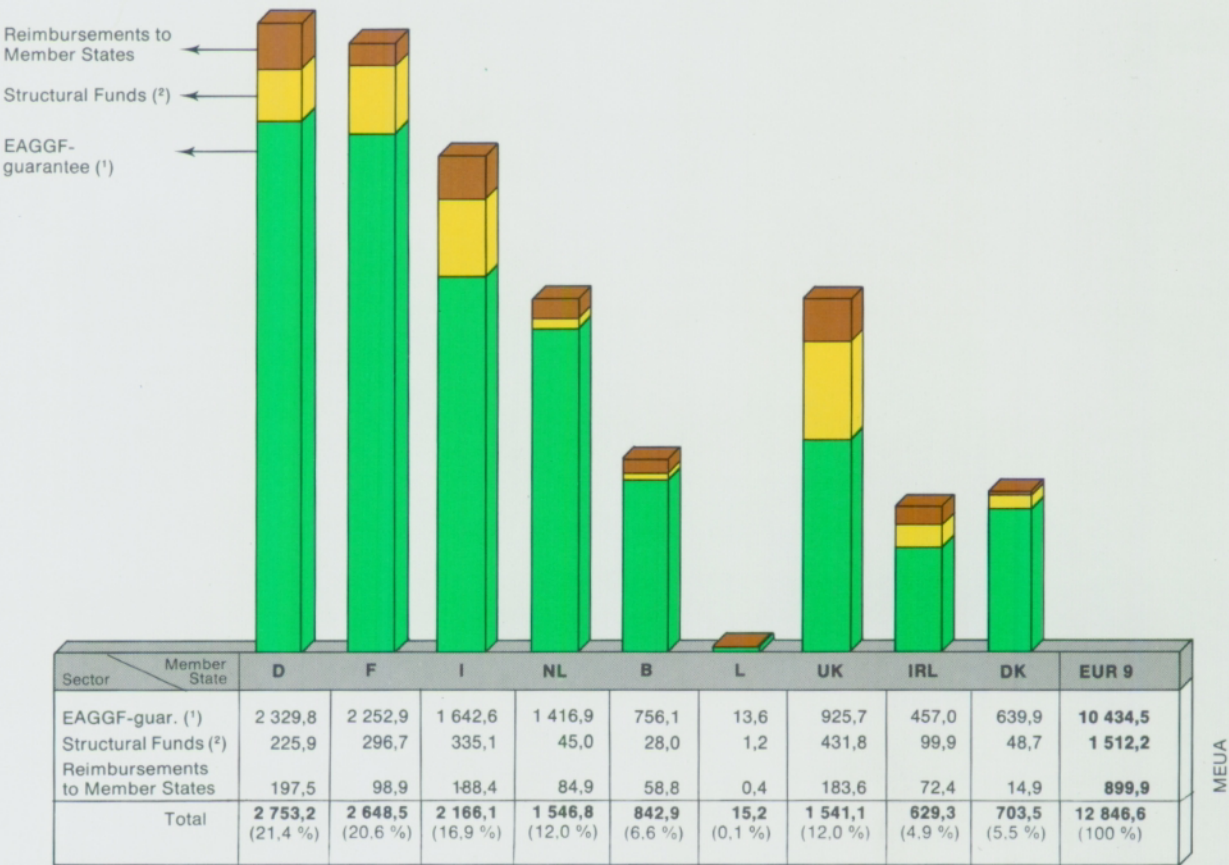
12. Payments made in 1979 — by sector and by recipient Member State

Note: Payments made in 1979 = payments against 1979 appropriations plus payment against carry-overs from 1978.

(A) By sector:
(for detailed figures see Table III, column 13)



(B) By recipient Member State:
(for detailed figures see Table VI, year 1979)



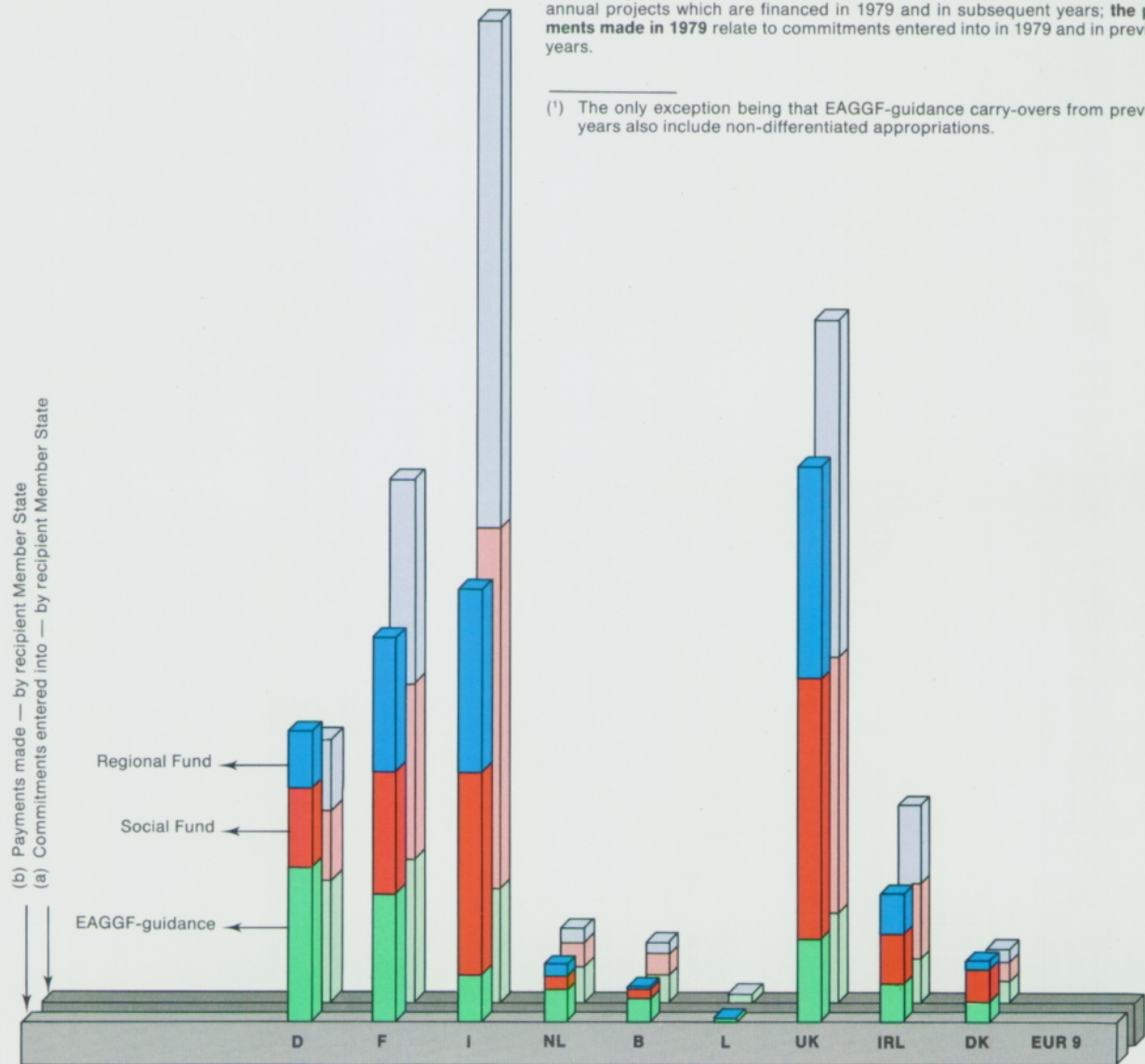
(1) The payments under EAGGF-guarantee set out here include 'adjusted monetary compensatory amounts' (see Table VI, note 2 and footnote 3).
(2) Structural Funds: EAGGF-guidance, Social Fund, Regional Fund.

Diagram No 9

13. The structural Funds: commitments entered into and payments made in 1979 — by recipient Member State

Note:
The structural Funds (EAGGF-guidance, Social Fund, Regional Fund) are provided with differentiated appropriations ⁽¹⁾, which comprise both commitment appropriations and payment appropriations with different financial incidence (see paragraph 1.6.). The **commitments entered into in 1979** relate to multi-annual projects which are financed in 1979 and in subsequent years; the **payments made in 1979** relate to commitments entered into in 1979 and in previous years.

⁽¹⁾ The only exception being that EAGGF-guidance carry-overs from previous years also include non-differentiated appropriations.



3. EAGGF-guidance	(a) Commitments	93,1	110,1	86,6	27,2	21,6	2,8	69,5	33,0	16,4	460,3
	(b) Payments	118,5	99,4	35,1	25,3	17,1	0,6	64,2	28,2	15,1	403,4
4. Social Fund	(a) Commitments	52,9	134,8	281,2	19,3	16,0	1,0	196,5	58,1	14,7	774,5
	(b) Payments	61,4	93,7	156,3	11,1	7,8	0,3	201,9	38,8	24,5	595,7
5. Regional Fund	(a) Commitments	59,1	159,4	388,1	11,3	9,1	0,8	261,0	62,2	11,1	962,1
	(b) Payments	46,0	103,6	143,7	8,6	3,1	0,3	165,7	32,9	9,1	513,1
Total	(a) Commitments	205,1 (9,4 %)	404,3 (18,4 %)	755,9 (34,4 %)	57,8 (2,6 %)	46,7 (2,1 %)	4,6 (0,2 %)	527,0 (24,0 %)	153,3 (7,0 %)	42,2 (1,9 %)	2 196,9 (100 %)
	(b) Payments	225,9 (14,9 %)	296,7 (19,6 %)	335,1 (22,2 %)	45,0 (3,0 %)	28,0 (1,9 %)	1,2 (0,1 %)	431,8 (28,5 %)	99,9 (6,6 %)	48,7 (3,2 %)	1 512,2 (100 %)

MEUA

Table IV

14. Utilization of the appropriations for payment for the period 1973-79 (principal sectors)

			1. Appropriations for the financial year					II. Carry-overs from the previous financial year				III.
			Budget (after supplementary and amending budgets)	Final appropriations (after supplementary receipts and transfers)	Payments	Carry-overs to the following financial year	Cancellations	Carry-overs (after transfers)	Payments	Carry-overs to the following financial year	Cancellations	Total annual payments
			(1)	(2)	(3)	(4)	(5)= (2)-(3)-(4)	(6)	(7)	(8)	(9)= (6)-(7)-(8)	(10)= (3)+(7)
General budget — total —	1973	m.u.a.	5 134,5	5 134,5	3 533,9	1 402,4	198,1	1 330,1	470,7	577,9	281,6	4 004,6
	1974		5 225,0	5 225,0	3 440,4	1 687,6	97,0	1 980,3	1 076,0	635,3	269,0	4 516,4
	1975		6 268,3	6 268,3	5 004,7	1 238,2	25,4	2 322,9	1 406,6	885,6	30,7	6 411,2
	1976		8 470,6	8 470,6	6 257,2	1 986,7	226,7	2 123,8	1 030,4	800,7	292,7	7 287,6
	1977		9 584,3	9 584,3	7 227,3	1 670,5	686,5	2 787,4	1 477,6	894,4	415,3	8 704,9
	1978	MEUA	12 362,7	12 377,5	10 733,8	1 527,7	115,9	2 007,0	1 239,2	601,2	166,6	11 973,1
	1979		14 447,0	14 488,3 ⁽¹⁾	12 925,3	1 450,7	112,4	2 098,9 ⁽²⁾	1 441,8	457,9	199,2	14 367,1
2. EAGGF-guarantee	1973	m.u.a.	3 806,5	3 833,2	2 978,3	854,8	0,0	410,3	195,9	—	214,4	3 174,2
	1974		3 513,1	3 443,6	2 641,8	797,0	4,7	854,8	636,0	—	218,8	3 277,9
	1975		4 240,5	4 336,3	4 003,5	332,9	—	827,3 ⁽³⁾	818,0	—	9,4	4 821,5
	1976		5 877,7	5 835,3	5 040,8	677,7	116,7	332,9	324,2	—	8,6	5 365,0
	1977		7 101,6	7 103,1	5 571,0	1 022,8	509,4	677,7	595,9	—	81,9	6 166,8
	1978	MEUA	8 695,3	8 679,3	8 648,8	30,4	—	633,8	629,8	—	4,0	9 278,6
	1979		10 404,1	10 404,1	10 404,1	—	—	30,4	30,4	—	—	10 434,5
3. EAGGF-guidance	1973	m.u.a.	350,0	350,0	4,8	178,0	167,2	716,0	118,9	577,9	19,1	123,7
	1974		325,0	325,0	18,0	245,6	61,5	755,9	110,4	635,3 ⁽⁴⁾	10,2	128,4
	1975		325,0	262,5	38,4	223,8	0,3	880,9 ⁽⁴⁾	145,9	730,8	4,2	184,3
	1976		325,0	325,0	67,4	257,6	0,0	954,6	150,8	800,7	3,1	218,2
	1977		157,8	157,8	79,9	77,9	—	1 058,3	216,8	838,7	2,8	296,7
	1978	MEUA	423,5	444,5	141,8	302,7	—	801,2	181,8	571,9	47,5	323,6
	1979		319,6	304,2	91,2	213,0	—	858,6 ⁽⁵⁾	312,2	435,4	111,1	403,4
4. Social Fund	1973	m.u.a.	283,0	283,0	21,0	262,0	0,0	42,7	29,0	—	13,7	49,9
	1974		327,8	327,8	10,1	315,2	2,5	262,0	227,4	—	34,6	237,5
	1975		366,1	366,1	8,0	354,0	4,2	284,9 ⁽⁶⁾	128,3	154,8	1,7	136,3
	1976		441,0	443,0	10,2	429,2	3,6	508,8	246,1	—	262,7	256,3
	1977		172,4	172,4	115,4	57,1	—	429,2	201,5	—	227,7	316,9
	1978	MEUA	538,8	538,8	239,3	299,5	—	45,5	45,5	—	—	284,8
	1979		502,5	530,0	296,8	233,2	—	299,5	298,8	—	0,7	595,7
5. Regional Fund	1973	m.u.a.	—	—	—	—	—	—	—	—	—	—
	1974		—	—	—	—	—	—	—	—	—	—
	1975		150,0	150,0	90,7	59,3	—	—	—	—	—	90,7
	1976		300,0	300,0	218,0	82,0	—	59,3	59,3	—	—	277,3
	1977		400,0	400,0	290,5	109,5	—	82,0	82,0	—	—	372,5
	1978	MEUA	525,0	525,0	171,8	353,2	—	83,1	83,1	—	—	254,9
	1979		499,0	499,0	160,0	339,0	—	353,1	353,2	—	—	513,1
6. Research, investment, energy	1973	m.u.a.	74,7	74,7	60,8	9,1	4,8	12,3	11,5	—	0,8	72,3
	1974		109,1	110,6	69,7	39,2	1,7	9,1	8,0	—	1,1	77,7
	1975		121,0	126,2	77,9	46,9	1,4	39,2	38,4	—	0,8	116,3
	1976		165,2	165,2	84,1	63,4	17,7	46,9	34,0	—	12,9	118,1
	1977		217,3	214,9	106,0	101,8	7,1	63,4	37,3	—	26,1	143,2
	1978	MEUA	235,3	271,1	123,5	146,9	0,6	103,3	68,2	—	35,1	191,7
	1979		246,9	267,9	141,9	125,6	0,4	146,9	112,0	—	34,9	253,9
7. Cooperation with developing countries	1973	m.u.a.	111,1	61,1	52,8	8,1	0,3	82,8	52,0	—	30,8	104,8
	1974		282,7	325,6	160,8	163,5	1,2	8,1	7,9	—	0,2	168,7
	1975		288,1	252,8	171,5	81,0	0,3	163,5	152,7	—	10,8	324,2
	1976		301,4	320,3	57,5	214,9	47,9	81,0	79,3	—	1,7	136,8
	1977		255,2	257,4	70,6	179,9	6,9	214,9	145,3	—	69,5	215,9
	1978	MEUA	380,6	381,7	138,5	240,8	2,4	184,5	126,7	—	57,8	265,2
	1979		494,9	541,6 ⁽¹⁾	230,7	308,1	2,8	210,8 ⁽²⁾	174,7	—	36,1	405,4

(1) Including a 'transfer' of 30,0 MEUA from carry-overs from 1978 'Cooperation with developing countries'.

(2) After a 'transfer' of 30,0 MEUA to the 1979 appropriations 'Cooperation with developing countries'.

(3) Including a transfer on carry-overs of 30,3 m.u.a. from the Social Fund.

(4) By comparison with the revenue and expenditure account these figures have been rectified to include an amount of 0,9 m.u.a. (Item 8 200), which was in fact not cancelled in 1974 but was carried over to 1975.

(5) After deduction of 16,0 MEUA (Chapter 87), which appear in 1979 under 'other sectors'.

(6) After a transfer of 30,3 m.u.a. to the EAGGF-guarantee.

Diagram No 10

15. Utilization rates of the appropriations for payment for the period 1973-79 (principal sectors)

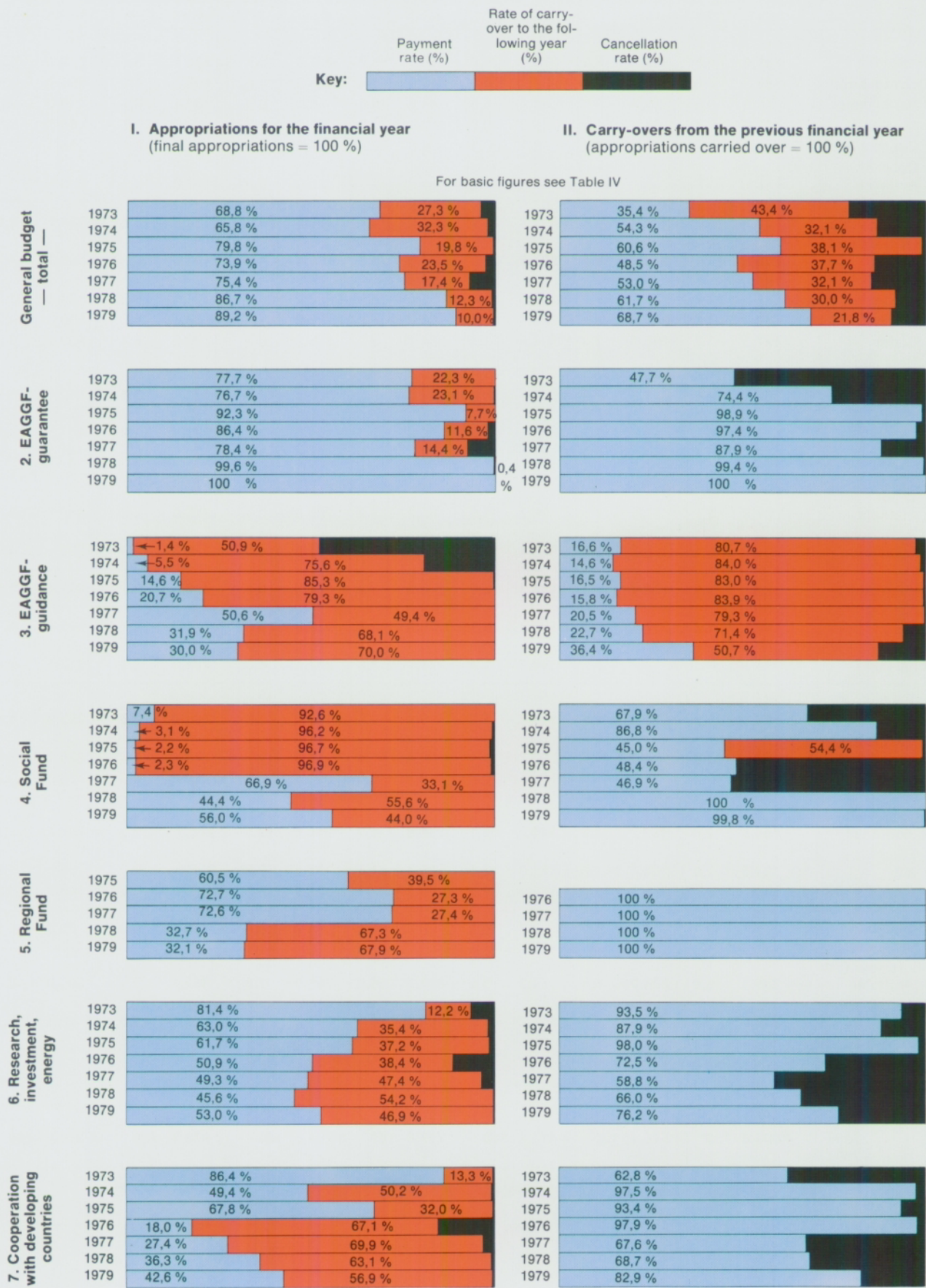


Table V

16. Evolution of annual payments ⁽¹⁾ by sector (1973-79)

Sector \ Year	1973		1974		1975		1976		1977		1978		1979	
	m.u.a.	%	m.u.a.	%	m.u.a.	%	m.u.a.	%	m.u.a.	%	MEUA	%	MEUA	%
1. Administration	239,4	6,0	336,7	7,5	375,0	5,8	419,7	5,8	497,0	5,7	676,7	5,7	772,9	5,4
1.1. Commission	183,8	4,6	262,2	5,8	282,7	4,4	313,9	4,4	366,5	4,2	492,0	4,1	551,9	3,8
1.2. Parliament	22,6	0,6	30,7	0,7	38,9	0,6	44,6	0,6	58,5	0,7	84,1	0,7	109,0	0,8
1.3. Council	27,6	0,7	36,5	0,8	45,2	0,7	52,0	0,7	61,0	0,7	79,0	0,7	86,5	0,6
1.4. Court of Justice	5,4	0,1	7,2	0,2	8,1	0,1	9,2	0,1	10,7	0,1	14,7	0,1	16,3	0,1
1.5. Court of Auditors	—	—	—	—	—	—	—	—	0,3	0,0	7,0	0,1	9,2	0,1
2. EAGGF-guarantee	3 174,2	79,3	3 277,9	72,6	4 821,5	75,2	5 365,0	73,6	6 166,8	70,9	9 278,6	77,5	10 434,5	72,6
2.1. Cereals and rice	846,6	21,1	475,3	10,5	697,8	10,9	631,0	8,6	425,3	4,9	1 196,6	10,0	1 608,3	11,2
2.2. Milk products	1 508,3	37,7	1 251,7	27,7	1 116,0	17,4	2 052,6	28,2	2 603,9	29,9	3 381,6	28,3	4 521,4	31,5
2.3. Oils and fats	49,4	1,2	289,5	6,4	333,4	5,2	307,0	4,2	98,8	1,1	543,1	4,5	606,3	4,2
2.4. Sugar	127,5	3,2	108,4	2,4	301,9	4,7	234,7	3,2	536,7	6,2	770,2	6,4	939,8	6,5
2.5. Beef and veal, pigmeat	103,0	2,6	371,9	8,3	1 051,7	16,4	691,7	9,5	396,4	4,5	661,7	5,5	852,1	5,9
2.6. Fruit and vegetables	6,5	0,2	51,6	1,1	79,2	1,2	144,8	2,0	199,6	2,3	227,4	1,9	441,5	3,1
2.7. Wine	3,1	0,1	49,8	1,1	111,4	1,7	62,1	0,9	187,7	2,2	89,0	0,8	61,3	0,4
2.8. Tobacco	57,3	1,4	133,6	3,0	210,0	3,3	213,3	2,9	241,0	2,8	313,8	2,6	225,5	1,6
2.9. Other markets	67,9	1,7	67,6	1,5	96,7	1,5	163,2	2,2	205,8	2,4	315,6	2,6	468,9	3,3
2.10. Agri-monetary measures	404,6	10,1	478,5	10,6	823,4	12,9	864,6	11,9	1 271,6	14,6	1 779,6	14,9	709,4	4,9
3. EAGGF-guidance	123,7	3,1	128,4	2,8	184,3	2,9	218,2	3,0	296,7	3,4	323,6	2,7	403,4	2,8
4. Social Fund	49,9	1,2	237,5	5,3	136,3	2,1	256,3	3,5	316,9	3,6	284,8	2,4	595,7	4,1
5. Regional Fund	—	—	—	—	90,7	1,4	277,3	3,8	372,5	4,3	254,9	2,1	513,1	3,6
6. Research, investment, energy	72,3	1,8	77,7	1,7	116,3	1,8	118,1	1,6	143,2	1,6	191,7	1,6	253,9	1,8
6.1. Research, investment	72,3	1,8	77,7	1,7	90,8	1,4	102,4	1,4	129,8	1,5	173,1	1,4	225,1	1,6
6.2. Energy	—	—	—	—	25,5	0,4	15,7	0,2	13,4	0,1	18,6	0,2	28,8	0,2
7. Cooperation with devel. countries	104,8	2,6	168,7	3,7	324,2	5,1	136,8	1,9	215,9	2,5	265,2	2,2	405,4	2,8
7.1. Food aid	104,8	2,6	106,4	2,3	191,8	3,0	116,0	1,6	187,4	2,2	236,0	2,0	259,0	1,8
7.2. Financial aid	—	—	62,3	1,4	132,4	2,1	20,8	0,3	28,5	0,3	29,2	0,2	146,4	1,0
8. Other sectors	3,7	0,1	5,5	0,1	8,8	0,2	23,8	0,3	30,9	0,4	35,5	0,3	88,3	0,6
9. Reimbursements to Member States	236,5	5,9	284,0	6,3	354,2	5,5	472,3	6,5	665,0	7,6	662,1	5,5	899,9	6,3
9.1. 10 % of own resources	236,5	5,9	284,0	6,3	354,2	5,5	472,3	6,5	665,0	7,6	662,1	5,5	726,6	5,1
9.2. Subsidies and compensations EMS	—	—	—	—	—	—	—	—	—	—	—	—	173,3	1,2
Total ⁽²⁾	4 004,6	100	4 516,4	100	6 411,2	100	7 287,6	100	8 704,9	100	11 973,1	100	14 367,1	100

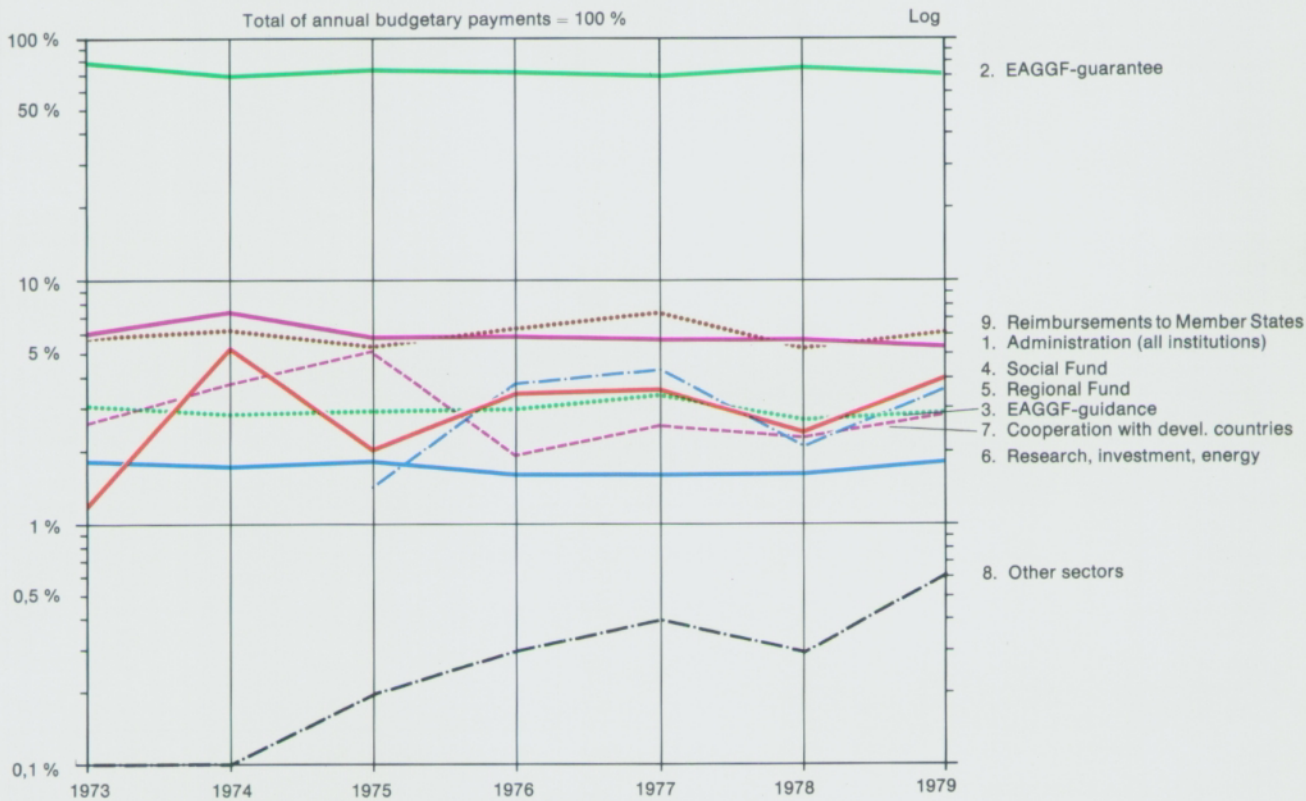
(1) Annual payments = payments against appropriations of the financial year plus payments against carry-overs from the previous financial year.

(2) Payments between institutions have not been deducted.

Diagram No 11

17. Evolution of the ratio of 'annual payments by sector' to 'total of annual budgetary payments' (1973-79)
(For detailed figures see Table V)

(A) General budget (all sectors):



(B) EAGGF-guarantee (all markets):

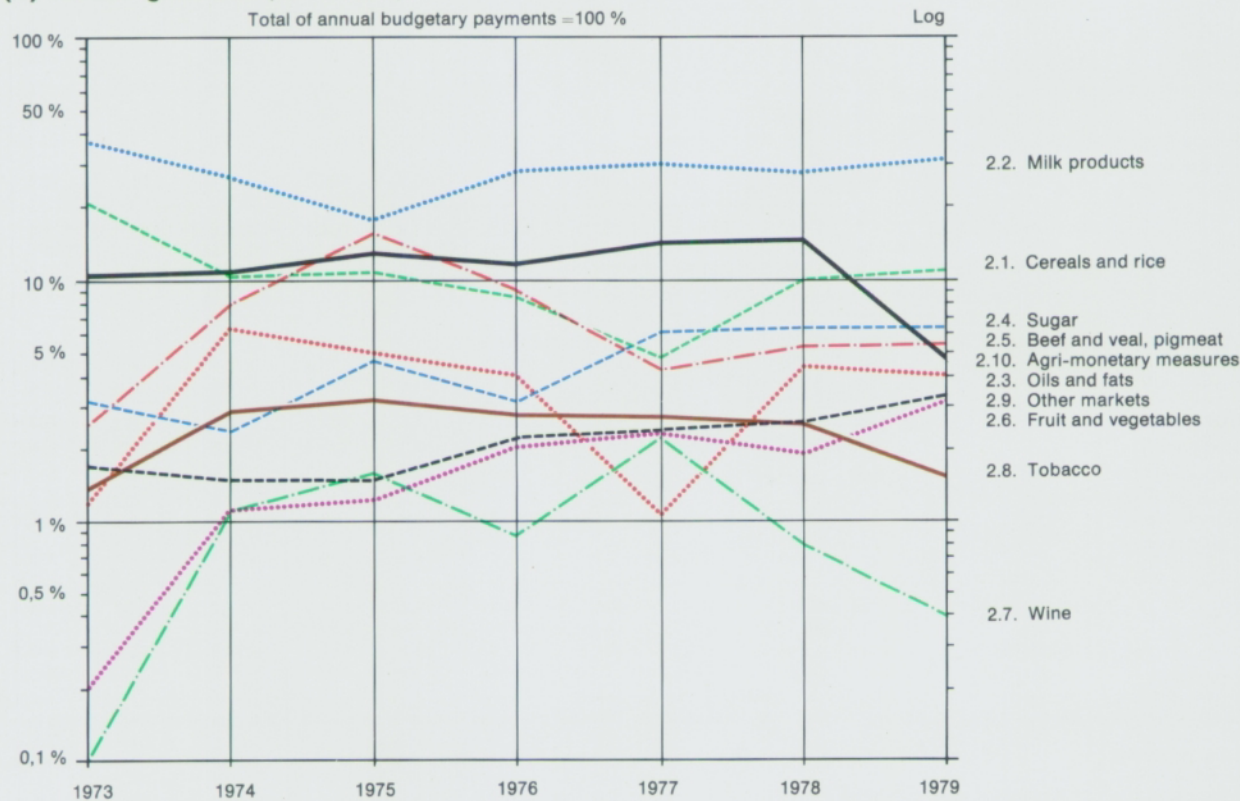


Table VI

18. Annual payments to the Member States by sector (1976-79)**Notes:**

1. This table summarizes the annual payments to the Member States under the principal sectors.
Annual payments = payments against appropriations for the financial year plus payments against carry-overs from the previous year.
2. Payments to the Member States under the EAGGF, Guarantee Section are shown in the table under two headings:
(a) payments including 'non-adjusted' monetary compensatory amounts (MCA);
(b) payments including 'adjusted MCAs'.
The difference between the two concepts arises from the application of Article 2 (a) of Council Regulation (EEC) No 974/71 of 12 May 1971, under which exporting Member States themselves pay directly the MCA due on import in certain importing Member States (United Kingdom, Italy). The adjustment consists in allocating to the latter the amounts which are chargeable to them.

			FR of Germany	France	Italy	Nether- lands	Belgium	Luxem- bourg	United Kingdom	Ireland	Den- mark	EUR 9
1976 (m.u.a.)	2. EAGGF-guarantee	(a) Non-adjusted MCA	880,0	1 417,6	819,7	756,8	337,2	8,1	468,2	245,0	432,4	5 365,0
		(b) Adjusted MCA	850,2	1 375,3	876,2	696,1	327,4	8,1	689,4	186,4	355,9	5 365,0
	3. EAGGF-guidance		49,9	44,7	37,9	14,9	11,1	0,4	43,5	9,3	6,5	218,2
	4. Social Fund		59,5	29,8	37,6	12,9	9,3	0,0	66,2	11,2	20,0	246,4 ⁽¹⁾
	5. Regional Fund		13,3	28,9	112,9	5,4	6,1	0,4	88,3	18,0	4,0	277,3
	9.1. Reimbursement of 10 % of own resources		114,9	69,5	82,3	52,1	32,4	0,3	106,8	3,4	10,5	472,3
	Total	(a) Non-adjusted MCA	1 117,6 (17,0 %)	1 590,5 (24,2 %)	1 090,4 (16,6 %)	842,1 (12,8 %)	398,1 (6,0 %)	9,2 (0,1 %)	773,0 (11,7 %)	286,9 (4,4 %)	473,4 (7,2 %)	6 579,2 ⁽¹⁾ (100 %)
		(b) Adjusted MCA	1 087,8 (16,5 %)	1 548,2 (23,5 %)	1 148,9 (17,4 %)	781,4 (11,9 %)	386,3 (5,9 %)	9,2 (0,1 %)	994,2 (15,1 %)	228,3 (3,5 %)	396,9 (6,1 %)	6 579,2 ⁽¹⁾ (100 %)
1977 (m.u.a.)	2. EAGGF-guarantee	(a) Non-adjusted MCA	1 245,9	1 572,4	470,2	887,3	418,6	8,1	351,4	588,1	624,8	6 168,8
		(b) Adjusted MCA	1 112,6	1 310,3	785,4	723,9	377,8	8,0	1 020,7	400,1	428,0	6 168,8
	3. EAGGF-guidance		69,7	59,3	34,3	19,9	16,6	2,2	65,4	14,8	14,5	296,7
	4. Social Fund		38,0	35,6	89,6	8,1	6,6	0,0	102,3	26,4	9,7	316,2 ⁽²⁾
	5. Regional Fund		24,9	45,8	149,5	2,8	2,8	0,1	118,6	22,1	5,8	372,5
	9.1. Reimbursement of 10 % of own resources		130,1	85,2	130,0	68,5	47,7	0,3	183,1	5,8	14,3	665,0
	Total	(a) Non-adjusted MCA	1 508,6 (19,3 %)	1 796,3 (23,0 %)	873,6 (11,2 %)	986,6 (12,6 %)	492,3 (6,3 %)	10,7 (0,1 %)	820,8 (10,5 %)	657,2 (8,4 %)	669,1 (8,6 %)	7 817,2 ⁽²⁾ (100 %)
		(b) Adjusted MCA	1 375,3 (17,6 %)	1 536,2 (19,7 %)	1 188,8 (15,2 %)	823,2 (10,5 %)	451,5 (5,8 %)	10,6 (0,1 %)	1 490,1 (19,1 %)	469,2 (6,0 %)	472,3 (6,0 %)	7 817,2 ⁽²⁾ (100 %)
1978 (MEUA)	2. EAGGF-guarantee	(a) Non-adjusted MCA	2 489,0	1 739,4	1 353,0	1 273,9	601,8	23,9	439,1	552,2	806,3	9 278,6
		(b) Adjusted MCA	2 316,1	1 450,9	1 771,5	1 094,9	558,8	23,9	1 153,4	341,3	567,8	9 278,6
	3. EAGGF-guidance		125,1	60,5	31,3	16,3	15,7	1,4	40,5	16,8	16,0	323,6
	4. Social Fund		52,7	52,2	29,0	14,6	12,0	0,1	89,5	30,9	3,7	284,8
	5. Regional Fund		42,2	40,6	78,5	6,5	6,0	0,2	59,0	20,5	1,4	254,9
	9.1. Reimbursement of 10 % of own resources		180,3	90,8	96,1	86,5	51,0	0,3	138,1	5,4	13,6	662,1
	Total	(a) Non-adjusted MCA	2 889,3 (26,7 %)	1 983,5 (18,4 %)	1 587,9 (14,7 %)	1 397,8 (12,9 %)	686,5 (6,4 %)	25,9 (0,2 %)	766,2 (7,1 %)	625,8 (5,8 %)	841,0 (7,8 %)	10 804,0 (100 %)
		(b) Adjusted MCA	2 716,4 (25,1 %)	1 695,0 (15,7 %)	2 006,4 (18,6 %)	1 218,8 (11,3 %)	643,5 (6,0 %)	25,9 (0,2 %)	1 480,5 (13,7 %)	414,9 (3,8 %)	602,5 (5,6 %)	10 804,0 (100 %)
1979 (MEUA)	2. EAGGF-guarantee	(a) Non-adjusted MCA	2 473,6	2 450,0	1 306,2	1 534,2	789,4	13,6	525,5	573,9	768,1	10 434,5 ⁽³⁾
		(b) Adjusted MCA	2 329,8	2 252,9	1 642,6	1 416,9	756,1	13,6	925,7	457,0	639,9	10 434,5 ⁽³⁾
	3. EAGGF-guidance		118,5	99,4	35,1	25,3	17,1	0,6	64,2	28,2	15,1	403,4
	4. Social Fund		61,4	93,7	156,3	11,1	7,8	0,3	201,9	38,8	24,5	595,7
	5. Regional Fund		46,0	103,6	143,7	8,6	3,1	0,3	165,7	32,9	9,1	513,1
	9.1. Reimbursement of 10 % of own resources		197,5	98,9	96,2	84,9	58,8	0,4	168,6	6,3	14,9	726,6
	9.2. Subsidies and compensations EMS		—	—	92,2	—	—	—	15,0	66,1	—	173,3
Total	(a) Non-adjusted MCA		2 897,0 (22,6 %)	2 845,6 (22,1 %)	1 829,7 (14,2 %)	1 664,1 (13,0 %)	876,2 (6,8 %)	15,2 (0,1 %)	1 140,9 (8,9 %)	746,2 (5,8 %)	831,7 (6,5 %)	12 846,6 (100 %)
	(b) Adjusted MCA		2 753,2 (21,4 %)	2 648,5 (20,6 %)	2 166,1 (16,9 %)	1 546,8 (12,0 %)	842,9 (6,6 %)	15,2 (0,1 %)	1 541,1 (12,0 %)	629,3 (4,9 %)	703,5 (5,5 %)	12 846,6 (100 %)

- (1) Not including payments of 9,9 m.u.a. (Social Fund) for which the breakdown by Member State cannot be ascertained without unwarranted expenditure of time.
- (2) Not including payments of 0,7 m.u.a. (Social Fund) for which the breakdown by Member State cannot be ascertained without unwarranted expenditure of time.
- (3) For 1979 the breakdown of the annual payments under the EAGGF-guarantee has been established on the basis of the advances paid to the Member States.

Table VII

19. Actual own resources by Member State (1973-79)

Type of own resources:

(I) = customs duties, agricultural levies, sugar levies

(II) = VAT, financial contributions (GNP)

Member State	1973		1974		1975		1976		1977		1978 (1)		1979 (1)	
	m.u.a.	%	m.u.a.	%	m.u.a.	%	m.u.a.	%	m.u.a.	%	MEUA	%	MEUA	%
FR of Germany														
I	731,2		861,4		992,4		1 187,0		1 090,7		1 811,4		1 996,6	
II	600,3		554,6		662,1		920,8		1 028,2		1 716,1		2 245,6	
Total	1 331,5	29,0	1 416,0	28,5	1 654,5	28,1	2 107,8	27,3	2 118,9	25,8	(A) 3 527,4	29,4	(A) 4 242,2	29,5
											(B) 3 737,6	31,1	(B) 4 407,2	30,7
France														
I	448,7		562,0		595,4		742,4		707,3		909,2		1 003,0	
II	686,8		630,2		750,6		909,8		954,1		1 275,4		1 720,4	
Total	1 135,5	24,8	1 192,3	24,0	1 346,0	22,8	1 652,2	21,4	1 661,4	20,3	(A) 2 184,6	18,2	(A) 2 723,5	19,0
											(B) 2 315,0	19,3	(B) 2 886,5	20,1
Italy														
I	403,5		508,0		580,6		934,3		1 191,5		954,9		953,7	
II	468,7		405,7		449,9		382,4		176,8		700,3		747,7	
Total	872,2	19,0	913,7	18,4	1 030,5	17,5	1 316,6	17,1	1 368,3	16,7	(A) 1 655,1	13,8	(A) 1 701,4	11,8
											(B) 1 734,5	14,4	(B) 1 793,2	12,5
Netherlands														
I	280,6		297,9		403,8		586,4		564,5		872,8		836,6	
II	152,2		154,3		124,5		88,6		136,9		320,4		453,6	
Total	432,8	9,4	452,2	9,1	528,3	9,0	675,0	8,8	701,5	8,6	(A) 1 193,2	9,9	(A) 1 290,2	9,0
											(B) 1 238,1	10,3	(B) 1 344,1	9,3
Belgium														
I	175,7		215,4		268,2		371,4		400,6		502,3		596,3	
II	161,6		137,5		129,3		126,6		116,9		239,8		329,6	
Total	337,3	7,4	352,9	7,1	397,5	6,7	498,0	6,5	517,5	6,3	(A) 742,1	6,2	(A) 925,8	6,4
											(B) 776,2	6,5	(B) 966,5	6,7
Luxembourg														
I	3,0		4,5		3,5		3,4		2,6		3,7		3,9	
II	5,2		4,1		6,2		8,5		9,3		9,5		14,9	
Total	8,2	0,2	8,6	0,2	9,7	0,2	11,9	0,1	11,9	0,1	(A) 13,3	0,1	(A) 18,8	0,1
											(B) 14,2	0,1	(B) 19,4	0,1
United Kingdom														
I	402,5		548,7		799,6		1 250,2		1 577,8		1 427,5		1 723,9	
II	—		—		—		—		—		897,7		1 302,6	
Total	402,5	8,8	548,7	11,0	799,6	13,6	1 250,2	16,2	1 577,8	19,2	(A) 2 325,2	19,4	(A) 3 026,4	21,1
											(B) 1 843,8	15,4	(B) 2 513,5	17,5
Ireland														
I	12,7		17,3		25,2		39,4		49,8		55,4		65,3	
II	—		—		—		—		—		32,2		41,6	
Total	12,7	0,3	17,3	0,3	25,2	0,4	39,4	0,5	49,8	0,6	(A) 87,7	0,7	(A) 106,9	0,7
											(B) 69,3	0,6	(B) 104,6	0,7
Denmark														
I	38,6		52,6		72,4		113,8		120,7		137,0		153,4	
II	12,6		17,3		29,4		45,4		72,4		138,2		183,9	
Total	51,3	1,1	69,9	1,4	101,8	1,7	159,2	2,1	193,0	2,4	(A) 275,2	2,3	(A) 337,4	2,4
											(B) 275,2	2,3	(B) 337,4	2,4
EUR 9														
I	2 486,6		3 087,7		3 741,1		5 228,2		5 705,7		6 674,2		7 332,6	
II	2 087,3		1 903,8		2 152,0		2 482,1		2 494,5		5 329,7		7 039,8	
Total	4 583,9	100	4 971,5	100	5 893,1	100	7 710,3	100	8 200,2	100	(A) 12 003,9	100	(A) 14 372,4	100
											(B) 12 003,9	100	(B) 14 372,4	100

(1) In 1978 and 1979 two totals, (A) and (B), are shown: (A) represents total own resources (I + II), (B) shows the actual shares of the Member States after the extra-budgetary financial compensation (Article 131 of the Treaty of Accession).

Part II: The European Development Funds (EDF) (situation at 31 December 1979)

20. General information on the four Funds

Summary

	1st EDF	2nd EDF (Yaoundé I)	3rd EDF (Yaoundé II)	4th EDF (Lomé)
(a) Legal basis	Convention provided for under Article 136 of the Treaty of Rome and annexed thereto	Yaoundé Convention I of 20 July 1963 (OJ No 93, 11. 6. 1964)	Yaoundé Convention II of 29 July 1969 (OJ No L 282, 28. 12. 1970)	— Lomé Convention of 28 February 1975 (OJ No L 25, 30. 1. 1976) — Council Decision 76/568/EEC of 29 June 1966 (OJ No L 176, 1. 7. 1976)
(b) Financial provisions	— Council Regulation No 5 (OJ No 33, 31. 12. 1958) — Council Regulation No 6 (OJ No 33, 31. 12. 1958) — Commission Regulation No 7 (OJ No 12, 25. 2. 1959) — Commission Regulation No 123 (OJ No 79, 30. 8. 1962)	— Internal Agreement (OJ No 93, 11. 6. 1964) — Council Financial Regulation 64/356/EEC (OJ No 93, 11. 6. 1964) — Commission Regulation No 62/65 (OJ No 81, 11. 5. 1965)	— Council Financial Regulation 71/68/EEC (OJ No L 31, 8. 2. 1971) — Internal Agreement (OJ No L 31, 8. 2. 1971) — Council Regulation (EEC) No 2798/73 of 14 May 1973 (OJ No L 288, 15. 10. 1973)	— Financial Regulation No 76/647/EEC of 27 July 1976 (OJ No L 229, 20. 8. 1976) — Internal Agreement of 11 July 1975 (OJ No L 25, 30. 1. 1976) last amended on 19 March 1979 (OJ No L 72, 23. 3. 1979) — Council Decision 75/250/EEC of 21 April 1975 (OJ No L 104, 24. 4. 1975)
(c) Initial allocations	581,3 m.u.a. = 581,3 MEUA (1)	730,0 m.u.a. = 730,0 MEUA (1)	900,0 m.u.a. = 900,0 MEUA (1)	3 150,0 MEUA
(d) Financing of the initial allocations (see also Diagram No 12)	Contributions from the six Community Member States (before enlargement)			Contributions from the nine Community Member States (after enlargement)
(e) Duration scheduled	Five years: 1959–64	Five years + extension: 1964–70	Five years + extension: 1971–76	Five years: 1976–80
(f) Type of aids (see also Diagram No 12)	Grants	Grants and special loans	Grants and special loans	Grants, special loans, risk capital, Stabex
(g) Recipient countries and territories (see also Table IX)	Associated African States and Madagascar (AASM) and overseas countries and territories (OCT) and French overseas departments (OD)			African, Caribbean and Pacific States (ACP) and OCT/OD
(h) Implementation of the EDF	By the Commission of the European Communities			
(i) Audit	By the Audit Board until 1976; as from the financial year 1977 by the Court of Auditors of the European Communities			
(j) Authority giving discharge	The Council	The Council	The Council	Parliament on the recommendation of the Council
(k) Intervention of the European Investment Bank within the framework of the EDF Conventions	—	Loans: 70 m.u.a.	Loans: 100 m.u.a.	Loans: 400 MEUA

(1) The European unit of account (EUA) was introduced in the Lomé Convention. After the introduction of the EUA in the 4th Fund, it was agreed to adopt the conversion rate 1 u.a. = 1 EUA for the first three Funds.

Diagram No 12

21. The four Funds: initial allocations and their financing, type of aids, utilization rates

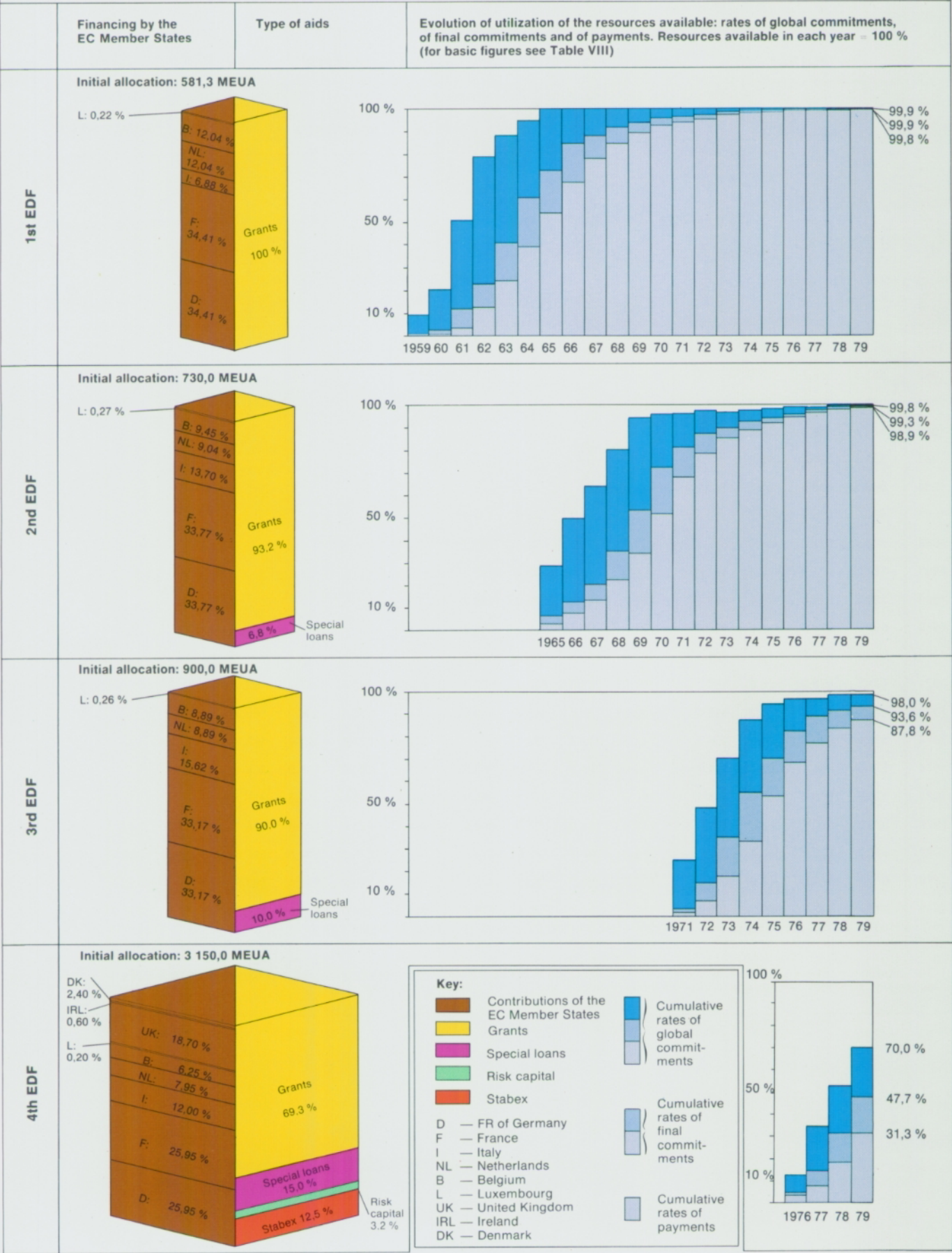


Table VIII

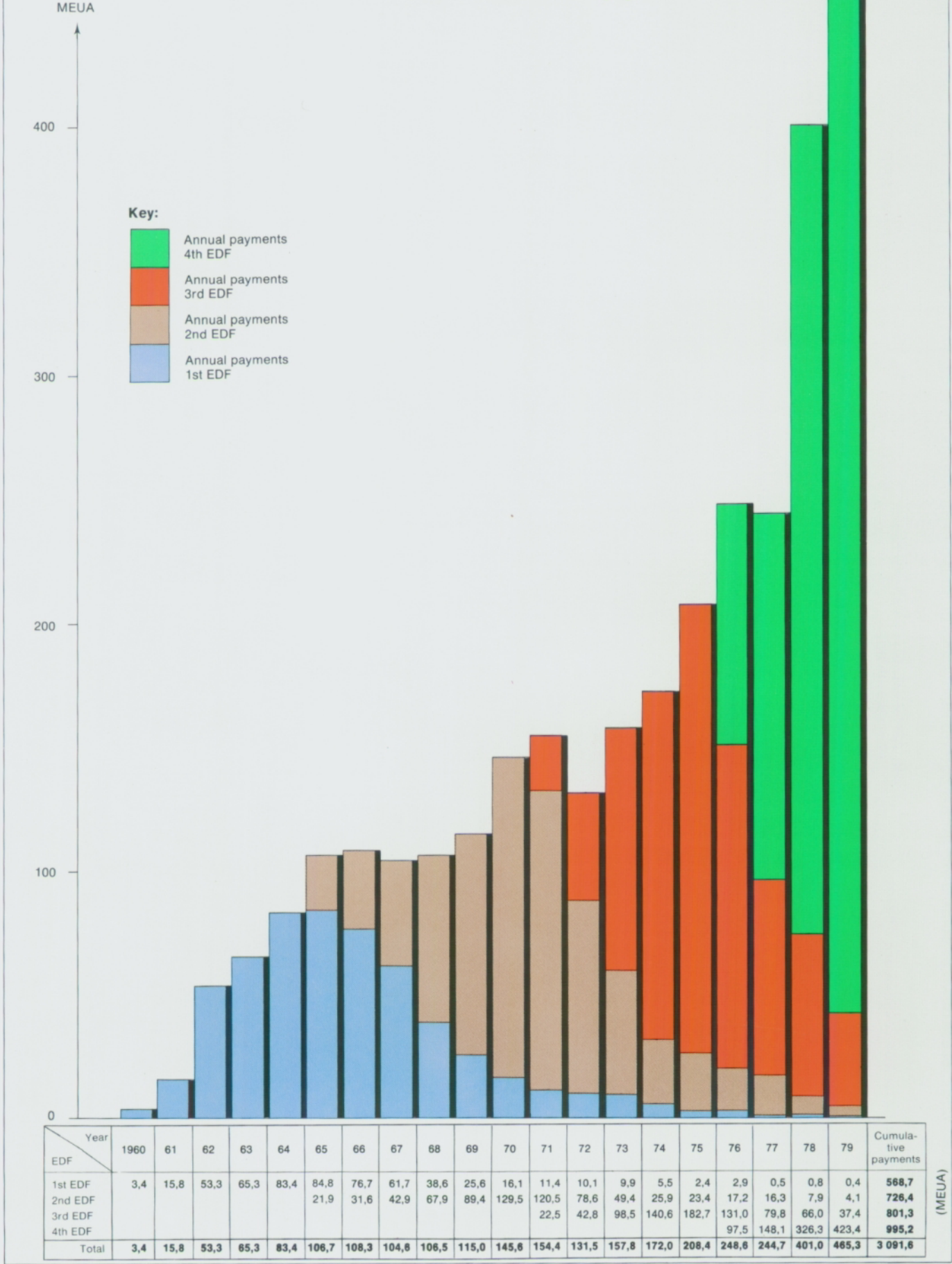
22. The four Funds: evolution of resources available and their utilization

MEUA	1st EDF				2nd EDF				3rd EDF				4th EDF			
	Initial allocation 581,3 MEUA				Initial allocation 730,0 MEUA				Initial allocation 900,0 MEUA				Initial allocation 3 150,0 MEUA			
	Resources available (1)	Cumulative global commitments	Cumulative final commitments	Cumulative payments	Resources available (1)	Cumulative global commitments	Cumulative final commitments	Cumulative payments	Resources available (1)	Cumulative global commitments	Cumulative final commitments	Cumulative payments	Resources available (1)	Cumulative global commitments	Cumulative final commitments	Cumulative payments
1959	581,3	51,2	5,1	—												
1960	581,3	114,7	13,5	3,4												
1961	581,4	286,7	66,7	19,1												
1962	581,6	449,0	130,4	72,5												
1963	581,9	504,5	233,6	137,7												
1964	582,3	539,6	344,7	221,1	730,0	—	—	—								
1965	582,6	576,1	414,7	306,0	730,0	212,3	48,6	21,9								
1966	582,9	577,8	481,5	382,7	730,0	368,1	91,6	53,5								
1967	582,3	577,9	502,2	444,4	730,0	474,0	150,0	96,4								
1968	582,5	574,6	523,5	483,0	730,0	595,1	259,0	164,2								
1969	582,5	574,3	534,0	508,7	731,2	699,8	395,9	253,6								
1970	582,5	574,5	543,7	524,8	731,5	710,3	534,9	383,1								
1971	581,5	573,8	550,0	536,2	733,0	713,6	602,3	503,6	900,0	232,8	37,2	22,5				
1972	581,5	573,2	558,3	546,3	733,6	720,8	645,9	582,2	900,3	438,3	136,2	65,3				
1973	572,5	570,9	564,8	556,2	742,5	717,7	667,1	631,7	905,6	637,7	321,4	163,8				
1974	571,3	569,9	567,4	561,7	740,0	721,3	686,9	657,5	907,4	790,4	498,9	304,4				
1975	571,3	570,7	569,0	564,1	740,0	726,5	697,4	680,9	909,4	856,5	640,6	487,1				
1976	570,7	570,0	568,5	567,0	740,6	734,8	709,0	698,1	909,7	875,8	744,0	618,1	3 152,5	382,2	134,5	97,5
1977	570,6	570,1	569,1	567,5	740,8	734,1	723,6	714,4	905,2	875,8	807,8	697,9	3 155,2	1 089,9	450,8	245,5
1978	570,1	569,9	568,8	568,3	735,0	733,9	728,5	722,3	911,5	893,2	831,1	763,9	3 175,3	1 653,8	985,7	571,8
1979	569,7	569,4	569,3	568,7	734,5	733,2	729,4	726,4	912,4	894,0	854,3	801,3	3 181,3	2 225,9	1 516,4	995,2
(%)	(100%)	(99,9%)	(99,9%)	(99,8%)	(100%)	(99,8%)	(99,3%)	(98,9%)	(100%)	(98,0%)	(93,6%)	(87,8%)	(100%)	(70,0%)	(47,7%)	(31,3%)

(1) The differences between the initial allocations and the resources available are due to transfers of unutilized balances between the EDFs, to supplementary allocations, to Stabex refunds and to miscellaneous revenue.

Diagram No 13

23. The four Funds: evolution of annual payments



24. The four Funds: breakdown of cumulative global commitments and cumulative payments by recipient country ⁽¹⁾ (situation at 31 December 1979)

Table IX

A. Total aid for ACP countries and OCT/OD							C. Aid for OCT/OD					(MEUA)
Country	Cumulative payments				Cumulative payments of the 4 EDFs		Country	Cumulative payments				Cumulative global commitments of the 4 EDFs
	1st EDF	2nd EDF	3rd EDF	4th EDF	Total			1st EDF	2nd EDF	3rd EDF	4th EDF	Total
Senegal	43,2	61,0	59,5	91,2	254,9	291,1	Tanzania	44,6	29,0	103,1	97,6	27,2
Madagascar	56,4	68,7	66,0	16,4	207,5	243,8	Ethiopia	28,8	22,8	80,5	80,5	15,2
Cameroon	52,2	54,2	59,6	28,8	194,8	223,4	Kenya	28,8	22,8	58,9	58,9	16,7
Ivory Coast	39,7	59,1	56,0	29,9	184,7	215,6	Zambia	21,6	17,9	65,5	65,5	12,9
Zaire	18,0	79,3	52,6	27,4	177,3	287,6	Malawi	17,9	17,9	73,9	73,9	9,4
Niger	31,1	31,7	46,5	65,6	174,9	200,9	Sudan	17,2	16,3	26,2	26,2	8,3
Mali	42,3	33,9	48,7	36,4	161,3	206,6	Guinea Bissau	16,3	16,3	32,0	32,0	3,6
Upper Volta	29,5	31,0	44,5	34,1	139,1	157,3	Ghana	16,1	13,8	31,0	31,0	2,0
Chad	28,4	33,1	39,4	25,2	126,1	155,7	Uganda	13,8	12,8	58,4	58,4	0,7
Mauritania	15,4	18,2	25,2	53,2	112,0	122,5	Liberia	9,8	8,9	17,5	17,5	0,7
Congo	24,6	22,8	26,0	24,6	98,0	107,0	Guinea	6,7	6,7	22,2	22,2	0,7
Rwanda	5,1	22,4	32,9	29,6	90,0	129,3	Swaziland	6,7	5,9	19,4	19,4	0,7
Benin	20,3	22,7	23,1	23,9	90,0	124,5	Sierra Leone	5,6	5,2	13,4	13,4	0,7
Togo	15,6	20,3	27,3	23,6	86,8	103,7	Botswana	4,2	4,1	5,6	5,6	0,7
Somalia	9,8	27,8	33,8	15,2	86,6	119,4	Fiji	4,1	4,0	7,4	7,4	0,7
Central African Rep.	16,7	27,7	28,9	10,4	83,7	105,7	Jamaica	3,3	3,3	5,1	5,1	0,7
Burundi	5,0	21,1	32,5	17,0	75,6	103,6	Lesotho	3,1	2,7	16,5	16,5	0,7
Gabon	17,5	21,0	25,1	11,0	74,6	79,5	Gambia	2,5	2,5	4,4	4,4	0,7
Surinam	16,9	13,2	9,0	1,3	40,4	56,9	Other countries:					
Other countries:							Western Samoa	4,2	4,2	7,4	7,4	6,1
Algeria	25,3	—	—	—	25,3	25,6	Dominica	4,1	4,1	5,6	5,6	0,7
Comoros	3,3	2,6	3,7	4,5	14,1	20,9	Nigeria	4,0	4,0	7,4	7,4	0,7
Mauritius	—	—	3,7	4,9	8,6	18,3	Papua New Guinea	3,3	3,3	5,1	5,1	0,7
Jibuti	1,2	1,9	1,5	1,9	6,5	9,5	Trinidad and Tobago	3,1	2,7	16,5	16,5	0,7
West Irian	4,1	—	—	—	4,1	4,1	Guyana	2,5	2,5	4,4	4,4	0,7
(Total other countries)	(33,9)	(4,5)	(8,9)	(11,3)	(58,6)	(78,4)	Cape Verde	2,5	2,5	4,4	4,4	0,7
Aid for the benefit of several countries	2,2	8,4	15,3	85,6	111,5	238,8	Solomon Islands	2,3	2,3	3,6	3,6	0,7
Total of the countries which only benefit from the 4th EDF	—	—	—	325,5	(⁽²⁾)	(⁽²⁾)	Kiribati	2,3	2,3	3,6	3,6	0,7
Total OCT/OD	44,9	44,3	40,5	8,0	137,7	165,6	Barbados	2,0	2,0	4,2	4,2	0,7
Total							Seychelles	0,7	0,5	2,1	2,1	0,7
							St Lucia	0,5	0,5	2,0	2,0	0,7
							Sao Tome and Principe	0,5	0,5	2,0	2,0	0,7
							Bahamas	0,4	0,4	1,4	1,4	0,7
							Equatorial Guinea	0,3	0,3	0,7	0,7	0,7
							Grenada	0,2	0,2	2,0	2,0	0,7
							Tuvalu	0,2	0,2	0,2	0,2	0,7
							(Total other countries)	(35,8)	(80,7)			
							Total	325,5	905,6			

D. Countries which have not yet benefited:

French OCT: Mayotte

British OCT: Brunei
Pitcairn
St Helena

(1) The countries are listed in decreasing order of total payments.
(2) For detailed figures see section B of this table.
(3) For detailed figures see section C of this table.

Diagram No 14

25. The four Funds: breakdown of cumulative global commitments and cumulative payments by recipient country (situation at 31 December 1979)

(For detailed figures see Table IX)

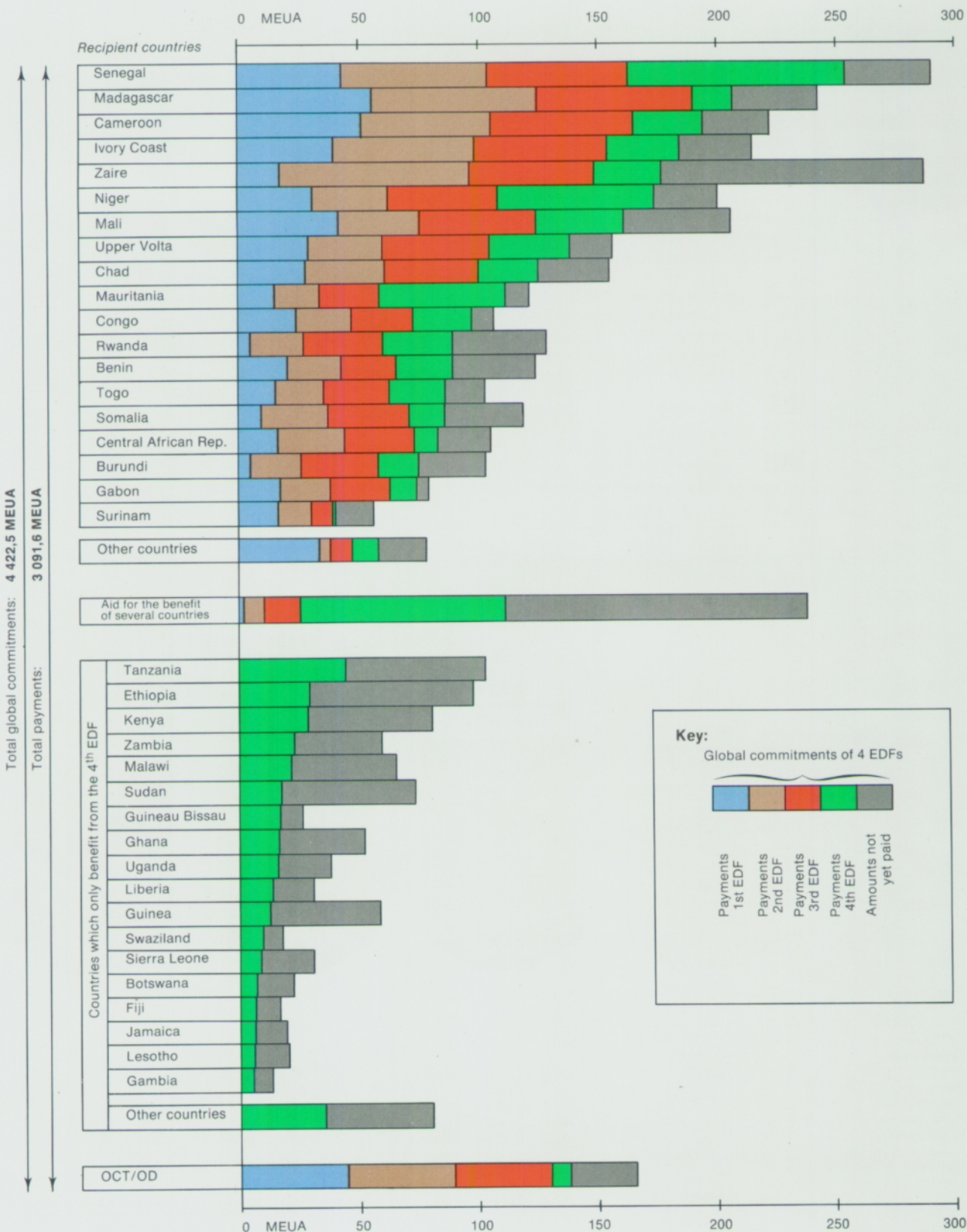


Diagram No 15

26. The four Funds: utilization of resources available — by type of aid and project
(situation at 31 December 1979)

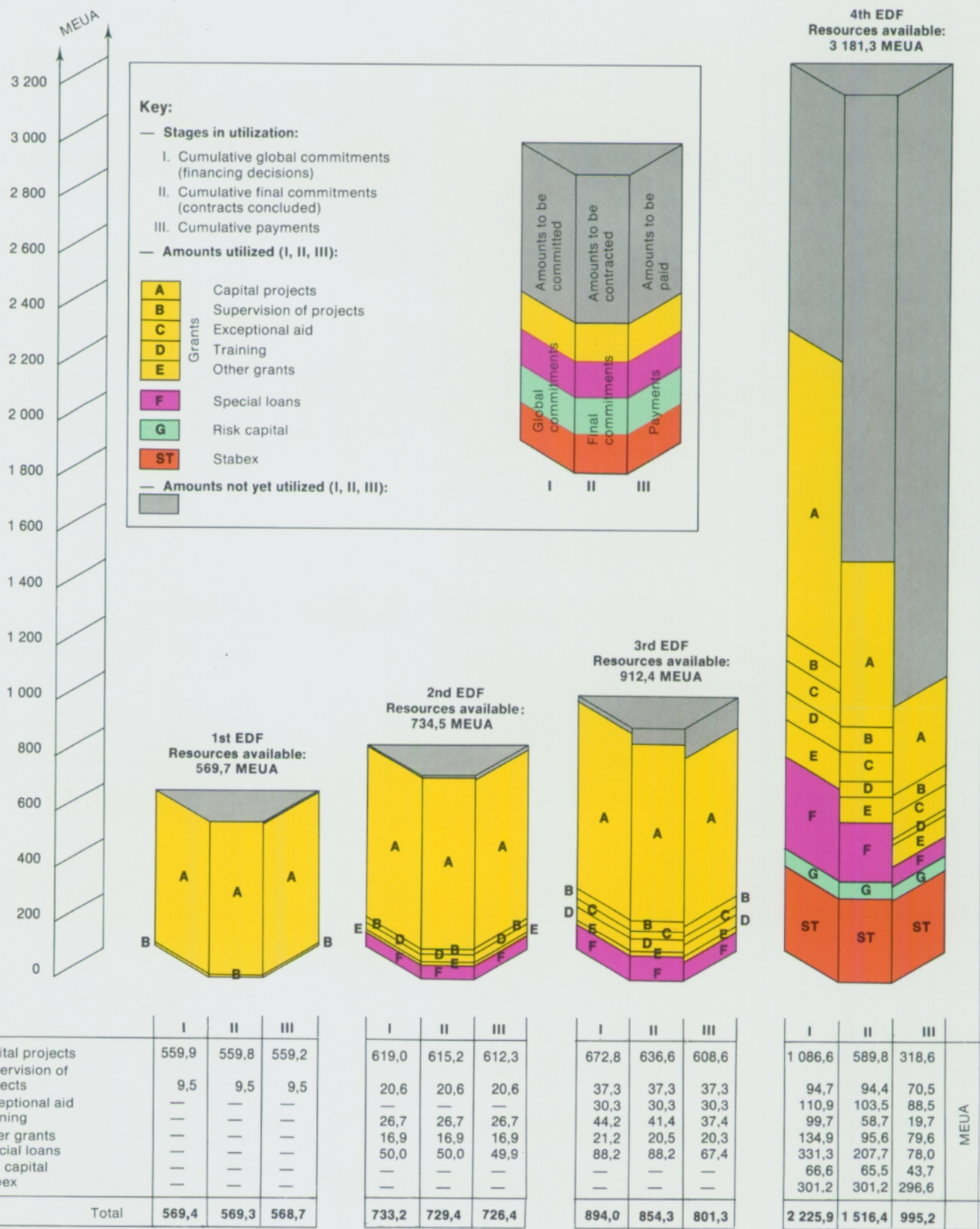


Diagram No 16

27. The four Funds: utilization of resources available — by economic sector
(situation at 31 December 1979)

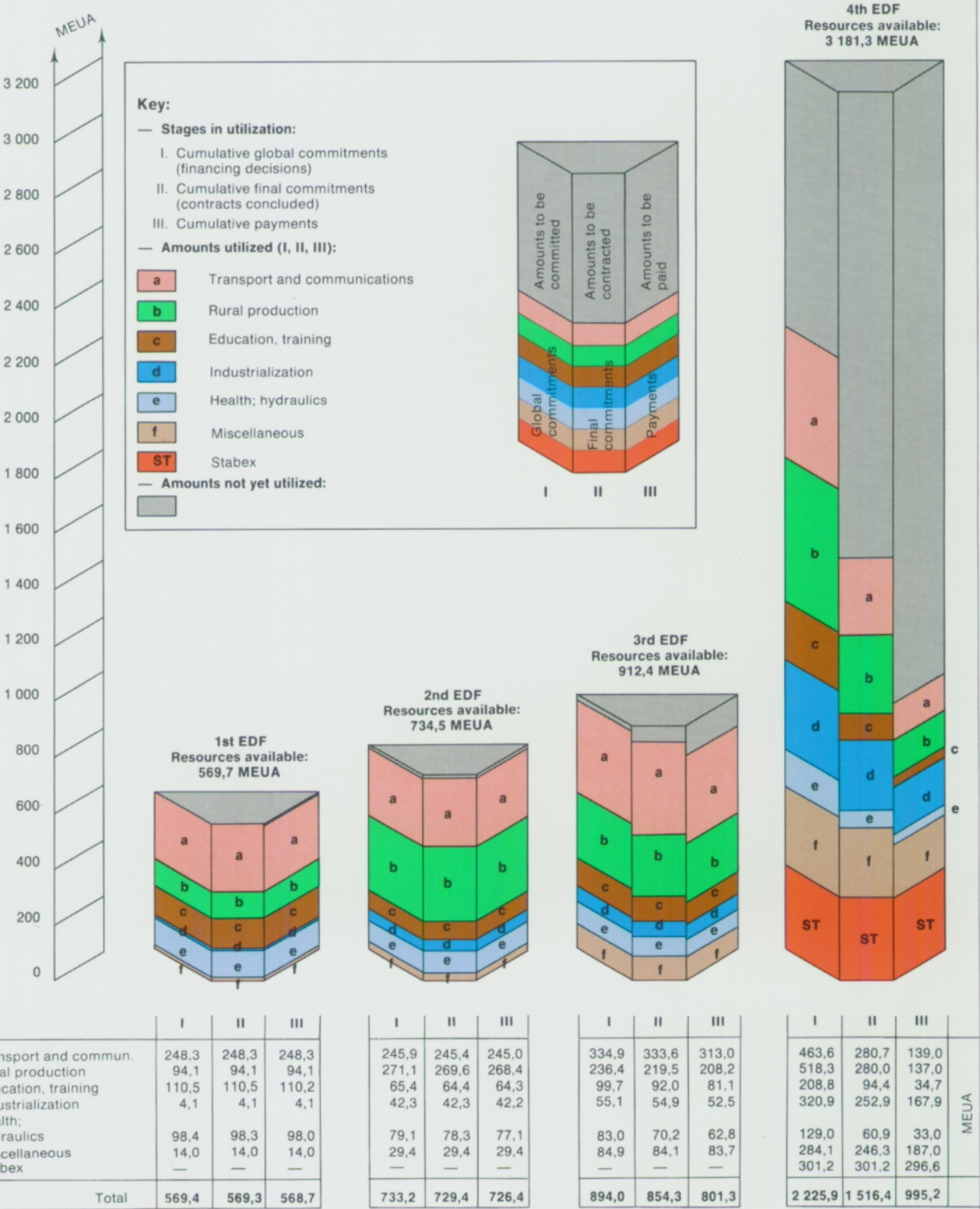
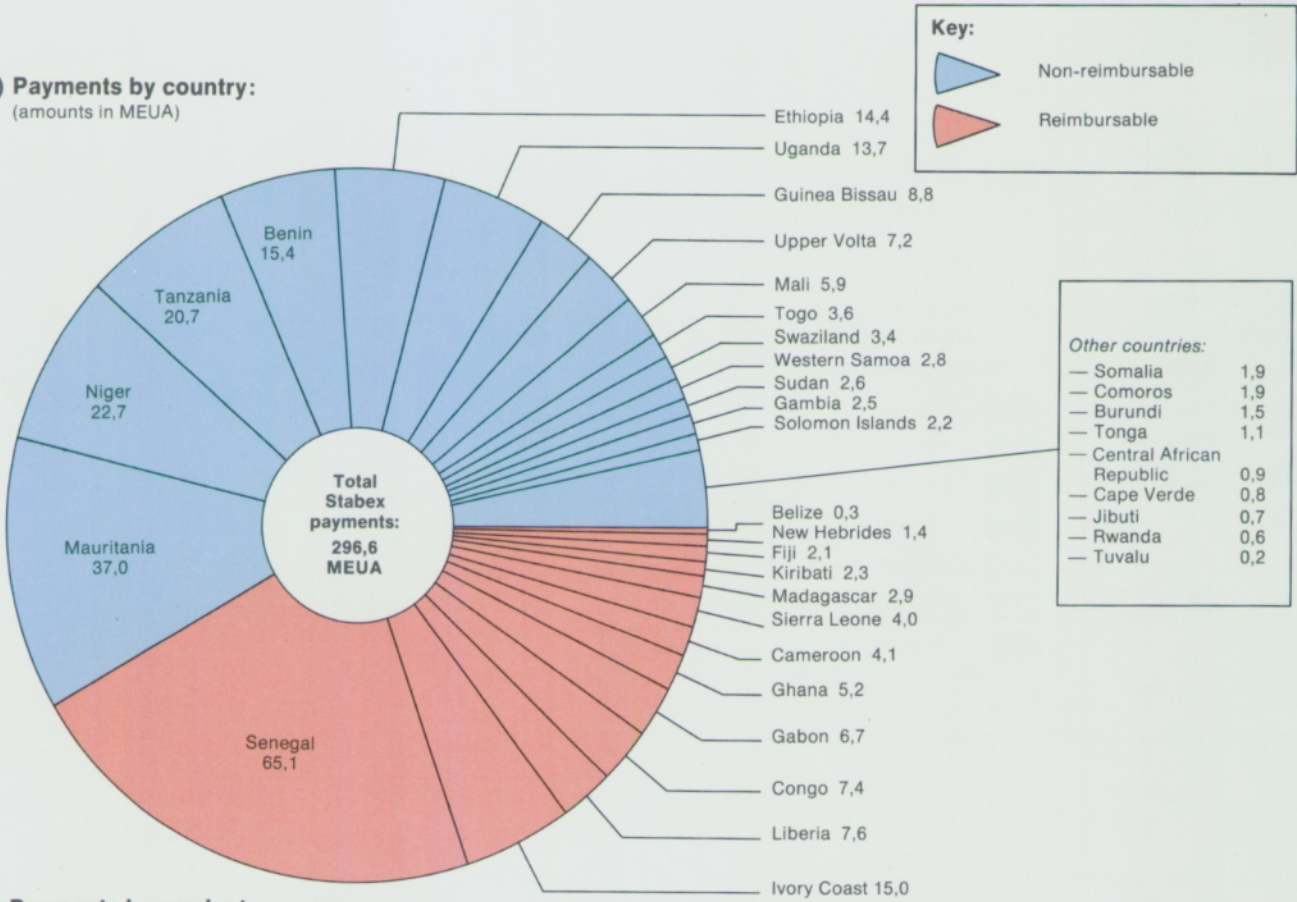


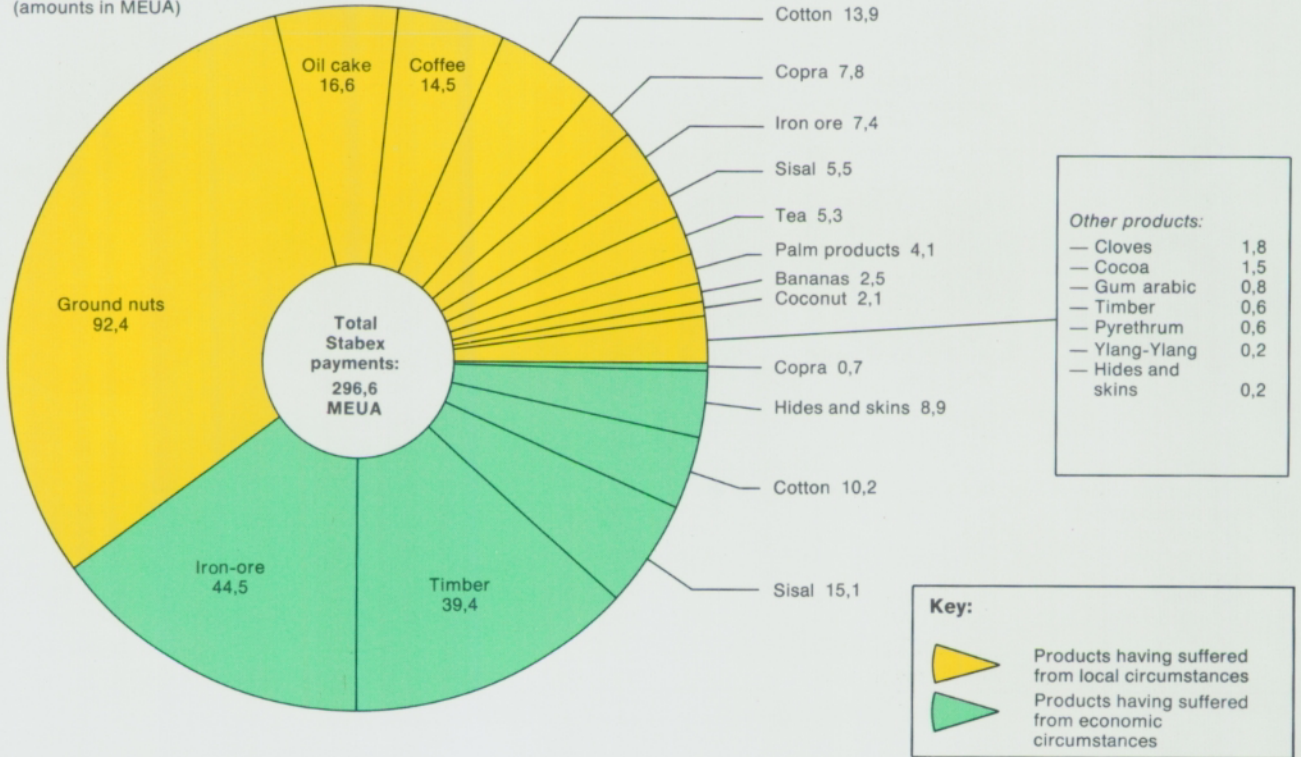
Diagram No 17

28. The fourth Fund – Stabex: cumulative payments by recipient country and by product
(situation at 31 December 1979)

(a) Payments by country:
(amounts in MEUA)



(b) Payments by product:
(amounts in MEUA)



ANNEX II

THE EUROPEAN PARLIAMENT

Interim reply by the European Parliament to the comments in the report of the Court of Auditors for the financial year 1979

- 1.27. Carry-overs of certain appropriations should have been approved by the Council under the procedure laid down.

Reply

This carry-over was made in accordance with Parliament's internal procedure adopted in the spirit of Council Resolution No 1 recorded in the minutes of its meeting of 22. 4. 1970, this Resolution covering the application by Parliament of Article 6 (3) (rev.) of the Financial Regulation.

- 10.4. The institution disregarded the provisions of the Staff Regulations in connection with exceptional expenditure on missions by its officials, by regularly reimbursing them for such expenditure on missions to Strasbourg, Brussels and Luxembourg.

Reply

This fact reflects a genuine problem, the lasting solution to which can only be provided by the establishment by means of a Council decision to this effect of measures to update mission allowances.

- 10.24. In considering the entitlement of officials to the allowance for persons treated as dependent children, the weighting used in calculating this charge has not been updated by Parliament in the same way as by the other institutions.
- 10.26.

Reply

Pending the adoption of common rules at inter-institutional level, Parliament has continued to apply to existing beneficiaries the weighting prevailing in their case if the new weighting would have meant loss of the allowance. Parliament considers that the 'status quo' is justified by the social nature of this allowance and the exceptional nature of its payment.

- 10.40. The Bureau of the previous Parliament decided to apply to its Secretary-General to 10.43. Article 50 of the Staff Regulations: retirement in the interests of the service, to enable the new, elected Parliament to dispose of the post in question as it saw fit.

The Bureau could have applied the provisions of Article 15 of the Staff Regulations: leave on personal grounds, rather than those of Article 50 for the period of the parliamentary mandate for which the Secretary-General was a candidate (May 1979).

Reply

- (a) While Article 40 (4) (c) of the Staff Regulations provides that an official on leave on personal grounds may be replaced, Article 40 (4) (d) provides that, again at his request, this official must be reinstated in any vacancy corresponding to his grade. As the post of Secretary-General is the only one corresponding to that grade, the Bureau of the old Parliament felt that the interests of the service did not allow it to limit the freedom of the new Parliament to choose its Secretary-General or dispose of that post how and when it saw fit. It therefore decided that well before the European elections the official concerned would immediately and finally discontinue his duties.
- (b) The question of applying Article 50 rather than Article 40 of the Staff Regulations was put to the appropriate committee of the new Parliament. The rapporteur of the latter, after thoroughly examining the question, submitted conclusions which enabled that committee to state its conviction that the Bureau had correctly applied the appropriate provisions of the Staff Regulations in this case.
- 10.44. The European Parliament, knowing that its
and operating budget was purely administrative
10.45. and did not include the item which the
Commission, for its part, could use, has
infringed Article 205 of the EEC Treaty by
using its budget to grant aid to the Indo-
chinese refugees.

Reply

In taking its decision in the plenary sitting of 10. 7. 1979, Parliament considered that the highly humanitarian nature and extreme urgency of this aid took precedence over the letter of the regulatory provisions quoted by the Court of Auditors. It has already replied to the Court by letters of 16 April and 5 June 1980.

- 11.12. The Court notes that the publications of the Community cost the latter 45 MEUA per annum, two-thirds of which are for publications for external distribution. It has provided the institutions with the information obtained from the survey it has carried out on this subject.

Reply

Parliament will give its opinion on this point within the discharge procedure. It is clear that there could only be a concerted policy on Community publications at the initiative or on the intervention of the Office for Official Publications.

11.16. **For information**

Regarding the accounts connected with the use made by the political groups of the 'election' funds paid to them, the Court has been given the option of applying directly to the groups. It is at present continuing its audit on these documents.

ANNEX III

THE COUNCIL

The Council's replies to the comments of the Court of Auditors concerning the financial year 1978

PRELIMINARY COMMENT

The Council would reiterate its wish that the comments by the Court of Auditors on each institution should be brought together in a separate part of the Court's report.

The Council will notify the Commission of its conclusions at the very earliest opportunity so that the Commission can then draw up the final text of the implementing measures applicable by all the institutions.

10.6. 'International organization'

The Council notes that the Court of Auditors does not share the view reached on this by the Heads of Administration on 21 March 1980.

CHAPTER I OF THE COMMENTS

Omission from accounting regulations

The Council asks the Heads of Administration to re-examine this question, having regard to the comments by the Court of Auditors.

1.37. Measures implementing the Financial Regulation

According to Article 106 of the Financial Regulation, the Commission shall adopt implementing measures for the Financial Regulation in consultation with the Council and the European Parliament.

Under cover of a letter dated 5 August 1980, which reached the Council on 16 September 1980, the Commission forwarded to the Council the draft Regulation on these measures and asked it to open the consultation procedure.

11.7. Absence of common standards of quality and cost for office supplies and equipment, etc.

The Council notes that an inter-institutional Working Party on the Harmonization of Procurement Procedures has been established for several years.

It proposes to review, in conjunction with the representatives of the other institutions, whether, in addition to this working party it would be advisable to set up a Central Committee on Procurements and Contracts, as suggested by the Court of Auditors.

*ANNEX IV***THE COMMISSION****Replies to the comments of the Court of Auditors concerning the financial year 1979**

(Articles 78 f/ECSC, 206/EEC, 180/Euratom)

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INTRODUCTION

2. and 3. The Commission regrets that the Court of Auditors did not pay more attention to the Commission's efforts to improve implementation of the budget and too often restricted itself to criticism. The Commission would like to see this imbalance in the report of the Court of Auditors corrected; the Court evaluates the Commission's activities from a negative point of view rather than from a positive one and in consequence finishes up with an assessment which does a disservice to Community integration.

6. The Commission had noted that the Court of Auditors, in some parts of its report for 1978, saw fit to add its own 'assessments' to the replies of the institutions to the comments contained in the draft report adopted in July 1979.

The Commission, for its part, considers that this practice is contrary to Article 78 f of the ECSC Treaty, Article 206 of the EEC Treaty and Article 180 of the EAEC Treaty. The fourth paragraph of these articles states that the annual report of the Court of Auditors 'shall be forwarded to the institutions of the Community and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Communities*'. The Commission considers that the Official Journal should publish only the annual report of the Court of Auditors and the replies of the institutions and nothing else.

PART I

CHAPTER I — GENERAL COMMENTS

1.4. and 1.5. The Commission has amended the revenue and expenditure account in line with the Council decision. The budgetary authority and the Court of Auditors were informed of this change on 20 October 1980.

1.6. The Commission would like to draw attention to its reply to point 8.1 of the second part of the Court of Auditors' report.

1.10. and 1.11. The Commission, which proposed the transfer complained about by the Court of Auditors, and the Council and the Parliament, which adopted this transfer, consider this operation legal.

The principle of annuality is not in question as the commitments and payments were all made during the financial year in question, i.e. 1979.

1.13. to 1.15. Like the Court of Auditors, the Commission has found that the out-turn for 1979 is not yet satisfactory, at least as regards differentiated appropriations, but nevertheless notes a substantial improvement in some sectors if one considers the rates of utilization for the appropriations available for 1978 and 1979. This applies in the case of the appropriations for payment available for the three structural funds in 1979; the rates of utilization were as follows for 1979 and 1978: Social Fund (71.8 %/48.7 %); Regional Fund (60 %/42 %); EAGGF Guidance Section (48 %/34 %). This trend reflects the positive results of the measures implemented at the Commission's initiative in cooperation with the Member States. A study is currently being conducted into the means likely to accelerate payment procedures and thus constantly improve the utilization of funds.

The utilization of differentiated appropriations — excluding appropriations for payment automatically carried over — is admittedly less satisfactory. This is particularly due to the volume of carry-overs from 1978, of which almost 30 % were used on a priority basis — to prevent the appropriation from being cancelled — for clearing commitments entered into during the financial year. The large number of carry-overs, due to the arbitrary nature of forecasting, has prompted the Commission to review the machinery for forecasting expenditure; this has brought about a 3.48 % reduction for 1980 in the appropriations for payment in connection with non-compulsory expenditure, i.e. the main part of non-differentiated appropriations.

The Commission would like to reiterate that it cannot influence the rate of utilization of appropriations in several cases as this mainly depends on the Member States which receive these appropriations.

1.21. The situation of payments against differentiated appropriations for 1979 is far better than in the previous financial year. The procedures implemented to accelerate payments from the Social Fund, Regional Fund and the EAGGF Guidance Section have contributed to this improvement even if the results obtained have not been as fast as expected. Furthermore, in most cases, 1979 may be considered as the first year in which the system operated and the results can only really be assessed from 1980 onwards.

1.22. The third supplementary and amending budget for 1979 was needed to cope with the additional requirements of appropriations by the EAGGF Guarantee Section as a result of the significant trend on some agricultural markets and the effects on expenditure caused by the Council Decisions of 22 June 1979 on agricultural prices and related measures.

The appropriations made available by this supplementary budget could not be used until this late stage because the budgetary procedure was not completed until 13 December 1979 despite the fact that the preliminary draft which the Commission had adopted in principle on 26 September 1979 was submitted to the budgetary authority on 16 October. Like the Commission, the budgetary authority considered that this supplementary budget was necessary. The varying assessments which it has been possible to make after the event cannot call into question the value of the judgment of three institutions on the basis of the factors known at the time it was made.

1.29. The amount of 203.5 MEUA is contained in the consolidated balance sheet and the financial balance sheet drawn up on 31 December 1979.

The Commission does not share the Court of Auditors' opinion and would like to refer to its reply to points 4.14-4.18 for further details.

1.30. The Commission would like to refer to its reply to points 2.12-2.17 and point 4.45.

1.31. The Commission would like to refer to its reply to points 4.36 and 4.37.

1.32. As regards the EAGGF expenditure charged to the financial year 1980 (203 MEUA), the fact that the amount in question was not deducted from the balance for the financial year is in accordance with the correct application of the principles of accountancy in this sector.

As regards the adjustments relating to the depreciation of intervention stocks, the Commission would like to refer to its reply to points 2.12-2.17 and to point 4.45.

1.35. 1. In the two cases brought up by the Court of Auditors, the lump-sum payment by the Commission of the updated amount of interest rate subsidies is provided for in the regulations applicable in this sector.

As regards the European Regional Development Fund (ERDF), the final subparagraph of Article 4 (b) of Council Regulation No 724/75 of 18 March 1975 establishing a European Regional Development Fund (OJ L 73 of 21 March 1975, page 1), as amended by Regulation (EEC) No 214/79 (OJ L 35 of 9 February 1979, page 1), states that 'The Fund's assistance may consist wholly or in part of a rebate of three percentage points on loans made by the European Investment Bank, pursuant to Article 130 (a) and (b) of the Treaty, in the regions and areas referred to in Article 3 of this Regulation. In that event, the aid from the Fund shall be paid to the Bank in one instalment, the rebate being a capitalized sum expressed as a percentage of the investment.'

As regards the EDF, Article 5 (4) of Protocol No 2 on the application of financial and technical cooperation of the ACP-EEC Convention of Lomé, signed on 28 February 1975 (OJ L 25 of 30 January 1976, page 104) states that 'The aggregate amount of interest rate subsidies, calculated in terms of its value at the time of the signature of the loan contract at a rate and according to rules to be laid down by the Community, shall be charged against the amount of grant aid specified in the first indent of point 1 (a) of Article 42 of the Convention and shall be paid directly to the Bank.'

2. The clearance of an amount to be paid over a number of years by means of the lump-sum payment of an updated amount is a banking technique which is generally accepted and practised by the European Investment Bank. It has the advantage of obviating the need for repeated detailed calculations and annual clearance operations and avoids any problem which may arise from the provision of the funds needed to cover payments due in future years.

The mechanism for calculating this type of payment by the Commission is laid down in the agreements concluded with the EIB.

As regards the latter point, the methods for paying the interest rate subsidies must meet the needs of the investors. Some investors prefer to have additional

financial support immediately at the cost of maintaining the initial rate of interest throughout the duration of the loan; others opt instead for a reduction in the long-term interest burden.

This possibility is deliberately left open to investors and the Commission has no overriding reasons to impose one system or the other. The important factor is to provide an incentive for the achievement of the investment projects which are subsidized in this way.

In view of the mandate given to the EIB for administering the interest rate subsidies and in view of the EIB's direct negotiations with the investors, it has proved more practical to leave the choice of systems to the parties concerned and to maintain budgetary neutrality by systematically paying to the Bank the updated value of each interest rate subsidy.

1.37. The Commission had deferred the updating of the regulation concerning the 'implementing rules' pending the Council's decision on several proposals presented by the Commission in connection with the Financial Regulation (in particular borrowing and lending activities and the application of the EUA).

Because of the considerable delay which has occurred in this respect, the Commission decided not to postpone this updating any longer and on 5 August 1980 sent all the institutions, for consultation, the draft of the updated text which it intends to adopt. Adoption will take place as soon as the consultation procedure is completed.

1.38. and 1.39. The Commission shares the opinion of the Court of Auditors and would like the Council and the Parliament to continue to examine its proposal and finally adopt the regulation applying the EUA. Meanwhile, the Commission has decided to incorporate a number of technical and accounting provisions in the draft text of the regulation on the detailed rules for implementing the Financial Regulation, as mentioned above.

1.40. In accordance with Article 107 of the Financial Regulation, the Commission will soon present its proposal for revising this text. The Commission wishes to comment that it is hardly feasible at the same time to make the amendments to the regulation on the detailed rules for implementing the Financial Regulation. Indeed, the new Financial Regulation must be adopted before it is known what new or amended provisions will require the drafting of new implementing rules or rules which are revised *vis-à-vis* the updated provisions mentioned in point 1.37 above.

It will also be noted that the decision-making procedure is not the same for the Financial Regulation and for the implementing rules. The implementing rules are adopted by the Commission following consultation of the European Parliament and the Council, and the opinion of the other institutions, while the Financial Regulation is adopted by the Council following consultation of the European Parliament and the opinion of the Court of Auditors.

CHAPTER 2 — ACCOUNTING MATTERS

2.1. and 2.2. The Commission notes the importance the Court of Auditors attaches to its study on the Commission's accounting systems and control procedures, of which it has already given the European Parliament advance notice. Any lessons to be learned from this report will be carefully studied by the Commission.

Existing procedures are the culmination of a long period of cooperation between the Commission and the previous auditing body, the Audit Board of the European Communities. The Commission considers it only advantageous to continue collaborating with the Court of Auditors in this way.

2.3. and 2.4. The Commission appreciates the fact that the Court of Auditors notes with satisfaction that there has been some improvement in 1979 as it thereby recognizes the Commission's will to make the best possible use of the Court's comments and suggestions. For it to do so in the future, it will be essential for the Commission to have a copy of the above-mentioned study, irrespective of the action taken on the comments in the Court's annual report. However, it is to be feared that, in view of the budgetary authority's restrictive policy with regard to staff and because of other priorities, the Commission will be unable to make the necessary additional staff available to the service involved.

The corrigendum to the revenue and expenditure account — issued this year because the data concerning non-automatic carry-overs were not available when the revenue and expenditure account itself was established — provided the opportunity for meeting the Court of Auditors' requirement wherever this seemed possible.

This time the Commission has entered loans for migrant workers under capital, as requested by the Court of Auditors in its comments on the 1979 financial year sent to the Commission on 15 July 1980.

The Commission has also drawn up a summary consolidated revenue and expenditure account as requested by the Court of Auditors.

The Commission has also taken into account the Court of Auditors' communication giving the Court of Auditors' own fixed assets — after the revenue and expenditure account had been drawn up.

2.5. As it points out, the Court of Auditors has not entered into detailed discussions with the Commission about the problems raised in point 2.5. The Commission regrets this. It is convinced that such discussions would have meant that several comments became superfluous.

As concerns the 203.5 MEUA relating to the EAGGF Guarantee Section, for the reasons given in reply to points 4.14 to 4.18, the Commission does not share the Court of Auditors' views.

As regards the clearance of suspense accounts, which involves very small amounts, the Commission would point out that it is not at present in a position to enter under assets certain details based more or less on estimates which do not derive from an accounting entry in the strict sense, although its departments keep a close watch on certain situations. Examples would be the value of certain stocks and even the value added tax recoverable from Member States.

It should also be pointed out that if certain stocks — e.g. stocks of stationery — were to be entered, this would represent a great deal of extra work which it would be hard to justify given the arbitrary nature of the valuations.

By contrast, the Commission is ready to have this kind of information included in its accounting system as and when money, staff and equipment permit. It is making several proposals to amend the Financial Regulation.

2.6. to 2.9. The procedure of entering all budget appropriations carried forward under liabilities is the consequence of the provisions of Articles 5 and 6 of the Financial Regulation.

The Commission is not in a position to differentiate between, and estimate, the budget appropriations

carried over, as suggested by the Court of Auditors. In several instances such operations would be purely theoretical, uncertain and hence without meaning. Furthermore the Commission considers that such a practice would be inconsistent, as it could not be reconciled with the grounds submitted with applications for non-automatic carry-overs.

Table 1 on page 37 shows precisely how hazardous an exercise of this sort can be.

The Commission would point out that from now on non-automatic carry-overs will be examined by the European Parliament to which the Commission has already stated that, in the next revenue and expenditure account, the details in respect of EAGGF Guidance Section carry-overs will be clearly set out.

2.10. The doubts expressed by the Court of Auditors with regard to the efficiency of financial management match the concern the Commission has itself expressed on numerous occasions.

In this connection it should be pointed out that the Commission all too often has to depend on the Member States, particularly as regards payments in respect of the Social Fund, the Regional Fund and the EAGGF Guidance Section, concerning which the Commission has made considerable efforts to make management more efficient.

Also the financial rules governing this aspect include procedures which can cause unforeseeable delays for political and institutional reasons.

Finally, further delay is caused by the fact that all controls, including, where necessary, on-the-spot controls, have to be made beforehand.

The information requested by the Court of Auditors on the use made of carry-overs is included in the revenue and expenditure account, and in the analysis of financial management which accompanies the revenue and expenditure account and is forwarded, together with the revenue and expenditure account, to the budgetary authority and the Court of Auditors. It is not possible to include data relating to the non-utilization of appropriations in the balance sheet.

2.11. Whilst awaiting the Court of Auditors' study (which might lead the Court of Auditors to issue an opinion on the current rules), the Commission considers it reasonable not to change existing procedures and thereby pre-judge future developments.

2.3. to 2.11. As an overall conclusion on the comments made in points 2.3 to 2.11, the Commission notes that the Court of Auditors' comments and suggestions do not call into question the accounting procedures applied by the Commission.

2.12. to 2.17. The Commission is ready to include in the financial statements for the next financial year summary explanatory notes which should meet the Court of Auditors' wishes about making the balance sheet easier to read. Any information of this type must not duplicate the analysis of financial management which is drawn up at the same time as the revenue and expenditure account to enable the budgetary authority to have full insight into the implementation of the budget.

Turning more particularly to point 2.14, the Commission would point out that the consolidated balance sheet was provided when the financial statements for 1979 were drawn up and that a consolidated revenue and expenditure account (based on the model included by the Court of Auditors in the corrigendum to the revenue and expenditure account) has now been included. The Commission does not accept the arguments in the last indent of point 2.16 and would make the point that conversion based on 31 December exchange rates would not obviate all technical difficulties since, apart from constituting duplication of work (because the opening balance has to be calculated all over again at 1 January rates), this would alter the total appropriations to be carried over and might easily lead to overruns. Such an undertaking would add nothing useful for the purposes of control.

The Commission is also of the opinion that there is no call for including estimated future losses on intervention stocks (first indent of point 2.17) in the financial statements.

For the purpose of intervention stocks, appropriations are based on the inventory value of stocks in hand at the beginning of the financial year which is practically equivalent to purchase value less (where appropriate) a sum for depreciation.

For the Community, the difference between inventory value at the end of a financial year and marketing value is the potential cost. The market value fluctuates considerably depending on the market situation and forecasting costs is therefore a very uncertain matter.

Besides, the purchasing of stocks is not financed by the EAGGF, so it does not involve the tying-up of Community funds; this only occurs when the Community intervenes to finance the difference between

the inventory value and the marketing value of stocks put on the market by Member States.

As for disclosing any actuarial deficit in the pension scheme (fifth indent of point 2.17), the Commission does not see how information of this type could be fitted into the financial statements it publishes at the end of a financial year, since the notional deficit is not an accounting item. It should be remembered that pensions are not funded.

2.18. With a few changes, Table 2 drawn up by the Court of Auditors has been included in the above-mentioned corrigendum.

2.19. The Commission declares that the amended balance sheet of the Communities established on 31 December 1979, which was forwarded to Parliament, the Council and the Court of Auditors on 20 October 1980, satisfactorily reflects the assets and liabilities situation, as required by the Financial Regulation, and is a true and fair view of the state of the institutions' affairs.

The Commission confirmed that it is prepared to make as many improvements as possible along the lines indicated in the answers given to the various points of Chapter 2. It stresses that no progress in this direction will be possible unless the resources and technical equipment of its services are increased.

It appreciates that the Court of Auditors has noted with satisfaction that some progress has already been made in spite of the difficulties experienced by the Commission. The Commission will continue working with the Court of Auditors in the same spirit of cooperation.

CHAPTER 3 — REVENUE

3.12. The Court's recommendation requires national inspection authorities to cease giving prior approval to orders to remit funds to the Community budget which are made out in national currency. They may approve only such orders as are made out in EUA; the staff responsible for this procedure would therefore have to convert such amounts on the day the operation is made.

Since the EUA exchange rates are not decided until approximately 15.30 hours each day, the inspection

authorities would not have the time to approve the conversion before the payment is made; a situation might even arise where the paying agencies would find it difficult to make the payments within the prescribed time-limits.

In any event, the Commission will raise the matter again with the appropriate national authorities.

3.17. The first supplementary and amending budget was not adopted until 25 April 1979. In view of the administrative difficulties that such a short deadline (of seven days) caused for a number of Member States and their national inspection authorities, the Commission suggested that the necessary adjustments should be made on 1 June instead of 1 or 2 May 1979.

The Commission will re-examine this problem when Regulation No 2891/77 next comes up for revision. In the meantime, it will take whatever practical action is necessary to ensure compliance with these statutory deadlines.

3.18. The problem raised by the Court will be dealt with under the next review of the Financial Regulation, preparations for which are now being made by the Commission.

3.21. The Commission is aware of the fact that the procedures involved in the levy system are complex, but this complexity arises from the need to take the fullest possible account of economic and commercial realities. The Commission has in fact simplified a number of procedures where normal developments in the markets have permitted. For example, the frequency with which levies in the milk sector are fixed has been reduced from twice to once a month. The Commission will continue to simplify procedures but it must be remembered that — in many sectors of the common agricultural policy — it has to contend with rapidly-changing market situations.

Simplifications for purely administrative ends are not advisable. Any re-arrangement of tariff headings could easily lead to distortions of competition and any incomplete adjustment of levies to the changes in world market prices could give rise to speculation because operators naturally seek the most competitive import rates.

3.22. It is true that abolition of such netting-off procedures would render the accounts clearer from the point of view of financial analysis but this

would be difficult to introduce given the provisions of the Accession Treaties, the changes introduced since 1973 in respect of monetary compensatory amounts and the added complications involved for both operators and administrative departments.

The Accession Treaty for the United Kingdom, Denmark and Ireland stipulated that the 'accession' compensatory amounts (applied from 1973 to 1978) were to be deducted from the levies and refunds. Where necessary, these accession compensatory amounts were weighted by monetary coefficients identical to those applied to levies and refunds.

Furthermore, to avoid complicating the system even more, Council Regulation No 974/71 introduced arrangements whereby the levies and refunds were likewise corrected by the MCAs so that the operator had only one amount to pay or to collect, this amount comprising all monetary and accession-type adjustments. The Greek Accession Treaty contains a similar provision to that covering the first enlargement of the Community.

The Commission would also point out that the serious problem of the MCAs is gradually being eased and that its impact on the budget is diminishing.

3.24. and 3.25. There are no grounds for concern over the fact that the sequence of weighing operations for bulk goods imported by ship — such as wheat — are generally carried out by the port authorities: apart from the 'community of interest' linking these authorities with the Customs, referred to in the Court's report, further reassurance is provided by general surveillance of the Customs during weighing operation. As to the inevitable delays which build up during such operations, it is usually only when the last consignments are off-loaded that shortages or surpluses are discovered, as compared with the tonnages stated in the manifest. However, the Commission normally seeks the collaboration of the national authorities to ensure that these delays are kept within reasonable limits.

As far as its usual inspections are concerned, especially of own resources, the Commission will pay particular attention to the comments of the Court of Auditors.

3.33. Under Article 1 of Council Regulation No 2891/77 of 19 December 1977 implementing the Decision of 21 April 1970 on the replacement of the financial contributions of Member States by the Community's own resources, own resources are established by the Member States in accordance with their laws, regulations and administrative provisions.

The own resources system is therefore largely based on a wide range of national procedures borne of the different administrative structures in the Member States. The Commission cannot challenge these structures simply because it wishes to standardize procedures. Nevertheless, it is constantly at pains to detect cases where the Community's rights are affected or where there is inequality in the treatment of taxable persons and to rectify these situations by the appropriate means.

3.34. to 3.37. In its reply to the Court's comments concerning the financial year 1977, the Commission pointed out that it had entered into discussions with representatives of the Member States to clarify the legal situation and to ensure that there was full compliance with Community law. The work undertaken in the meantime has not yet led to any concrete results but could form the basis for a more comprehensive policy aimed at providing a solution which — whilst taking due account of national policies on defence — remained compatible with the basic objectives of Community policy. As the Commission has already pointed out in its answer to Written Question No 277/80 by Mr Radoux, 'it is currently searching, together with the Member States, for a solution enabling uniform rules to apply throughout the Community in full compliance with the provisions of the EEC Treaty relating to decisions altering or suspending CCT duties' ⁽¹⁾.

The Commission will continue its work in this complex and difficult area with a view to reaching the solution outlined above as soon as possible.

3.58. It is the Commission's view that the introduction of more central offices could speed up the rate at which copy no 3 of the T forms is returned and that the conferring of greater powers on these offices would not only help to improve the operation of Community transit procedures but would also help to combat fraud.

It should be remembered, however, that the tasks assigned to the central offices differ from one Member State to another, principally on account of the different customs infrastructures.

As in the past, the Commission has taken every opportunity to make known its ideas to the Member States on the establishment of central offices,

emphasizing that it was the sole responsibility of the Member States to give practical expression to these ideas (see Article 16 of Commission Regulation (EEC) No 223/77).

3.60. With regard to the establishment of duties, the Interdepartmental Coordination Group set up by the Commission has submitted its report. Among other things, the report confirms that major disparities exist between the Member States in deciding the moment of establishment of the own resources, and consequently, of their collection by the Community. It concludes with a call for Commission action to bring about greater harmonization in the establishment procedures and in the making available of own resources. Proposals along these lines have been drawn up.

3.61. The Court suggests that different T forms be used depending on the transit procedure in question. Such a system was from the outset envisaged by the regulation on Community transit and has operated for a number of years. However, the need to switch from one type of document to another depending on the customs status of the goods led to increasing incompatibility with developments in document-printing techniques — particularly where data processing is used — and this prompted the Commission to introduce a single multipurpose form. This move is also consistent with developments in international trading practice adopted by official bodies and the specialized trade interests; these developments cannot be ignored by the Community.

The Commission has also submitted proposals to the Member States aimed at introducing a mechanism whereby carriers' attention can be drawn to the need to present goods for inspection at the office of destination.

CHAPTER 4 — EAGGF GUARANTEE SECTION

4.5. The Court regrets deletion of the 'dual rate' chapter in the 1979 budget

The introduction of the EUA for budgetary purposes made it the common unit of expression for the general budget of the European Communities. As a

⁽¹⁾ OJ C 198, 4. 8. 1980, p. 39.

result all expenditure in connection with this budget has to be expressed in EUA at the estimating stage and entered in the accounts in EUA at the implementation stage. This applies to all items of expenditure, *including those under the EAGGF Guarantee Section*. In fact, all parties who have to consult or implement the present budget, i.e. not only the Commission's management and accounting departments but also the various outsiders involved (from political, professional, academic and other circles), must be in a position to grasp immediately the actual financial implications of the appropriations entered under the different budgetary headings in the EAGGF Guarantee Section.

Since the introduction of the EUA for use in the budget and the ECU in the common agricultural policy, the dual rate effect is no longer what it was in pre-1978 days and its financial implications are substantially less. In the course of its preparatory work the Commission has to calculate the effect of the double rate; this has been estimated for 1981 at approximately 230 MEUA, or 1.8 % of proposed appropriations under the EAGGF Guarantee Section.

The intention is to minimize the effect by aligning the representative rates for agricultural operations.

Moreover, experience has shown that identifying the effect of the dual conversion rate separately for accounting purposes generates a considerable amount of administrative work.

For all these reasons the Commission does not consider it advisable to take it upon itself to reintroduce the budgetary heading showing the effect of the dual rate.

4.6. The budgetary nomenclature should be stabilized

It falls to the Commission to make proposals to the budgetary authority for adjustments to the budgetary nomenclature in order to accommodate new measures adopted by the Council (e.g. in respect of sheepmeat) or to divide up the items with a view to increased budgetary transparency. In this way public expenditure on intervention has been broken down into three items at Parliament's request, namely, interest costs, storage costs and other costs.

The 1979 budget has thirteen new budget headings, eight as a result of the introduction of new measures and five as a result of new subdivisions; in addition,

the item number has changed for five measures. Of the above eighteen headings, out of the one hundred and nineteen contained in the budget, ten refer to the milk sector, which has by far the highest volume of expenditure. The Commission finds it difficult to accept that this constitutes instability of budgetary nomenclature prejudicial to the smooth implementation of the budget.

Comparability of expenditure is generally not hampered by modifications of this type as the Commission provides adjusted figures both in the previous year's expenditure appropriation column of its preliminary draft budget and in its financial reports.

The Commission is aware of the fact that the present system of budgetary nomenclature could usefully be improved in order to facilitate the monitoring and control of budgetary expenditure by the budgetary authority.

For this reason, as already indicated in its preliminary draft budget for 1981 (COM(80)210/2), the Commission intends to review the nomenclature systematically, starting with the 1982 budget, in order to improve budgetary transparency.

4.7. Complaint at the absence of product subdivisions for export refunds on milk products

The Commission has asked the Member States to present separate monthly statements, as from 1980, for butter, milk powder and other products, so that expenditure can be monitored more satisfactorily.

4.7. Regret that there is no distinction under public storage between products sold for export and products remaining on the domestic market

It is possible to have a rough idea of the cost of the special measures for disposal inside and outside the Community. It would be interesting to have more accurate figures but this would involve administrative and possibly legislative changes. This will be looked into.

4.7. Allegation that instability of nomenclature complicates the final clearance of accounts

Following the creation, at the Commission's proposal, of a special chapter (Chapter 79, Item 791) grouping the financial effects of the decisions in respect of the clearance of accounts, it will be possible to differentiate between the expenditure under the current financial year and the adjustments resulting from the decisions on the clearance of accounts.

4.8. Supporting documents

The Commission will do its utmost to meet the wishes expressed by the Court of Auditors concerning the sending of originals.

4.10. Utilization of appropriations

There was no instance of overspending by the Commission.

4.11. (First section) The cash in hand at the end of the financial year should have been cancelled prior to recommitment

Under the procedures applied by the Commission's accounting departments budgetary appropriations cannot be recommitted until they have been released.

In line with these procedures the sums from the 1978 financial year were duly released before being recommitted for the 1979 financial year.

In order to avoid ambiguity the relevant provisions of Article 100 will be made more explicit as part of the current exercise to revise the Financial Regulation.

4.11. (Second section), 4.12. and 4.13. Late presentation of a supplementary budget by the Commission

The presentation of a supplementary budget is a serious matter. The Commission must therefore exercise maximum caution, particularly when it comes to determining the volume of supplementary appropriations. The presentation of a supplementary budget in July would in itself have been preferable but it would inevitably have been too high or too low, primarily in view of the uncertainty at the time as to the durability or otherwise of the recovery on the world cereal market and the continuation or otherwise of the high level of milk product exports. As the possibility of offsetting the shortfall in appropriations for milk products by the surplus of appropriations for cereals had not materialized by September, the Commission decided to present a supplementary budget.

Monthly advances and expenditure vary substantially from year to year in view of the very high number of factors involved. For this reason it is not possible to gauge the danger of a shortfall in appropriations simply by extrapolating accounting data; detailed analyses of the trends in the major market organizations and of the peculiar features of the rate of payment in respect of certain expenditure are also necessary.

Experience has shown that expenditure cannot be modified abruptly by changes in policy for two reasons, firstly because certain payments are the result of operations already carried out (premiums for production and conversion) and secondly because changes in rates (e.g. refunds) are felt only after an interval of as much as several months. Moreover, lowering the refund rate could lead to an increase in intervention stocks and hence to a rise in storage and disposal costs.

In an attempt to do as much as possible in the way of detecting possible shortfalls in appropriations and initiating the necessary action — both on the market management front and on the financial front — the Commission has substantially stepped up the monitoring of the utilization of appropriations in 1980.

Finally, the Commission is of the opinion that the deadline for the presentation of a preliminary draft supplementary budget, as laid down in the last subparagraph of Article 1(5) of the Financial Regulation, is not immutable. According to the Article in question it is only 'as a general rule' that all preliminary draft supplementary budgets must be forwarded to the Council by the date laid down for the submission of the budget for the following financial year.

4.13. (End) Exchange differences

The point is valid, but the figures calculated after the event were not available when the November advances were fixed at the meeting of the Fund Committee on 12 October 1979. At this date only the exchange differences in respect of expenditure up to 31 August were available; these reduced the advances expressed in EUA by 0.2 MEUA.

It is therefore not possible to affirm that the budget appropriations had already been exceeded by 2.4 MEUA.

4.15. Approval by the Financial Controller

The Financial Controller verified the commitment proposal in question when endorsing the payment order. Approval was held up for purely technical reasons. Steps have been taken to ensure that the appropriate endorsement is stamped on commitment proposals in good time in future.

4.14. to 4.18. Special situation due to temporary suspension of payments

(a) In its Decision of 17 October 1979 on an advance, the Commission was unable to meet all the Member States' financing requirements for expenditure to be effected up to 30 November. The appropriations were exhausted, with the payments covering about 37 % of the requirements. The Commission intended to pay the balance once the supplementary budget had been adopted, which it hoped would take place at the beginning of the second half of November.

(b) The exhaustion of Community funds, which made itself felt in the Member States before the end of November, resulted in urgent requests to the Commission by the Member States, in particular in view of the right of individuals to receive finance once they have carried out operations under the agricultural regulations.

The Commission found itself facing two conflicting constraints: under the budget rules, expenditure must not exceed the available appropriations, while under the current CAP rules those carrying out operations under the CAP have a right to payment upon completion of those operations. The Commission examined

every possible way of overcoming these problems, which at the time appeared only temporary, and decided to use the procedure provided for under Article 7 of the Financial Regulation.

(c) The advances paid for a financial year are effectively limited to the funds available. However, Article 7 of the Financial Regulation allows for the payment of advances under the EAGGF Guarantee Section from 10 December to ensure continuity in the financing of agricultural operations.

Consequently, on 10 December the Commission was able to provide Member States with Community funds to meet their requirements up to the end of January.

It should be noted that under Article 7 of the Financial Regulation the Commission may, in December of each year, pay the advances for January of the next year.

(d) As more and more payments were being suspended, the Member States' financing requirements were correspondingly large and they proceeded to make payments using much of the advances granted by the Commission. This resulted in payments by the Member States exceeding 203.5 MEUA, the available appropriations; the excess would have been considerably lower if the budgetary authority had not decided to reduce the amount of the supplementary budget and the transfer of appropriations proposed by the Commission.

(e) The payments effected in the Member States using the advances could only be charged to the Community budget up to the amount of the budget appropriations. The difference was entered against the 1980 financial year pursuant to the third paragraph of Article 5 of the Financial Regulation. From the point of view of the budget rules the appropriations were not, therefore, exceeded.

(f) Taking into account the unavoidable nature of agricultural guarantee expenditure, the 203.5 MEUA payments had to be effected in 1980 even though the operative event was still dated 1979.

4.20. Rate of utilization of advances

The system for making funds available to the Member States is designed to ensure the flexibility neces-

sary for the proper working of the system of advances. The occurrence of negative balances in the course of the year does not indicate a distortion in the system, but rather reflects on the one hand the Commission's desire to limit the number of special advances and on the other the specific nature of second category intervention expenditure. The intervention agencies can only determine this expenditure after recording all the movements of the intervention products up to the end of the month in question.

The Commission is aware of the need to improve the estimates for expenditure by certain paying departments and is continually working to this end. The Commission cannot, however, ignore the difficulties involved in making such estimates due to the very large number of factors which affect them, even if examination after the event gives the impression in some cases of an artificial expansion of requests for advances.

4.22. Need for periodic examinations

As noted in the comments on sections 4.11 to 4.13, the Commission has tightened arrangements for monitoring the use of appropriations in 1980, as the Court of Auditors requested. Each month it checks the payments effected by Member States and their estimates for three months. Beginning at the end of the first half of 1980, a periodic analysis of estimated payments up to the end of the year is carried out and taken into consideration in the management of the markets.

4.23. to 4.25. and 4.49. Discrepancies between the accounts of the Commission and those of Member States

The Commission is concerned about the discrepancies between the Member States' statements of their cash position and the Commission's accounts. Appropriate checks in the Member States and their paying departments, which have so far been hindered by a shortage of staff, have now begun and will be extended as soon as the necessary staff become free following the entry into service of the computerized accounting system for the EAGGF.

Effects on the cash balances of the delays in the clearance of accounts

The Commission agrees that it is regrettable that there should still be a considerable delay before the clearance decisions are taken. However, it considers that, subject to referral to the Court of Justice, it is for the Member States to determine the amount of funds they each have still available at the end of the year covered by the accounts to which the clearance decision applies.

In view of the delays in the clearance decisions in particular, the Commission always informs the Member States of their remaining balances once the accounts of the previous year have been closed and requests them to check and make the necessary corrections to their cash position statements.

4.24. Corrections to certain statements and booking them

The Commission considers that it is for Italy to comply with the provisions of Regulation (EEC) No 380/78.

4.26. to 4.30. Comments on the procedure for granting advances

In the Commission's view there is no need to call into question the whole system of advances simply because of the situation at the end of 1979, which was exceptionally difficult and had never arisen before.

With regard to the method of granting advances, the Commission considers that the Member States' requests should not be met in full when there is a danger that total appropriations may be insufficient or when they are restricted by legislative provisions, as was the case with the application of the provisional-twelfths system. However, provided the Commission is not faced with a situation of that kind, it is preferable to meet the Member States' requests except where the Commission considers that the

estimates exceed actual requirements, since otherwise special advances might increase excessively.

The system is designed so that any known cash surplus that may result is automatically deducted from the new advance decision.

As regards the changeover from one financial year to the next, the Commission is currently considering what arrangements it might make or propose to the Council in order to remove the risk that appropriations may not be sufficient to meet payments by the Member States.

Regarding the role of the Financial Controller, the legislative provisions referred to by the Court of Auditors cannot be interpreted to mean that he should not perform his function at the EAGGF Committee meeting. On the contrary, his participation helps to ensure the integration of the authority responsible for prior control into the system for the payment of advances. The information required in order to assess whether financial management is sound and whether appropriations are available is available at the EAGGF Committee meeting just as much as at the time when the accounting documents are received. The Financial Controller's agreement in advance of the Commission decision must therefore be regarded as an internal guarantee to the latter which is subsequently confirmed by the approval given in respect of the accounting documents which follow. This approval confirms that they comply with the decision and that the conversion of national currencies into EUA is correct.

4.32. Presentation of supplementary and/or amending budgets

The Commission complies with the provisions of Articles 1 and 12 of the Financial Regulation. Article 1 (5) stipulates that: 'These budgets' (i.e. supplementary or amending budgets) 'shall be submitted, examined, prepared and finally adopted in the same form and according to the same procedure as the budgets whose estimates they are amending. They must be substantiated by reference to the latter.'

The presentation of these budgets must therefore necessarily refer to the budgets they are amending. Presentation in compliance with the Regulation is no obstacle to informing the budgetary authority of changes in the appropriations made since the adoption of the general budget, and the Commission, pursuant to Article 104 of the Financial Regulation, has always provided this information.

4.35. Problem of 'qualified' approvals

The practice of granting qualified approval applies to situations at the end of the year, where expenditure has already been effected in the Member States and overall budgetary cover is guaranteed.

Such approval is a very specific conditional act, indicating to the authorizing officer and the accounting officer the Financial Controller's assessment of the specific situation that would result if the proposals for transfers pending before the Council were adopted.

In this way the authorizing officer and accounting officer are informed that, subject to approval of a transfer proposal to remedy the insufficiency of certain appropriations, all the other conditions necessary to allow the expenditure concerned to be charged to the budget are fulfilled. The same assurance may also be given in the form of a memorandum from the Financial Controller to the authorizing officer and accounting officer. The procedure followed up to now was thought to be the most efficient administrative procedure which did not, in the Financial Controller's view, contravene the letter and spirit of the Financial Regulation.

4.36. and 4.37. Negative appropriations and netted-off expenditure

The need to find solutions to the problems arising under the CAP led to the use of measures directly linked to intervention mechanisms producing revenue on the internal market, such as MCAs and the co-responsibility levy.

With regard to MCAs collected and granted in respect of external trade, especially for Member States with weak currencies (see reply to point 3.22), it was necessary to enter the net sum of MCAs granted and collected from operators. However, for MCAs in internal trade, it is feasible to enter the amounts received and the amounts granted separately, which implies a change in the budgetary nomenclature.

As regards the co-responsibility levy, the budgetary nomenclature provides for revenue from this source to be entered separately. In order to make farmers aware of the surpluses in their sector it is essential for this revenue to be booked to the EAGGF

accounts and to be deducted from expenditure in the appropriate sector.

Since the security is intended to guarantee that the operations in question are carried out, the Commission felt it preferable to link the recovery of the sum in question, when this arose, directly to the expenditure. Council Regulation No 352/78 contains a provision to this effect.

The corrections made following the clearance of the accounts generally result in a reduction of expenditure. In some cases, however, expenditure may also be increased. The Commission considers that it would be more logical for all corrections to be carried out by the EAGGF, so as to obtain a full picture of the cost of the common agricultural policy.

4.38. to 4.40. Management of the co-responsibility levy and programme

1. When the budget for 1979 was drawn up, the co-responsibility levy was fixed until 31 March 1979 on the basis of the rate applicable for the 1978/79 marketing year.

Although Council Regulation No 1079/77 provided for the collection of a levy during the period from 16 September 1977 to the end of the 1979/80 milk marketing year, no assumptions were made about the rate of levy for the 1979/80 marketing year.

Council Regulation No 1001/78 did in fact amend the bracket within which the co-responsibility levy was to be fixed, i.e. 0 to 4 % rather than 1.5 % to 4 %; it also reduced the levy from the figure applicable since 16 September 1977 — 1.5 % — and fixed it at 0.5 % until the end of the 1978/79 marketing year.

2. As regards Article 629, the expenditure estimated in the initial budget for 1979 was aligned on the revenue entered on the assumption that unused revenue from the 1978 financial year would be carried over to 1979, as was the case in the 1978 financial year.

The estimates of expenditure contained in the first and second communications to the Council on 'The programme for using the co-responsibility fund' until 31 March 1979 were in fact entirely based on the revenue from the 1977/78 and 1978/79 marketing years.

3. The fixing of the co-responsibility levy at 0.5 % of the target price of milk applicable to the marketing year 1979/80 and the decision not to carry over to 1979 the co-responsibility levy revenue unused in 1978 led to a reassessment of the revenue and expenditure for the financial year 1979 and this was taken into account in drafting the supplementary and amending budget No 3 for 1979.
4. In connection with the booking of the transfer previously requested in the supplementary and amending budget No 3, the Commission would refer to its reply to point 4.32. The budgetary authority was informed of this before taking its decision on the supplementary and amending budget No 3.

4.41. Lack of correlation between revenue from and expenditure on co-responsibility levies

When the relevant regulation was adopted by the Council it was agreed that a programme of measures to expand the markets would be drawn up depending on the revenue received from the co-responsibility levy. In view of the delays in introducing these measures it was inevitable that — in the early stages — there would be a time-lag between the rate at which revenue was received and expenditure incurred.

The increase in the co-responsibility levy in 1980 led the Commission to propose a different budgetary presentation for 1981, under which revenue from the co-responsibility levy would be deducted from the total expenditure on the grounds that it was destined to help finance surpluses. This proposal was accepted by the Council.

4.42. Contracts should have been the subject of separate commitment proposals

Since the expenditure in this case relates to the Guarantee Section of the EAGGF, the validation procedure is the same as for other Guarantee Section expenditure, i.e. the intervention agencies in the Member States carry out inspections and make payments. Given the present structure of the

Commissions's departments, the execution of such contracts cannot be paid for directly by the Commission.

As to the commitment and payment procedure in respect of such expenditure, the Commission adheres strictly to Articles 95 *et seq.* of the Financial Regulation of 21 December 1977, which are the specific Articles governing Titles 6 and 7 of the budget.

At all events, the provisional overall commitments are entered into by the Commission at the same time as it decides on the fixing of advances to the Member States (Article 96 of the Financial Regulation).

The expenditure on the 400 contracts entered into to which the Court refers was therefore covered by commitment proposals and approved by the Financial Controller under the procedure described above. Furthermore, an internal audit procedure was introduced from the outset which ensures that — before the contracts are signed — the global expenditure in respect of each measure is within the programme limits.

4.43. and 4.44. Operation of the register of olive cultivation

- (a) The sums deducted are not placed in the reserves. Since the operation of the olive cultivation register spans several years and since the system of financing the Guarantee Section of the EAGGF contains no provision for creating reserves, the only means available is re-entry in the budget.
- (b) A deduction is made from the aid paid to procedure out of the EAGGF Guarantee Section which is used to finance the register of olive cultivation.

Whilst accepting that an alternative solution might be possible, the Commission considers that there is no reason for amending the regulations adopted by the Council following its proposal and the opinion given by the European Parliament.

4.45. Cost of the policy in respect of markets

The Commission has acted in accordance with the financial and agricultural regulations. As explained in points 4.14 to 4.18, the 203.5 MEUA were

booked in accordance with Article 5 of the Financial Regulation to the financial year 1980 and the writing-down of stocks operated under Article 8 of Regulation No 1883/78 was charged to the financial year 1978.

4.47. Details of the changes made and the amended accounts of the years which have been cleared should appear as an annex to the revenue and expenditure account

The changes resulting from the clearance decisions in respect of the financial years 1971, 1972 and 1973 were — in accordance with Article 99 of the Financial Regulation — incorporated as expenditure to be added or deducted in the 1979 accounts. The documents supporting these accounting operations were sent to the Court of Auditors in accordance with the regulations in force.

The Commission will show the details of future changes and amended accounts for the relevant financial years in the financial report on the EAGGF Guarantee Section for the year in which the clearance decision was taken.

4.48. The catching-up exercise announced for the clearance of accounts has still not become a reality

The procedure for clearing accounts involves two quite separate stages, i.e.

1. Implementation of the programme of documentary and on-the-spot checks which culminates in letters being sent to the Member States notifying them of the Commission's findings.
2. Dialogue between the Commission and the Member States to enable the latter to comment on these findings and to back up their arguments with additional supporting evidence or clarifications and also to assess the financial implications. This second stage — which aims, as far as possible, to resolve matters in dispute — ends with the drafting of a consolidated document in which the Commission publishes the conclusions of its inspection operations together with details of the resultant financial implications; this document forms the basis for the clearance decisions.

Whereas the period required to carry out the first stage is entirely determined by the Commission, this is not true of the conciliation stage. Throughout the dialogue procedure, the Commission is dependent on the time taken by Member States to submit the

additional supporting evidence and information required for the final adjustments. This period depends in turn on the complexity and scale of the problems involved. The Commission is aware that the clearance decisions must be soundly based and have been the subject of conciliation in order to be as definitive as possible both with regard to expenditure already approved or still awaiting approval.

Since the Commission believes that the work of clearance is an important activity in the context of its responsibilities for implementation of the budget, it has called for a significant increase in the number of staff deployed in this sector.

However, in view of the budgetary cutbacks affecting the granting of additional posts and the plans to re-deploy staff currently under consideration, no such increase has been possible to date.

However, an exceptional effort on the part of the Commission's departments enabled the first stage of the clearance operation for the years 1974 and 1975 to be completed, on schedule, in October 1979.

4.51. Many decisions are adopted by the Commission with certain reservations, a situation incompatible with the very idea of clearance

The Commission shares the Court's view that, in theory, once the clearance decisions have been taken there should be no subsequent revision. But, in certain circumstances, a decision may be revised. In a ruling of 7 February 1979 relating to Cases 15/76 and 16/76, the Court of Justice even made express provision for the re-examination of specific items of expenditure already cleared.

But if all the evidence justifying recognition of expenditure had to be produced in this way prior to the adoption of the decisions, the objective of clearing the accounts as quickly as possible might be compromised.

In connection with the clearance decisions for 1973, it would scarcely have been advisable to postpone further their adoption on the grounds that the eligibility of a very small part of the expenditure declared, namely 2.6 m.u.a. out of a total of 3 600 m.u.a. (0.7 %) was not established.

In certain cases, moreover, the provisional refusal to recognize certain items of expenditure or the

unqualified rejections thereof is a means by which the EAGGF can obtain the information it requires to determine the eligibility of expenditure. The Commission will impress upon the Member States the need to settle such disputes within a period not exceeding one year.

4.53. The clearance decisions relating to the financial year 1973 were not all taken within the confines of this restrictive interpretation

The Commission endorses the principle espoused by the Court according to which any upward adjustment should be based on information regularly submitted by the Member States. It would like to point out that it has the option confirmed by the Court of Justice in its ruling of 7 February 1979 in Cases 15/76 and 16/76 — of charging certain expenditure to the EAGGF during another financial year. The clearance decisions relating to 1973 were entirely consistent with this dual interpretation.

4.54. Organizing checks to start as soon as expenditure is carried out and, in any case, once the normal deadline for submitting documents has passed

During the actual catching-up period, there can be no question of adjusting clearance methods by bringing checks forward. The Commission does intend, however, to re-examine these methods when the catching-up operation is about to terminate; it is at this stage that the Commission will decide whether it can introduce the measures which the Court recommends.

4.57. Measures pursuant to Article 2 of Regulation No 283/72 which the Commission has taken to exploit information from the Member States systematically

There has been no change from previous years in the situation regarding the tasks deriving from Regulation No 283/72 which should be given priority.

Continual, systematic analysis of all the information supplied by the Member States is extremely important, and the Commission makes every possible effort to keep such information up to date. However, the effectiveness of the systems in the Member States is examined, from a practical rather than a theoretical point of view, when actual examples of irregularities communicated by the Member States to the Commission are analyzed. This review procedure has shown up in the national systems the loopholes and weaknesses which it is not at all certain that an academic study of national measures would have revealed.

Any information missing when the national systems are reviewed is very soon supplied. Such information has made it possible to compile reports on the national monitoring and verification systems and the rules governing suspension and recovery as well as a comprehensive list of national departments, their responsibilities and the legal basis on which they rest.

4.58. Cases where notification by the Member States pursuant to Articles 3 and 5 of Regulation No 283/72 is delayed, and the remedies prescribed

Some Member States do have difficulty sometimes in meeting the deadlines for the quarterly reports, notably in those cases where the data are provided by several peripheral departments.

Four or five weeks after the deadline, the Commission sends a reminder to any defaulters; this generally produces the required result. If necessary, other measures are taken, and an infringement procedure may even be initiated.

The case of Belgium, to which the Court refers, prompted several meetings with the competent national authorities, and a positive result was obtained at the beginning of 1980.

4.59. Reasons why the number of irregularities in respect of the Guarantee Section was smaller in 1979 than in 1978

The Commission would repeat what it said about 1978, namely that the statistical results for a single year are of little value when it comes to measuring the effectiveness of the research departments' work.

The figures received, for example, in respect of the first half of 1980 are already considerably in excess of the total for 1979 as a whole.

The varying frequency must also be analyzed of irregularities from one Member State to another, in the light of the volume and geographical distribution of expenditure within each State. This kind of analysis is more representative, as is demonstrated in detail by the EAGGF Financial Report for 1979. One must also remember that different monitoring procedures are used, depending on the administrative structure of the Member State concerned. A subsequent check of supporting documents, as practised by three Member States, must inevitably throw up a number of irregularities differing from that obtained when physical inspections of operations are carried out before any payment is made.

This uneven distribution may also have two other causes:

- (i) the regulation is interpreted in a manner which differs from that worked out with the Member States before the regulation came into force, or,
- (ii) the application of an administrative practice which narrows the concept of what is an 'irregularity'.

The EAGGF is therefore looking into this question with each of the Member States separately. With regard, in particular, to the reduced number of incidents in the United Kingdom, it should be remembered that twenty or so cases in 1978 were still due to the inadequate system of collecting MCAs in the UK, although attempts have been made to improve the system since 1977.

4.60. The Court's opinion that the Commission fails to monitor the Member States' recovery procedures systematically.

The first point to bear in mind is that the recovery procedures are lengthy, especially where the party concerned refuses to pay and takes legal action. Once a lawsuit has begun, forced recovery is usually delayed until its conclusion; neither the national authorities nor the Commission can hasten the work of the courts.

If the recovery period seems excessive, however, the Member States concerned are invited to supply the Commission with reasons for the delay. The Com-

mission examines the dossiers to see which cases are likely to mean a definite loss and invites the Member States to comment.

No solution was found in 1979 to the problem, mentioned in Article 8(2) of Regulation No 729/70, concerning the final charging of the sums lost through the irregularities, since the administrative conditions which prevented the Commission from broaching this question in 1978 still prevail.

4.61. Problems concerning interpretation of Council Regulation No 283/72

It is difficult (and, in practical terms, impossible) for the Commission to foresee all those cases where the rules may be wrongly interpreted, and it is not just in the matter of Regulation No 283/72. A Member State, which has reservations about how a particular concept or provision should be interpreted, usually asks the Commission to give a ruling. The case mentioned by the Court was never raised by the Member States concerned, either in writing or at any of the many meetings where irregularities involving 'negative expenditure' were discussed.

The Commission is currently looking into this matter.

4.62. As applied by the Commission, Regulation No 283/72 does not make it possible to judge the extent of the irregularities or the effectiveness with which they are detected and suppressed

The Commission cannot accept this conclusion. The instrument which this text places at the Commission's disposal does not empower this institution to detect and suppress irregularities. It is in the first place the Member States which are bound to fulfil this obligation by virtue of their national laws, regulations and administrative measures (Article 8 of Regulation No 729/70). Since July 1979, Directive 77/435/EEC has amplified this rule.

It must be stressed that Regulation No 283/72 is intended to promote cooperation and the mutual exchange of information. Cooperation between the

Member States and the Commission must be meaningful and inspire confidence.

4.63. The date of entry into force of Directive 77/435

The Commission is initiating an infringement procedure against five Member States for failing to observe the provisions relating hereto in the Directive.

4.64. Undertakings within the scope of the inspection laid down in the Directive

The Commission has informed the Member States that only those undertakings which receive subsidies financed by the EAGGF should come within the scope of the Directive. The Commission will make sure that this distinction does not have any harmful effects of the kind feared by the Court.

4.65. The controls required by the specific regulations are not to be counted as inspections within the meaning of the Directive

The Commission shares the Court's view. The matter is now being discussed with the Member States.

4.66. The Court is of the opinion that, under the Directive, the Commission must be given detailed information about the inspection carried out in the Member States

Preparatory work is in progress, in coordination with the Member States, in order to establish the contents of the special chapter which is to be

incorporated in the annual reports accompanying the statements of the Member States on the final clearance of accounts and which deals with the application of the Directive.

4.67. to 4.72. Reply of the Commission on the study by the Court of Auditors on the citrus fruits sector

It is undeniable that the conclusions of the study faithfully reflect the situation for the years 1977/78 and 1978/79. It is, however, important to bear in mind certain specific characteristics of this product: Community production is concentrated within a relatively shorter season than that of non-Member States; some varieties, particularly in the oranges sector, do not meet with the tastes and habits of consumers in Northern Europe; the marketing premium is only applied to the qualities 'extra and I'. This means that the less popular varieties or the inferior qualities remain in the areas where they are produced and, in the case of surpluses, are likely to be subject to withdrawal operations. It should also be noted that the percentage of production withdrawn, over quite a long period, is roughly the same for citrus fruits as for apples and pears, i.e. around 3 %.

The Commission shares the view of the Court that an increase in the Community preference or the marketing premium would not cause any fundamental improvement in the existing situation.

On the other hand, it seems undeniable that rigorous application of the various Community measures, particularly Regulation (EEC) No 2511/69, which provides for aid for converting to other varieties and improving marketing structures, would have an immediate effect on the market.

Nevertheless, it is evident that none of these measures can have any real effect unless this Community sector becomes as dynamic as its competitors in non-Member States.

This contribution is granted under the conditions mentioned in the implementing regulations. This measure is completely different from other Community measures in this respect. Furthermore, in view of the wide variety of national education systems, it was neither intended nor possible to regulate all the details. It is not therefore surprising that the Court found that the regulations are not applied uniformly in the various Member States. However, the Commission is not of the opinion that the court's findings reveal any systematic irregularities.

It is primarily the Member States who are responsible for scrutiny. At this level, a *modus vivendi* must be found to reconcile necessity and possibility. However, it should not be forgotten that the contribution to this programme depends in particular on the schools themselves, especially on the distribution work conducted by the headmasters, which involves them in additional responsibilities. If over-restrictive and laborious administrative work is introduced, there is a danger of them being discouraged. The Commission does not intend to discuss this subject with the representatives of the Member States. Following the Commission's reminders, the Member States' quarterly communications are now arriving fairly regularly. However, the Member States are experiencing some difficulties in collecting detailed information on the selling price of the milk and any part of it which may be paid by the pupil. The Commission has since reminded the Member States of their obligation to forward this information, enabling it to gain a better assessment of the effectiveness of the operation. The Commission does not feel that the way in which the Member States are obliged to present their statements for clearing the accounts has not had a positive effect on the scrutiny and conduct of the measure. In fact, when preparing the memorandum containing these details, various problems arose and were solved with a view to achieving the greatest degree of uniformity of application possible.

As regards charging this expenditure to the budget, the Commission has proposed a different presentation of the appropriations in the 1981 budget; all expenditure on milk distributed to schoolchildren would then be included under one heading, as the Court wishes.

4.73. to 4.79. Supply of milk to schools

The Basic Regulation in this sector states that this involves a Community contribution to national aid programmes for supplying milk to schoolchildren.

4.80. to 4.86. Supply of butter to the armed forces

1. Doubts about the effectiveness of providing butter at reduced prices out of public stocks (4.81).

(a) The Commission would like to point out that there is a fairly considerable difference between Regulation No 1282/72 (supply of butter at reduced prices out of public stocks, in particular for the armed forces) and Regulation No 192/75 (refunds for butter bought by the armed forces of one Member State stationed in another Member State). In the latter case, the armed forces can use butter at the world price and it is mainly for reasons of balance in comparison with Community butter that this refund has been introduced.

(b) The sale of butter to the armed forces out of public stocks is designed as a measure for marketing public stocks. In fact, together with similar assistance to social institutions, it is the cheapest outlet for these stocks. The Commission recognizes that direct aid for purchases on the free market would have the advantage of saving certain costs associated with storage. However, apart from possible problems of control, direct aid would increase the average cost of selling out of public stocks as it would be difficult to find any cheaper outlets.

2. Checking on the use of butter (4.82-4.86)

The Commission considers that the current rules enable checks to be carried out satisfactorily. The stability of the relatively limited quantities sold every year bears witness to this and does not seem to require special mention in the regulations requiring one authority to check another, for example, especially as the recipient of the aid (the armed forces) is normally subject to strict internal controls.

The same is true for the application of monetary compensatory amounts in this sector. In view of the small number of these operations, it is difficult to justify the cost and inconvenience of establishing and implementing sophisticated procedures, especially when it is a case of checking military convoys at the frontier.

The main aim of the guarantee of security system (4.85) is to record the intention of serious operations, which is necessary for knowing market trends. The Commission is therefore of the opinion that the security cannot be abolished. Finally, the theoretical risk that the butter in question may be subsequently exported (4.86) and receive a refund presupposes that the national and military authorities deliberately break the rules. The Commission finds it hard to consider this attitude likely.

4.87. to 4.96. Management of skimmed-milk powder

1. The Commission would like to state that milk production is still in surplus and is continuing to increase. Although skimmed milk production stabilized in 1979 and 1980, it can easily increase again, as in 1977. This possibility is all the more likely as milk powder production increases when there are no more profitable outlets.

2. Intervention buying is a market support measure which, unlike other measures of this type, does not settle anything connected with the ultimate sale of the product. In fact, after Community storage (at 120 ECU/t/yr, including financing costs), the product has to be sold. It is also imperative to avoid a permanent situation in which the intervention stocks become a regular source of supply for some users as they would then replace these users' normal stocks at the Community's expense.

3. For several years, the Community has been faced by the following situation:

- high stocks of around one million tonnes;
- fairly low prices on the world market and high refunds; this situation has been encouraged by the fact that the Community, as the largest exporter, has a public stock which sometimes reaches twice the level of world trade;
- a regular supply to some destinations from the intervention stocks.

In fact, the intervention stocks were an excessive burden on the market situation and obstructed the restoration of sound management of the intervention machinery.

4. This situation was corrected in 1979, mainly as a result of the following factors:

- a stabilization — and even some reduction — in milk powder production;
- an increase in internal sales of powder for animal feed, especially for calves; the

volume of these sales increased by 11 % to reach 1 300 000 t;

- additional opportunities for selling on the world market at high refund rates.

The aids for milk powder intended for animal feed thus remained in force until the stocks reached a tolerable level. In fact, these aids were last awarded in September and at the end of September public skimmed-milk powder stocks amounted to 365 000 t (equivalent to 20 % of annual production). This formed part of an already restrictive policy, namely the reduction of export refunds, of aid to liquid skimmed milk for animal feed and of aid for conversion into casein.

5. The world market reacted very favourably to this trend, allowing a considerable reduction in refunds. The internal market also reacted favourably by reducing intervention supplies. Towards the end of 1979, market prices outstripped intervention prices by 7-8 %. This is a technical market reaction to the fact that some users were partly cut off from their regular supply when the intervention stock reached 1 000 000 t and had to establish their own reserves. Since then, prices are once again at a level slightly above the intervention price.
6. The Court criticizes the Commission for having continued high refunds and pig-feed aids for too long. The Court claims that more than 100 MEUA could have been saved.

The Court's assessment is based on later calculations made at a time when there are no excessive Community stocks on the market. However, if this considerable reduction in stocks had not taken place, the market situation and the prices on the world market would have been very different from those prevailing today. Unfortunately, it is not possible to know this with sufficient accuracy and certainty. As a result, the calculations made by the Court after the event are inevitably theoretical and are arbitrary in nature.

7. Although there were doubts about whether large quantities of milk powder could be sold to the intervention stocks, which had reached 1 350 000 tonnes in 1976, the Commission is of the opinion that these stocks have been reduced successfully. In the financial year 1979, quantities were reduced from 722 000 tonnes at the beginning of the year to 215 000 tonnes at the end. This operation admittedly involved high

expenditure in 1979, but it is by no means certain that the alternative policy recommended by the Court would have led to less expenditure over several years.

8. The Commission is of the opinion that the problems associated with the management of the milk and milk products market are due to excess milk production. In recent years, it has repeatedly presented the Council with proposals which have been followed only in part and with some delay. The Commission has also adopted several new measures. But, pending a solution to the basic problem, the Commission feels obliged to try and find outlets for the growing quantities of milk.

CHAPTER 5 — THE EAGGF GUIDANCE SECTION

It has to be realized that the utilization of appropriations is affected by the EAGGF Guidance Section's methods of financing. Nearly all measures require a financial contribution from the Member State concerned, since the Community meets part of the cost only.

In many cases, before a new measure can become operational, the Member State must adopt national implementing measures or must present a relevant programme.

Most often, agricultural structures legislation is not automatically applicable as it requires a positive initiative by the potential beneficiary, and it must be stressed that financial aid is not the only factor which influences his choice.

5.1. to 5.2. Under-utilization of commitment appropriations and transfers to other titles of the budget

The Commission recognizes the under-utilization of appropriations in 1979 by the EAGGF Guidance Section.

This was in part due to the optimistic forecasts made by the Member States. In addition, the implementation of a number of new measures was delayed as Member States took a long time to submit their programmes for Commission approval.

Appropriations were only transferred from Chapter 100 to finance certain urgent proposals before the Council when it became obvious that delay by the Council in adopting those proposals would mean that ear-marked appropriations could not be used.

5.4. The continued application of Regulation No 17/64 and the re-utilization of its appropriations

The re-use of appropriations granted under Regulation No 17/64 and released by Regulation No 3171/75 is only made possible by Article 19 (4) of Regulation No 355/77. The re-use of such appropriations in 1979 was only permissible as a result of Regulation No 2992/78, which prolonged the effect of Regulation No 17/64 to cover 1978 and 1979.

The Commission is fully aware of the problems arising from the presentation of committed appropriations in the accounts. Matters are further complicated by the fact that the appropriations released by Regulation No 3171/75 may be either non-differentiated, if recovered from projects committed prior to 1977, or differentiated. The Commission will seek to present these matters more clearly in future.

5.5. to 5.8. Need to improve the budget estimates

The Commission fully recognizes the need to improve the budget estimates in this sector. A number of steps have been taken to improve utilization, and the first effects of these are already being felt.

On the strength of the payment requests transmitted by Member States in 1980, the Commission can be confident that utilization by the Guidance Section in 1980 will be vastly improved.

The Commission is applying an improved method of assessing the estimates of expenditure by the

Member States, particular reference being paid to the accuracy of previous estimates and realistic allowance being made for the time-lag between the adoption of a measure by the Council and the first expenditure by the EAGGF. The effects of this more rigorous forecasting will be evident in the implementation of the 1980 budget.

In addition, the Commission decided in March 1980 (Decision 80/427) to increase payment on account from 75 % to 100 %. This should improve the utilization in 1980 of appropriations in the four socio-structural directives concerning 'Modernization of farms', 'Cessation of farming and reallocation of land for structural improvement', 'Vocational guidance and training' and 'Mountain and hill-farming and farming in certain less-favoured areas'.

5.9. to 5.11. Under-utilization of payment appropriations

For measures other than those of the project type, the commitment appropriations and the payment appropriations are identical.

The remarks made in points 5.2 and 5.3 on commitment appropriations apply equally to the payment appropriations for these measures.

The payment appropriations for measures of the project type are dependent on the speed of execution of the projects and the rapidity with which, following their execution, payment claims are submitted. The speed of execution is very variable and is often influenced by the sector concerned and the Member State in which the project is being executed.

Often, changes in the market conditions for the product or in the interest rates applying to bridging finance can have the effect of speeding up or slowing down the execution of a project. Improved administrative procedures in the Member States and a slower rate of inflation can together often accelerate the execution of projects.

The adoption of Regulation No 3171/75 has improved the speed with which projects were begun, but has done little to accelerate their completion.

As a result of these factors, it is difficult to forecast requirements with regard to payment appropriations and past experience is heavily relied upon when formulating those requirements.

5.12. Unsatisfactory operation of the system of differentiated appropriations

The Court's comment on the practice of limiting commitments in respect of the four socio-structural directives to the amounts actually paid will no longer apply from 1980 onwards, as Decision 80/427 has increased the payment on account from 75 % to 100 %. In future, therefore, commitments will cover all the requests for reimbursement submitted by each Member State.

5.14. 'Horizontal' rules governing the administrative arrangements for granting advances

The Commission adopted special procedures for implementing each measure for the following reasons:

- (i) the types of measure vary somewhat as to structural objectives and methods of financing;
- (ii) to rationalize the review of requests as far as possible, it is planned to make maximum use of forms which have to be adapted for each specific measure;
- (iii) the basic regulations state that the payment of advances depends on the method of financing adopted at national level and these are most often known only when the national programmes are submitted.

Consequently, the Commission is not planning to adopt any general rules on the subject of advances.

5.18. and 5.19. Selecting projects for financial support

Regarding the selection of projects for subsidy from the Fund, the Court seems surprised that subsidies

were granted to so many fishing vessels between 1972 and 1979, when the protection of fishing resources in the Community made it essential to reduce opportunities for catching certain species from 1977 onwards.

The Commission would first draw the Court's attention to the nature of the regulations which make intervention by the EAGGF possible: Regulation No 17/64, which, since it is 'horizontal' in nature, does not lay down specific criteria for fishing vessels, and Regulation No 1852/78 which, on the other hand, does lay down certain guidelines relating to the selection of investment projects.

While the Court may not have cast any doubt on the legality of financing certain projects, notably in the United Kingdom, given the criteria set out in the above regulations, it does appear, in its criticism, to be reviewing the individual merit of these projects in the light of its general interpretation of the Commission's general policy towards fisheries.

Generally speaking, the Commission shares the opinion of the Court of Auditors, namely that fisheries capacity should be increased only in proportion to the real catch potential; this principle, moreover, has underlain the proposals sent by the Commission to the Council since 1975 and is restated in the new structural proposals (COM 420 final of 18 July 1980). Seeing how complex the structural problems are in the fisheries sector, the Commission is surprised at the haste with which the reasons behind certain decisions have been taken for the effects of those decisions, confirming, in the Court's view, 'that better coordination is needed between the management of the aid and the measures applied in the fisheries sector'.

It should be noted, in particular, that the proportionally large number of projects financed in the northern regions of the United Kingdom reflects the Commission's aim of supporting fishing in areas of the Community which are heavily dependent on fishing and related activities. This approach, which the Commission has been following since 1973, was confirmed and strengthened by the Council Resolution (issued at The Hague) of 3 November 1976, whereby the vital interests of the inhabitants of such areas are to be taken into account when fisheries resources are allocated. This also necessitates a restructuring of the productive apparatus, and so the number of projects financed in these areas increased in the period 1977-79 (Annex I).

However, analysis of the statistics relating to the Community's fishing fleets shows that the number of vessels which received a subsidy in the period 1972 to 1979 represented a mere 0.8 % of all active fishing vessels in the EEC. In the United Kingdom, which was the only country examined by the Court in the autumn of 1979, the 242 vessels subsidized during seven years of EAGGF activity represent 3 % of the UK fishing fleet.

Despite new building, the total tonnage of fishing vessels declined during the same period by 5.5 % in the EEC and by 25 % in the United Kingdom, where, in the class of vessels over 24 metres in length, 61 new vessels came into service and 314 were withdrawn from activity, leaving a negative balance of 253 %.

These few figures will show that it is not only desirable but essential to renew or modernize fishing fleets in order to adapt them to the conditions resulting from the conservation measures. The real problem concerning EAGGF intervention in this sphere is not that too much investment has been financed, but that the funds required to influence the restructuring of the Community's fishing fleets in a particular way are not there.

As far as the problem of modernizing vessels is concerned, it is quite normal, even in the case of recently-constructed vessels, that certain alterations should have been needed if due account is to be taken of the trend in fishing opportunities.

Projects relating to the purchase or modernization of fishing vessels concerning which a decision to grant EAGGF assistance was given in the period 1971-1979

Member State	1971-1976			1977-1979			1971-1979		
	%	Projects	Vessels ⁽¹⁾	%	Projects	Vessels ⁽¹⁾	%	Projects	Vessels ⁽¹⁾
FR of Germany	5.3	13	13	6.8	16	16	6.0	29	29
Belgium	2.0	5	5	0.4	2	1	1.3	6	6
Denmark	0.8	2	2	4.7	11	34	2.7	13	36
France	7.4	18	49	2.1	5	30	4.8	23	79
Ireland	14.7	36	54	22.4	53	53	18.5	89	107
Italy	2.0	5	5	20.8	49	53	11.2	54	58
Italy (North)	0.4	1	1	10.6	25	27	5.4	26	28
Italy (South)	1.6	4	4	10.2	24	26	5.8	28	30
Netherlands	4.9	12	12	4.7	11	11	4.8	23	23
United Kingdom	62.9	154	178	38.1	90	93	50.7	244	271
England and Wales	15.5	38	55	8.0	19	22	11.8	57	77
Scotland	40.8	100	107	19.9	47	47	30.6	147	154
Northern Ireland	6.6	16	16	10.2	24	24	8.3	40	40
Total	100	245	318	100	236	291	100	481	609

⁽¹⁾ Number of vessels to which the projects relate.

5.21. and 5.22. Implementation of the projects

The conclusion that 'the Community bodies appear equally responsible for having allowed such a situation to develop' is not justified by the findings which the Court presents at this point.

It is hard to see, moreover, how the Community bodies could have prevented this situation from occurring.

The Community bodies, in fact, do not have any regional agencies nor sufficient officials for monitoring projects on the ground once a request for financial support has been approved. The Commission's departments can only intervene when, after some time has elapsed, work has not begun or the payment requests reveal certain problems.

For the rest, the Commission must rely on the national authorities, as indeed is provided for in the rules.

It must be admitted, moreover, that progress depends less on the national authorities than on general economic trends, the state of the market and the initiative of the parties concerned.

5.24. The slow implementation of projects in the Friuli area

Implementation is in fact excessively slow, especially when one considers that the implementation procedures actually provide for certain advance payments to be made.

At the end of June 1980, about 23 % of the aid had been paid, which represents a certain improvement.

The Italian authorities have been asked to explain, however, why they did not submit requests for payment, if, as they explained to the Court of Auditors, 50 % of the projects had in fact been completed.

5.25. to 5.31. Delays and difficulties in the implementation or utilization of investment, especially in the citrus fruits sector

The Commission, and indeed the competent authorities in the Member State concerned, are aware of

the fact that the measures have not yet produced the expected results. As the Court itself points out, the causes are complex.

Regarding the effect of inflation and the adjustment of the premium to monetary trends (point 5.28), it should be noted that in the regulation the premium is expressed in units of account, and that its value, expressed in national currency, has doubled thanks to the changes in the representative rate used for the common agricultural policy while the regulation is in force. In this way, the effect of inflation is kept lower than the actual inflation rate in Italy.

5.32. to 5.35. Difficulties in justifying expenditure on aid to producer organizations

The conclusion that it is 'contrary to the requirements of sound financial management' that the aid paid out should remain in the possession of the Member State concerned is unwarranted.

It was decided after a thorough legal examination of the question that, under Regulation (EEC) No 1035/72, the Member State had a right to the aid and that the Commission could not therefore refuse or withdraw the aid on the basis of assessment criteria. As the Court rightly points out, however, the Commission realized immediately what it should do and put forward certain amendments to the provisions in question which were accepted by the Council — Regulation (EEC) No 1154/78 — and amended (by means of Regulation (EEC) No 850/80) Regulation (EEC) No 2264/69 on requests for repayment of aid granted by Member States, in order to be able to judge whether requests for aid in cases where recognized producer organizations merged were admissible.

5.38. General comments on supposed ambiguities and loopholes

The Community texts were intended to cover a multitude of situations involving dairy farms in the Community.

In view of this diversity and the changes which may arise in the situation of individual producers during the non-marketing or conversion period, in certain instances the regulations had to be limited to gen-

eral clauses allowing appropriate solutions to be found in cases which could not be foreseen when the texts were adopted.

The Commission has remedied the implementation difficulties raised by the Member States, replacing Commission Regulation No 1307/77 by Regulation No 1391/78, which has in turn been amended by Regulations Nos 2962/78 and 1799/79.

The adoption of Regulation (EEC) No 1078/77 has not enabled the Community to eliminate the following problems:

- (i) checking the identity of dairy cows kept when the premium is requested and comparing the number of cows with the number held by the applicant at a specific earlier reference date;
- (ii) determining Community criteria for a minimum area of pasture land, which every applicant for a premium must possess when submitting his request, seeing that the structures of dairy farms in the Community differ widely;
- (iii) the establishment of uniform rules throughout the Community concerning the exceptional cases which would have been admissible if the principles outlined by the Court of Auditors had been adopted (disposal of cattle or pasture land during the period before the application is submitted notably in cases of *force majeure* or for ordinary reasons unconnected with a subsequent application for a premium).

In the second half of 1979 and the first half of 1980 the Commission's departments carried out — in the process of final clearance of the accounts — checks on expenditure in several Member States. Checks will be made in other Member States in the near future.

The cases covered so far have produced the following statistics:

Premiums	Number of cases	Voluntary repayments by the farmer himself	Cases revealed by on-the-spot inspections or other checks
Non-marketing	20	4	16
Conversion	33	17	16
Total	53	21	32

These figures — and the fact that recovery is possible in most cases at present — show the high standard of inspection in the Member States. The Member State to which the Court alludes has not yet been inspected as far as premiums are concerned, but these will be checked in the near future.

The Commission shares the Court's opinion that there is a danger that the metal markers attached to the cows' ears can be replaced, but it is inclined to think that the risks are slight, in view of the other checks which are made.

With reference to identity cards, Community legislation provides that the premium may be recovered in any case where the card is incomplete or incorrectly certified.

The Commission has taken note of the Court's remark concerning the deduction of fees from the premiums granted, and is currently carrying out a detailed investigation of this point.

CHAPTER 6 — FINANCIAL ACTIVITY OF THE COMMUNITY IN THE SOCIAL SECTOR

6.3. The point made in the second sentence of this paragraph raises the question of an interpretation of Article 123 of the Treaty of Rome and is implicitly raised again in 6.16.

The Commission considers that the existing guidelines, the standard forms for applications and claims provide a sufficient degree of control on the different systems existing in the Member States.

6.10. The Commission — who proposed — and the Council and the Parliament — who approved the transfer criticized by the Court of Auditors — hold this operation to be lawful.

6.11. In the first type of cancellation procedure (second indent) as the Court rightly points out, notification of unspent appropriations within specified times results in these appropriations being available

for re-use. The Commission has endeavoured to have notification as early as possible in the year so that the unspent amounts can be used in the final batch of agreements in any one year, and to ensure that the weighted reduction is kept to a minimum. However, the information relating to the progress of operations and any possible saving of appropriations only becomes available as the year progresses and exact indications of final costs emerge. Consequently, the Member State is only in a position to notify the results to the Commission late in the year. Every effort is being made to bring forward the date of notification of unspent appropriations and the Commission hopes that familiarity with the system by the Member States will ensure earlier notification, but this will depend on the extent of national control at the different levels of the operation included. In addition, the guidelines for the management of the Fund in the years 1981-1983 include a provision to discourage Member States which do not notify the Commission in time to allow the re-use of unspent appropriations.

The method of cancellation referred to in the third indent involves the outright cancellation of unused or unclaimed amounts for operations carried out prior to 1. 1. 1977 (when there was no provision for re-use of unspent appropriations) or for operations carried out after 1. 1. 1977 and where notification of unused amounts was too late to allow for their re-use. Only when final claims for payment are received can any outstanding balances be cancelled and only then after notifying the Member State (and giving time for a reply).

6.16. (first indent) The rules of the Fund were drawn up to meet the most pressing needs of the Community, as reflected in the labour market which is itself undergoing continuous change. The level of significance of Community intervention reflects the degree to which programmes submitted by the Member States qualify not only under the rules of the Fund but also under the priorities indicated in the guidelines for the management of the Fund — priorities which are drawn up to meet the changing needs of the labour market as seen by the Community.

The comments did not draw attention to the fact that the Member States must submit a report annually in accordance with Article 5 of Commission Decision 78/706/EEC of 27 July 1978 which stipulates that 'On the basis of an outline prepared by the Commission and forwarded to the Member States before 1 January, Member States shall forward to the Commission not later than 31 March of the same year a summary report of the results of operations carried out with assistance from the European

Social Fund in the previous financial year'. The reports of the Member States for 1979 are in the course of preparation for publication as an annex to the annual report for 1979.

6.16. (second indent) The Social Fund is based on financing specific projects which must qualify under the rules of the Fund and are allocated priorities in accordance with the guidelines. The allocation of expenditure, national or otherwise, will vary from Member State to Member State.

Under the terms of Council Decision 71/66/EEC of 1 February 1971 on the reform of the European Social Fund, as modified by Decision 77/801/EEC (OJ No L 28 of 4. 2. 1971, and OJ No L 337 of 27. 12. 1977), the existing administrative structures in the Member States have to be accepted.

6.16. (third indent) Member States are aware that claims for payment on approved operations may be subject to on-the-spot verification by the Commission and it is normal practice that documents are held by the Member States for some period after the end of operations.

6.16. (fourth indent) The Commission can only assess the effectiveness of national labour market policies in the context of the statements given by the Member States for the Annual Social Report of the Commission. The aim of the Commission in auditing the European Social Fund is to ensure that the policies of the Community are being implemented, that the monies allocated by the Commission for these policies are being properly spent in accordance with any conditions laid down by the Commission and that the policy objectives of the Community are being achieved.

6.16. (fifth indent) The guidelines are drawn up and adapted annually, to cover the most pressing problems of the labour market on a Community level. Budgetary constraints are reflected by the application of the provision for weighted reduction, but they do not play a major role in determining the priorities of the guidelines.

6.17. For some years now, the Commission has been carrying out systematic controls within the framework of the European Social Fund.

6.18. The new system, approved by the Council, of dealing with claims for payment in respect of operations carried out after 1. 1. 1978 was established to transfer more administrative responsibility to the Member State; although it is too early to say whether the processing of claims for payment is more efficient or not, every effort will be made to continue in this direction.

Experience so far has shown that the persons designated by the Member States to check the accuracy of the information supplied in claims for payment, both as regards factual content and from the accounting point of view, take their responsibilities very seriously.

6.19. Because of the introduction of the new systems of payment in 1978, on-the-spot verifications were concentrated on the three Member States which take up the vast bulk of total commitments but they will be extended progressively to all Member States as provided for by the new system of coordination of Community controls. The criticism of the Court of Auditors that planning of on-the-spot checks has not been the subject of a coordinated approach — either within the Social Fund Directorate or with the Financial Controller — cannot be accepted.

6.21. The methods used in verifying expenditure varied considerably in each Member State to take account of the differing administrative and accounting systems. In the third paragraph, reference is made to the proportion of administrative staff expenditure allowed in allocating expenditure to eligible programmes. This system was established with the Italian administration and accepted by the Commission because of the particular administrative structure in Italy.

Other Member States do not have a similar structure, and thus the methods applied are different in each Member State. Consequently, the use of the word 'discriminatory' cannot be understood. However, this is an area which the Commission is studying, particularly in the light of the introduction of unit costs, now in the course of preparation.

6.23. The on-the-spot audits carried out by the Directorate-General for Financial Control in 1979 were few in number and the overall context in which they were carried out cannot be appreciated if they are considered in isolation. Since the entry into force of the new Fund, the aim of such checks is that, ultimately, the majority of national systems and procedures will be covered. In 1980, an analysis of the auditing methods in this sector was carried

out with a view to the re-allocation of tasks, with greater emphasis on on-the-spot checks, and to achieve complete coverage within five years.

The coordination of audits and inspections is also a constant concern of Financial Control, which was officially given responsibility for this task by the Commission on 11 July 1979. The fact remains that Financial Control is occasionally required to carry out checks in order to settle cases in dispute which could not be cleared before authorization either on the basis of supporting documents or on-the-spot checks. The French case raised by the Court is a particularly striking example of this since an inspection had been carried out of the body in question by the Funds's departments, followed by a national inspection yet no replies were given to the questions asked.

The inspection carried out in Italy concerned a general problem of principle, namely the interpretation of Article 8 of the Council Decision of 1 February 1971 which limits the Fund's contribution — where projects or operations are being carried out by private bodies or agencies — to the expenditure incurred by the public authorities.

The inspection visit to the United Kingdom formed part of a Community-wide survey of the methods used to determine compliance with the criterion 'young' as defined in Community regulations.

To conclude, the Directorate-General for Financial Control is of the opinion that, in general terms, the study of the systems investigated during these inspection visits covers the entire procedural system operated by the Fund.

6.26. The Commission cannot accept that the previous internal audit procedures were necessarily unsatisfactory, but does accept that rapid growth in the size of the Fund makes it necessary to keep procedures under review and this is borne out by the outline of the new procedures of control given in paragraphs 6.24 and 6.25.

6.27. Considerable emphasis has been placed on eliminating delays (particularly of advances) between receipt of claims and payments. The processing of claims for payment is monitored continuously. It should be mentioned, however, that the staff dealing with payments are also dealing with applications for assistance (and this integrated structure was introduced to ensure proper management). Applications for assistance are submitted and dealt with, within very tight deadlines. At times, because of shortage of staff, priorities have to be set.

Miscellaneous activities in the social sector

6.31. (end of second paragraph) With reference to the 54 % rate of utilization of appropriations for payment under Article 303, the Commission would point out that the payment decisions in respect of new requests were taken only in the last quarter in order that all the applications submitted over the year could be compared. Consequently, the payments in pursuance of this Decision were not made until the beginning of the carryover year. The time needed to negotiate loan contracts (Item 3031) did in fact lead to the carryover of all the sums committed.

6.31. (fourth subparagraph) The increase, over the previous financial year, in the appropriations to be carried over under Article 302: 'Tasks entrusted to the institution to promote exchanges of young workers' can be explained by the contractual commitments entered into in the last quarter in respect of the new programme for the exchange of young workers consequent upon the transfer of 650 000 EUA from Chapter 100 to Article 302.

6.31. (last sentence of fifth paragraph) The two projects booked to Article 356 were not undertaken until the end of the year as a result of a policy change in favour of a more general approach to the working environment.

As to the appropriations carried over, it became necessary to restrict the experimental scope of a research project to make an economic assessment of the social costs associated with night work on account of the reservations expressed by firms about Community action in this field. The total actually paid was only 50 % of the total amount earmarked for this purpose.

CHAPTER 7 — THE EUROPEAN REGIONAL DEVELOPMENT FUND

I. Appropriations available in 1979 and their utilization (paragraphs 7.2 to 7.13)

Commitment appropriations

7.3. As regards the procedure for approving special programmes for specific Community measures, it should be noted that, although it is the Council's

prerogative to fix the parameters listed in Article 13 (3) of the Fund Regulation for each measure, the Regulation establishing those measures stipulates that it is the Commission, and not the Council, which must approve the programmes, after consulting the Fund Committee.

The Commission will propose the steps required in order to ensure that the appropriations entered in the 'non-quota' section are used in time to prevent cancellation of the 1979 appropriations.

Payment appropriations

7.7. As regards payment appropriation estimates, reference is made to the Commission's replies to paragraphs 5.9 to 5.11 of Court of Auditors report concerning the financial year 1978, in which the Commission commented on the exceptional slackening of payments in 1978. The unforeseeable carry-over of 353 490 000 EUA from 1978 to 1979 was largely due to factors other than over-estimation of payment appropriation requirements.

In accordance with the standard budgetary procedure, the payment appropriation requirements for 1979 were estimated in the first half of 1978, i.e. before there was any indication of the rate of utilization of the 1978 appropriations for payment. It was not possible to take account of the slackening of payments in 1978 when estimating requirements for 1979, and the estimates were based on the premise that ERDF payments in 1978 would follow the usual pattern.

As the Commission predicted in paragraph 92 of the fourth (1978) annual report of the ERDF, the exceptional carryover from 1978 could not be absorbed in 1979 despite the fact that payments were more than twice as high as in 1978. The 1979 out-turn of 513 150 000 EUA was well above the 483 MEUA entered as appropriations for payment in the 1979 budget. As a result some 61.4 % of the total appropriations for payment available for 1979 (483 MEUA + 353 190 000 EUA = 836 190 000 EUA) have been used. Meanwhile, in an attempt to cure the after-effects of the exceptional 1978 situation once and for all, the appropriations for payment entered in the new draft budget for the 1980 financial year have been cut to 400 MEUA, as opposed to the 600 MEUA originally entered in the draft preli-

minary budget for 1980 following a proposal put forward by the Commission early in 1980.

7.8. The third subparagraph of Article 1 (3) of the Financial Regulation must be interpreted in conjunction with Article 6 (2b), which lays down that payment appropriations which have not been used at the end of the financial year for which they were entered shall be carried over automatically to the next financial year only. The only limiting clause in these provisions is that payment appropriations which have not been used may not be carried over more than once. The appropriations for payment which were carried over from 1978 to 1979 can therefore be regarded as an integral part of the appropriations for payment available for use during the 1979 financial year. Although in practice carry overs are used primarily for expenditure arising from commitments entered into in previous financial years, the Commission is under no legal obligation to confine its use of carryovers to such expenditure should requirements arising from previous commitments prove too low to absorb the entire amount. The Commission feels that it has followed the basic rules of sound financial management.

7.9. As regards the impact of the system of accelerated payments on 1979 payment figures, the Commission refers to the data contained in paragraph 134 of the fifth (1979) annual report of the ERDF, which show that in 1979, the first year of application of the system, accelerated payments accounted for less than one third of all payments made.

The Commission wishes to emphasize that the lack of a computerized system in the administration of the ERDF has made it impossible to compile a list of accelerated payments in the form desired by the Court of Auditors (see also the Commission's reply to paragraph 7.12).

7.10. The Commission is well aware of the fact that the net rate of utilization of ERDF funds by Italy is below the Community average. It must be remembered that, under the Fund Regulation, the rate at which the Commission makes payments depends on the rate at which the Member States submit applications. The Commission has done all in its power to encourage the Italian administration to try to rectify the situation and believes that the responsible authorities are now looking into the causes of the delays in payments from Community funds in Italy although the Commission has yet to be informed of any results.

Whatever the outcome, the Commission would be very happy for any help it could obtain from the

results of lessons which the Court of Auditors appears to have been able to draw from its own enquiries.

Commitments outstanding at the close of 1979

7.12. and 7.13. Firstly, the Commission wishes to point out that the Court of Auditors has access not only to the data recorded in the annual reports of the ERDF and in the annual analysis of financial management preceding the revenue and expenditure account of the Communities but also to the inspection reports drawn up by the Commission and to all the financial management documents catalogued in the ERDF files (mainly the decisions relating to the aid to be granted, commitments, payment orders and release of appropriations). The Court of Auditors also has access to the financial management department's files. The Court of Auditors therefore has all the available financial and accounting information at its disposal to help it draw up any financial statements or extracts it needs for its inspections.

Secondly, the Commission formally assures the Court of Auditors that the department responsible for the financial management of the ERDF has no other accounting of financial statements or extracts in its hands. In the absence of a computerized system, the extra work entailed in compiling the data in the form desired by the Court of Auditors would jeopardize the efficiency of the department concerned, bearing in mind that an extremely limited number of staff has to deal with all the work attaching to the financial management of the ERDF, including inspections. The demands made by the Court of Auditors' inspections must be reconciled with the need to avoid disrupting or delaying the work of the department concerned.

II. Audits by the Court of Auditors in 1979 (paragraphs 7.14 to 7.37)

7.14. Each year in the past the Commission has striven to carry out on-the-spot inspections of a number of projects along with verification of approximately 10 % of all projects granted aid from the Fund in previous years. However, staff shortages

mean that the department responsible for financial management and verification will soon reach the point where it is no longer able to keep up this rate, especially since the Commission can under no circumstances sacrifice quality for quantity in this area.

Selection of investments for assistance

7.17. to 7.21. The Commission wishes to make it clear from the beginning that it takes scrupulous care to comply with the Fund Regulation's provisions on the selection of projects in all its decisions relating to grants from the Fund. The procedures for examining applications for aid, including checking whether the applications comply with the Regulation, and the internal consultation process for applications include checks on the eligibility of the projects for aid from the Fund. The Commission is able to justify fully to the budgetary authority the merits of the investments selected. As regards the waste-processing plants for Berlin, in particular, the Commission carried out a detailed examination of the project file which also took account of the lack of equipment for the recovery of by-products and of the impact of the investment on the environment. In the light of the particular circumstances of the city's situation, the Commission considered it opportune to agree to finance a project of this nature. As regards the construction of a factory at Aubange (Belgium), it conforms to these provisions of the Fund Regulation which concern the implementation of investments. The Commission therefore considers that the reply to the question of legal property in the investment is not decisive (see also the replies to points 7.22 to 7.26).

Determination of the qualifying amount of investments

7.22. to 7.26. The Commission takes scrupulous care to comply with the Fund Regulation when determining the amount of the investment costs qualifying for aid from the Fund. This is another area attaching, by definition, to the preparation of Commission decisions, for which the Commission assumes sole responsibility.

Without prejudice to the foregoing comments, the Commission wishes to make it clear that:

- (i) it agrees with the Court that applications submitted to the Commission should clearly state whether equipment financed by leasing contracts (the eligibility of which is not contested by the Court of Auditors) is to be included in the ERDF projects. The Commission is keeping in touch with Member States to ensure that it is informed of such cases in future.
- (ii) the overheads to which the Court of Auditors refers in connection with investments in Greenland, the Federal Republic of Germany and the Netherlands were found, upon close scrutiny, to be an integral part of the investments concerned.

Payment of the aid

7.27. to 7.29. Given the fact that ERDF projects are bound up with investment forecasts and, consequently, public expenditure forecasts, it is clearly inevitable that the final amount of public expenditure declared to the Commission will sometimes differ from the initial forecasts. The Member States periodically inform the Commission of any adjustments they have made to their declarations of public expenditure in the light of their verification checks and, where necessary, the Commission proceeds to recover any amounts due.

As regard the 5 % deducted by the Italian authorities by way of security, the Commission has contacted the responsible authorities with a view to ensuring that the Fund Regulation is applied correctly.

In this connection, the Commission would point out that it has been aware of the results of on-the-spot visits made by the Court of Auditors only from the fairly summary remarks on the subject in the latter's annual report, without any detailed account of the projects in question. These remarks refer only very briefly to the replies of Member States. The Commission considers it desirable for the Court of Auditors to keep it informed, as indeed is done in other areas, of the result of its on-the-spot visits and of any findings resulting from exchanges of correspondence with national administrations. Such information would be highly valuable, and there is no doubt but that it would contribute to the improved management of budgetary appropriations.

The estimated and actual results of the projects

7.30. to 7.37. The Court of Auditors' description of the discrepancy between estimates and reality, notably with regard to project deadlines and job-creation schemes, touches upon a major economic problem confronting the entire Community. Under present economic conditions it comes as no surprise that industrial development has lagged behind the initial predictions or that although investments are often higher than initially forecast the number of jobs created is not. Of course, before finally closing a file, the Commission checks the documents supplied by the Member States to make sure that the project has been carried out in accordance with the Fund Regulation. The disparities found by the Court of Auditors therefore have no effect on the amount of aid granted from the Fund, provided the limits laid down by the Regulation have been respected.

celled because the Council of Ministers failed to reach an agreement on the Commission proposals;

- for Items 3240 and 3241, the 1979 cancellations (2.5 MEUA) were due to unavoidable delays encountered in setting up a new procedure for granting support to energy-saving projects and to projects for the development of new sources of energy;
- for Item 3200 (hydrocarbon development projects) the cancellations which occurred in 1976 and 1977 were due to the fact that five projects, representing an amount of 8.8 m.u.a. and seven projects, amounting to 15.7 MEUA, were withdrawn by their promoters during these years after a Council decision. On the other hand, the commitment and payment appropriations were 'non-differentiated' up to 1976, which means that in these years the Commission could not ask for fewer payment appropriations than commitment appropriations.

The other payment appropriations which were cancelled in 1978 were done so because of unforeseeable delays encountered by the promoters in implementing their projects.

CHAPTER 8 — ENERGY, RESEARCH AND INVESTMENT

Expenditure arising out of the energy policy

8.3. 1. The payment appropriations of 57.7 MEUA + m.u.a. cancelled during the period 1974 to 1979 can be spread over the items of Chapter 32 as follows:

- 41.7 MEUA + m.u.a. for Item 3200 (hydrocarbon development projects)
- 13.5 MEUA + m.u.a. for Item 3201 (hydrocarbon exploration projects)
- 1.5 MEUA for Item 3240 (energy-saving projects)
- 1.0 MEUA for Item 3241 (development of new sources of energy)

(for details, see following table p. 281).

2. The reasons for these cancellations are:

- the sums allocated in 1977, 1978 and 1979 for hydrocarbon exploration (Item 3201) were can-

8.4. The Commission recognizes that the rate of utilization of the payment appropriations in the budget year is rather low.

This is mainly due to the fact that the Council decision on the grant of support to Community projects is normally taken during the last quarter of the year, leaving a very short time for negotiating contracts, committing the money and making the payments. In addition, priority is given to payment of the appropriations carried over from the previous year.

8.5. and 8.6. 1. For a better appreciation of the problems involved in managing the hydrocarbon development projects (in addition to the explanations already given on Point 8.3.2 regarding cancellation) it is necessary to look at the normal timetable for preparation of the budget and of each year's hydrocarbon projects scheme.

At the end of each year, the Council decides on the budget for the following year before the new round of hydrocarbon projects for that year is initiated by publication in the Official Journal of an invitation to submit projects; the projects must be submitted within three months. Appraisal takes about four months, decision of the Council two months and

negotiation of projects to be concluded with companies up to six months. The total time needed to start projects after the Commission's draft budget is prepared amounts to about 1½ years. Work on each project may continue for around three years and the speed of progress — and that of verifying contractual performance — dictates the rate of payment.

2. This long time lag between first budget estimates and actual payments has made it difficult to estimate reliably. Nevertheless, the Commission accepts that, in the years from 1977 onwards, less optimism should have been shown about the time taken to negotiate contracts and make payments.

3. To these difficulties must be added those resulting from the Commission's inability to allocate sufficient staff to financial and technical controls on projects under way.

8.7. and 8.8. The Commission has noted the Court of Auditors' comments and would point out that examination of budget proposals is the exclusive province of the budgetary authority — i.e. the Council and Parliament. It is to them that the Commission explains the ground for its proposals, its estimates and the method of calculation used.

The Court is wrong in concluding that shortcomings in the procedure may have caused the over-estimates of appropriations for payment. The calculation was based on the contractual schedules of payments which, in their turn, are based on the average rate of completing the various stages of a project. Estimates relating to technological development projects in the hydrocarbons sector also depend on uncertain factors to which it is difficult to put a figure, e.g.:

- reassessment by the contractor of his work programme;
- technical failures;
- bad environmental conditions for tests offshore;
- financial difficulties of the contractors;
- withdrawals, abandoning and amalgamations of projects.

8.9. The Court of Auditors 'is of the opinion that payment appropriations requested in the 1979 budget for Item 3200 were not soundly based'.

The Commission would repeat the comment made above in reply to points 8.7 and 8.8, namely that it is the exclusive province of the Council and the European Parliament to pass judgment on budget proposals.

The Commission would add that the Court's opinion is based on an assessment made after the event and that at the time of drawing up the estimates the facts look rather different.

In order to obtain a more accurate balance between forecasts and payments the Commission has, for the budget year 1981, lowered the amounts resulting from a contract-by-contract analysis of Item 3200's payment appropriation requirement by about 80 % to only 5 MEUA.

The Commission points out that it should not be overlooked that a high percentage of utilization of payment appropriations is not a sufficient indication by itself of good management of funds. Delays in managing contracts will always occur because precautions are being taken to ensure the proper spending of money.

Finally the Commission notes with satisfaction that the Court of Auditors has no comments to make on the Commission's actual expenditure.

8.10., 8.11. and 8.12. The Commission generally agrees with the remarks of the Court of Auditors which give a good description of the procedures following by the Commission for the repayment of financial support.

The Commission is prepared to introduce a system of evaluation of technical success or failure of projects and the likelihood of commercial exploitation of their results on the lines suggested by the Court, and to ask contractors in the appropriate cases to state formally that they do not exploit all or part of the results of Community projects. It will give consideration to the procedure suggested by the Court of Auditors of having independent auditors certifying such statements, but it may not always be easy for auditors to verify the technical aspects, in the sense of linking specific income of the company to a specific hydrocarbon project.

Breakdown of payment appropriations cancelled in Chapter 32 during the period 1974 to 1979

Years	Items				Total
	3200 Hydrocarbons development projects	3201 Hydrocarbons exploration projects	3240 Energy-saving projects	3241 Development of new sources of energy	
1974 and 1975	—	—	—	—	—
1976	8.8	—	—	—	8.8
1977	18.8	0.5	—	—	19.3
1978	1.8	9.0	—	—	10.8
1979	12.3	4.0	1.5	1.0	18.8
Total	41.7	13.5	1.5	1.0	57.7

Expenditure arising out of research and investment
Joint Research Centre (JRC)

8.16. With regard to the deployment of staff and JRC resources to services for outside bodies, it should be stressed that the Council has always approved this activity as long as only a limited number of staff were involved, only a marginal amount of equipment was used and the work was connected with current research programmes.

8.18. The expenditure incurred represents the minimum necessary to avoid premature ageing of buildings and to ensure the smooth functioning of the JRC's building infrastructure.

8.19. The 'plan d'aménagement du site' was drawn up by the management of the Ispra Centre and concerns only this Centre. In fact it is an internal planning instrument.

It does not form part of the research programmes, which simply have to detail the research objectives but not the material resources necessary for implementing the objectives. It should be noted that neither the budget nor the financial scheme includes a separate heading for expenditure on buildings. Expenditure of this type is included in the financial scheme's Category 40, 'investments'. What is more, the budgetary authority is provided with details during budget discussions. The financial scheme for 1979 does, however, give an indication as to what

modernization measures were being considered in respect of the JRC infrastructure.

8.20. The terminology used by the Court of Auditors concerning the provisions of Section I of Title IV of the Financial Regulation (conclusion of contracts) may be confusing.

Article 50 (1) of the Financial Regulation makes a distinction between 'adjudication' and 'requests for tenders'. It places these two procedures, which are defined in Article 51 (1) and (2), on an equal footing.

'Adjudication' is a procedure whereby the Commission is committed beforehand to accept the lowest tender. This presupposes that extremely precise tender specifications are drawn up whereby every last detail of the contract is specified in advance and the tenderer has no possibility of offering an alternative proposal.

The 'request for tenders' procedure is generally preferred to adjudication because it makes it possible to select the tender regarded as being the most attractive from the point of view of the precise requirements of the departments, taking into account — apart from the price — the utilization costs involved, its technical merit and the performance time involved, and also the professional and financial guarantees with regard to the various tenderers.

The second paragraph of Article 51 (2) makes an additional distinction concerning requests for tenders specifying that they may be public (open) or restricted. There is no stipulation that the latter are exceptional cases. The restricted procedure is possible whenever, because of the amount or the type of service involved, a general invitation to tender would be inappropriate.

Experience has shown that, in the vast majority of cases, research work calls for services which, because of the amount or type of service involved (advanced technology), very largely warrant a restricted invitation to tender. The work and supplies involved are generally very highly specialized. The research workers involved have a very good knowledge of the market which generally enables them to know which firms — and they are often very few in number — can be taken into consideration, bearing in mind the technical aspects involved. The restricted tendering procedure makes it possible to reach these firms, while encouraging competition and avoiding too much time and effort being spent (e.g. on examining unsuitable tenders), which is inevitably the case with an open invitation to tender.

It is, therefore, not surprising that the *vade mecum*, which is a compendium of all the relevant provisions, should go into greater detail on the subject of the procedures which actually correspond to the users' requirements.

That explains why the *vade mecum* has little to say on the subject of 'adjudication'. By contrast, it has much more to say about invitations to tender, and in particular the restricted procedure. However, in so doing the *vade mecum* by no means substitutes the exception for the rule.

The Commission would also point out that the *vade mecum* is a document for internal use and that the introduction leaves no doubt on this score. It goes without saying that this does not alter or weaken the rules included in it; the main aim of the *vade mecum* is to make it easier for the authorizing officers to follow the rules.

The Commission is currently preparing instructions aimed at guaranteeing the application by all departments without fail of the directives which the Court mentions and the Council Directive of 21 December 1976 coordinating procedures for the award of public supply contracts (Directive No 77/62/EEC, OJ L 13 of 15 January 1977).

However, the Commission would point out, in connection with the Court's comments, that the directives to which the Court refers provide for exceptions in the case of research establishments.

In the final paragraph of point 8.20 of its comments, the Court of Auditors criticizes what might be termed the 'safety margin' technique.

The buildings and equipment in question are, however, used in a research environment in which needs change very quickly. The need to make adjustments often becomes apparent during performance of the contract.

The 'margin' makes it possible to allow for unavoidable modifications without the necessity for another contract award procedure which, in the circumstances, would be a mere formality. Moreover, modifications are charged for at the same unit prices as those quoted and agreed for the original contract. Thus the criteria determining the initial choice of supplier are not altered, and competition between the various possible suppliers is not affected.

8.21. In the case of the Geel, Karlsruhe and Petten establishments, building permission is granted and the acceptance is issued by the authorities of the host country. In the case of Ispra all construction projects have to conform to the relevant Italian legislation. The only difficulty encountered related to the administrative procedures for permits and acceptance in connection with which the establishment's management, acting in accordance with Italian law, insisted on the municipal authority's lack of competence in the matter.

Since then there has been no divergence of opinion at any level. This said, the Commission accepts that it would be useful to define internal procedures regarding building permission and acceptance more clearly.

8.23. The Commission will take into account the Court of Auditors' observation.

8.24. The Commission has always attached great importance to the comments made by the Court of Auditors.

It must nevertheless reiterate that improved management through more rigorous control as suggested by the Court of Auditors requires more staff and appro-

privately qualified staff. At the moment, of the 461 administrative posts in the JRC, only 145 are in categories A and B; all the rest are in category C. It should also be remembered that the JRC consists of four establishments, each of which requires its own administrative structure. The number of administrative posts must be considered in the light of these two factors.

Indirect actions

8.26. In fact, work arising from the comments in the Court of Auditors' annual report for the 1978 financial year began immediately.

First area: Deciding the rate of Community participation in the expenditure on research contracts:

a draft regulation has been drawn up and will be put into effect shortly.

Second area: Rules for determining the amount of advances paid to contracting parties:

a regulation has been drawn up in agreement with the Financial Controller and is now in force.

Third area: Improving the productivity of the administrative work by making the contractual arrangements more effective:

in view of the growing number of shared-cost contracts, the Commission has decided to classify contracts in one of three ways:

- (i) fixed-sum participation of not more than 20 000 EUA;

This financial contract is of a fixed-sum type which prevents the Commission from exercising any further financial control. The cost of research must be justified before conclusion of the contract.

- (ii) Community participation of more than 20 000 EUA but not more than 50 000 EUA:

Commission participation takes the form of fixed payments made on submission of scientific reports. The final payment is subject to the presentation of a detailed report and the Commission reserves the right to make on-the-spot checks.

- (iii) Community participation of more than 50 000 EUA:

The Commission makes payments according to the criteria set out in the contract and on the basis of periodic reports. The Commission reserves the right to make on-the-spot checks.

8.27. Certificates of conformity

Irrespective of the considerable expense which would be involved in using independent auditors on a regular basis, the Commission thinks it is reasonable to assume good faith on the part of the contractors, subject to a measure of control. In fact, shared-cost contracts for more than 20 000 EUA provide that the Commission has the right to carry-out on-the-spot checks.

As can be seen from the following table giving information about contracts concluded since 1976, more than two-thirds of the funds are allocated to public bodies whose managements are themselves supervised by national bodies:

(%)

Type of contracting party	Number of contracts	Funds allocated
Universities	27.40	10.70
Public bodies	37.50	66.50
Associations and Foundations	9.60	6.50
Experts	5.60	1.00
Industries	18.50	12.70
Mixed	1.40	2.60
	100.00	100.00

8.28. On-the-spot inspection visits to contracting parties

The more frequent use of on-the spot visits is inhibited by the very limited number of available staff. The Commission will have to decide whether to use outside firms to carry out inspections in 1981.

The Commission would be grateful if the Court of Auditors could undertake such inspections of contracting parties.

As regards the Court's comments on the content of on-the-spot inspections, these visits, in which the Directorate-General for Financial Control participated in 1980, are mainly concerned with the accounting systems and internal checks of the recipient bodies. By selecting large recipients, Commission departments have aimed to deal with a large number of contracts entered into and obtain knowledge which could be useful in the case of contracts to be concluded in future.

8.30. The study carried out by an outside firm dealt only with the Directorate-General for Research, Science and Education; its conclusions were discussed with other Commission departments.

As a result, internal procedures were improved and in particular three types of contract were defined with the aim of increasing efficiency in the departments (see reply to point 8.26).

8.31. The Commission will endeavour to submit reports at the intervals laid down in the programme decisions. It will continue to publish periodic reports on progress in the implementation of programmes. The Council also checks the scientific execution of programmes through the opinions of the Advisory Committees on Programme Management. These opinions are sent to the Council after every committee meeting, that is, at least twice a year. The Council and the European Parliament also carry out checks through programme revisions as laid down in each programme decision: the Council takes a decision after receiving the opinion of the European Parliament. The Commission has also evaluated research programmes and prepared a first report on this evaluation.

The Commission is of the opinion therefore that the Council and the European Parliament can exercise political control over the Commission's activity in this area.

8.32., 8.33. and 8.34. The Court's criticisms of the internal controls carried out concerning some contracts relate to overall figures.

The following clarifications may however be made:

Second indent: Statements of expenditure were not received in respect of 71 contracts of which 38 had expired. This is a statement of fact, not an anomaly.

The Commission does not feel under any obligation to demand invoices from contracting parties who do not supply them. Nevertheless, all the contracting parties will be reminded about this matter.

Third indent — The suspension of payments is not an irregularity but a penalty provided for in the contracts.

Fourth indent — The main reason why the balance of an expired contract was not paid was that the contracting party was late in sending his statement of expenditure or reports.

Fifth indent — The excessive payments made by the Commission can probably be explained by an unforeseen change in the rate at which the contracting party made payments; any discrepancy at the end of the contract would be repaid to the Commission.

Sixth indent — See second indent.

Seventh indent — Advances are normally paid within two months of the contract being signed. It may happen that a contract is signed with retroactive effect after the contracting party has carried out the work at his own risk. There is no reason why this should not happen and the advance was obviously not paid before the contract was signed.

Eighth indent — It should be remembered that a contract requires the signature and agreement of both parties and that the preparation of technical and financial annexes is often time-consuming. It is often in the interests of both parties to carry out this work as early as possible.

Ninth and tenth indents — Prolongation of a contract without change in the subject of the research work is not unusual. Here we are dealing with research contracts which by their nature contain risks, not tenders for supplies.

8.35. Commitments outstanding

The Commission recognizes that the sum of 446 357 EUA was wrongly committed in 1978; this error was corrected during the following financial year. This

correction had no effect on the implementation of the programme concerned.

8.36. The accounting systems for direct and indirect action projects

The situations on which the Court of Auditors comments arose either directly as a result of decisions taken by the Council after receiving the opinion of the European Parliament on research programmes or from the internal organization of the relevant Commission departments.

8.37. and 8.38. Changes in accounting methods

The 1979 financial year was an exception. As from 1980 the Commission will adopt a new approach, calculating payment and commitment appropriations on the basis of the payment appropriations in the Joint European Torus (JET) budget in accordance with the statutes of the JET joint undertaking, which lay down that the contributions of the members of the joint undertaking are to be based on the payment appropriations in its budget.

CHAPTER 9 — COOPERATION WITH DEVELOPING COUNTRIES AND NON-MEMBER STATES

Food Aid

9.5. to 9.8. The Commission's aim is to implement food aid programmes while the appropriations are still available, i.e. the year the appropriation is entered in the budget and the year of automatic carry-over. Although in the past there have been real implementation problems, solutions are being found, so that in 1979 more than 180 000 tonnes ⁽¹⁾ of milk-powder aid and more than 51 000 tonnes ⁽¹⁾ of butteroil aid were implemented, i.e. more than one annual programme.

⁽¹⁾ Implementation in 1979 — fob stage.

It follows therefore, particularly if this rate of implementation continues, that ever-decreasing amounts of appropriations will have to be entered for the implementation of previous programmes and the difficulties referred to by the Court of Auditors will disappear. Although it may be true, as the Court says, that 'for the 1979 programme, it is clear that part of the aid will not be delivered in the same year', it is also true that this does not cause budgetary problems provided the programme is implemented before 31 December 1980, as it can be charged to automatic carryovers.

In any case, and in view of what has been said about reducing delays in implementation, it is not necessary to consider introducing differentiated appropriations for food aid as long as food aid agreements or major projects like Flood II do not entail multiannual commitments.

9.9. Delivery dates are always negotiated with beneficiary States at the outset.

It should be pointed out, however, that these countries are generally major importers of food products, not only in the form of international aid but also on a commercial basis. Delivery dates for Community aid are included in the import programmes and priorities worked out by the beneficiary countries, and the Commission has to respect these priorities as far as it can.

9.11. The current regulations do not provide for a system of individual commitments.

If the Court of Auditors is concerned that the Directorate-General for Financial Control should be able to follow up all aid measures, it should know that the Commission is informed systematically of each aid measure since it receives a copy of each official letter of aid allocation. As these letters are standardized, their contents are known as soon as the Council adopts the programmes. Moreover, in all exceptional cases there is prior consultation between the Directorate-General for Development and the Directorate-General for Financial Control. The case referred to by the Court shows the need for this prior consultation.

Financial Control is thus able to follow the progress of individual food aid operations — even though all the expenditure is committed together — through the official letters it receives, through regulations and notices of invitation to tender, and through prior consultation in exceptional cases.

Expenditure incurred by Denmark

The Commission rectified the error pointed out by the Court of Auditors in 1980. Moreover, it reminded the Member State of the accounting rules with regard to declarations of expenditure, particularly that when declaring food aid expenditure, refunds should be deducted and declared to the Guarantee Section of the EAGGF.

Final clearance of the accounts

The Commission would refer to its reply to point 4.48 in the first section of the Court of Auditors report.

9.12. The programme figures submitted to the budgetary authority by the Commission refer to the volumes of products delivered or in the course of delivery as of 31 December 1979.

This being the case, the figures returned by the different Commission departments agree. Because administrative procedures take some time, the budgetary accounting department may not be viewing the progress in implementing measures at the same point in time and may thus give different figures.

9.13.

- (i) It is true that the quality of some deliveries of rice to various countries has given rise to complaints. Extensive enquiries have been carried out to determine where the responsibility lies.

In order to rationalize the implementation of food aid in cereals, the Commission adopted a 'framework' regulation, Regulation No 1974/80 of 22 July 1980 (OJ No L 192 of 26 July 1980) which states, *inter alia*, that a check shall be carried out by a suitable company at the time of loading on the quality of the goods in the presence of the successful tenderer, the intervention agency and the recipient country's representative.

If the inspection has established conformity, a taking-over certificate is issued by the intervention agency. If the inspection gives rise to a dispute, there is a second inspection and the goods may be refused and the successful tenderer be required to replace them. In cases of

fob and cif deliveries, the recipient country takes delivery of the goods at the port of shipment, which enables the responsibilities of each party to be specified more clearly. Quality defects established on arrival mean that the recipient country has to claim against the shipping or insurance company.

The fact that an appropriation has been entered in the 1980 budget for quality control should make the Commission's task easier.

- (ii) It is true that contracts were awarded to firms involved in quality disputes, but refusing to allow these firms to tender would in fact have caused legal problems.
- (iii) The decision was taken with the Commission's agreement to redirect to Somalia the 1 500 tonnes of skimmed-milk powder sent by the UNHCR for distribution in Kampuchea.
- (iv) It does happen that deliveries arrive late, either because the successful tenderer does not respect the delivery dates or because of last-minute difficulties in the recipient country (with transport, storage, etc.). In one such case, where the successful tenderer caused considerable delays, sanctions were imposed in accordance with the terms of the conditions governing the supply of aid (withholding the security).
- (v) The Community is required to respect the explanatory memorandum given in the annex to the 1971 agreement on food aid which states that it should take all possible care to ensure that the fulfilment of obligations in respect of food aid should not adversely affect free and fair competition in respect of shipping. Moreover, the new regulation on operations involving cereals specifies minimum standards with respect to shipping.
- (vi) The emergency aid delivered to Nicaragua by plane in September 1979 was originally supposed to have been delivered in August but the agency responsible for the delivery was not able to respect the agreed delivery dates.
- (vii) The Commission does not have sufficient appropriations for transport costs to allow it to pay all handling and distribution costs — even in the poorest countries, in other words, some 90 % of the countries receiving food aid. Consequently the Commission can do nothing to prevent a proportion of the aid being sold in some of the most impoverished countries to cover the cost of distributing aid.

The Commission considers the exceptions which should be made on an individual basis.

- (viii) Skimmed-milk powder is packaged according to Community regulations regarding the weight and quality of bags to be used for storing milk for intervention.

The widespread use of packaging containing smaller quantities is certainly to be preferred where milk is to be distributed free. The Commission has always taken a favourable view when requests of this nature are submitted by recipient countries.

- (ix) The date of manufacture and the date-limit of the potency of vitamins is a problem of which the Commission is aware. It is looking into the possibility of providing recipients with better information.
- (x) The grant of vitaminized milk powder which was processed into cheese was a form of indirect aid and the Commission has drawn the attention of the recipient country to the loss of vitamins caused by this processing. The Commission has since stopped sending vitaminized milk for this project.

9.14. Conditions are negotiated with recipient countries in accordance with general Council directives. They cover the basic requirements for delivering and using aid. If countries accept these conditions, it is reasonable to suppose that they will respect them. The Commission does all it can to ensure that the obligations entered into by recipient countries are respected. The Commission does not consider that these conditions run counter to the purpose of the aid.

Financial and technical cooperation with developing countries (Chapter 93)

9.17. — para. 1

The disbursement of these appropriations for payment is normal as regards the objectives of this type of Community aid and the kind of projects it is used for, i.e. mainly rural development projects usually implemented over an average of five or six years.

The payments position on 31 December 1979 was as follows:

1976 programme	85 % (17.1 m.u.a./20.0 m.u.a.)
1977 programme	26 % (11.7 m.u.a./45.0 m.u.a.)
1978 programme	13 % (9.0 m.u.a./70.0 m.u.a.)
1979 programme	— (0.2 MEUA/110 MEUA)

para. 2

It is true that as at 31 December 1979, only some 10 projects had been fully completed. This is due to the reasons set out in the previous paragraph and to the fact that it takes between 6 and 12 months (or longer where projects are co-financed) after signing the financing agreements before actual work on a project can commence. There was no possibility therefore of any project in the 1979 programme being completed by 31 December 1979.

para. 3

The Commission is extremely short of staff for implementing financial and technical cooperation with non-associated developing countries.

Notwithstanding the fact that the amounts annually entered in Article 930 of the budget have been increased — although these amounts are still far from adequate if we are to make even a vague attempt to reconcile the objectives of this aid with the tremendous needs to be met — the development of an annual programme of some 30 projects benefiting some 20 countries or bodies within a period of nine months and finalizing the financing agreements during the following three to six months is quite a task; this is particularly true in view of the fact that some 50 % of these projects are co-financed by international organizations whose procedures are often more lengthy than those of the Commission.

These co-financing arrangements with Member States or international bodies are stipulated by the draft regulation for a large proportion of the programme. Apart from allowing us to benefit from the experience of our partners, this form of financing has the advantage of sharing out the work load, since, because of their experience, these partners take over the responsibility for administering the Community contribution. There is, of course, the drawback that in many cases it takes longer to begin to implement the project, as it is difficult to

synchronize our partners' procedures with our own. Moreover, the administration agreement signed with the partner allows the Commission to delegate its responsibilities for following up and monitoring the project.

para. 4

Obviously, the laborious progress of the draft regulation through the Community 'mill', particularly in the Council, will dissipate much of the energy of the Commission's staff. The *ad hoc* procedure which has been followed as a result is certainly not the best. Nevertheless, the programme of successive instalments, which began in 1979, does enable some of these time-tabling difficulties to be overcome.

9.18. In spite of being heavily overworked, the Commission's staff keep a very close watch on inspections of the progress of projects. In any case, the kind of check mentioned in the first subparagraph of paragraph 9.18 can only be carried out on the spot. The Commission does carry out these checks but they are limited by the scanty resources with which it is provided.

The periodic transmission of certificates from national bodies would be a useful improvement to the existing procedure.

Subsidy for the operation of the European Association for Cooperation (EAC) (Article 943 of the budget)

9.24. Global advances have always been used in fact for financing the following expenditure:

- (i) HQ operating expenditure;
- (ii) Expenditure in respect of delegations, technical assistance and scholarships in ACP countries and overseas departments;
- (iii) Expenditure in respect of delegations in Southern Mediterranean countries.

Advances — for individual contracts — are only granted in Southern Mediterranean countries for technical assistance or scholarship contracts. This

arrangement was adopted on an experimental basis and for reasons of security. Firstly, account had to be taken of the fact that:

- (i) commitments were charged to the appropriations country by country;
- (ii) the arrangements followed with respect to commitments and payments were those in force in the Commission. Contracts and payment orders therefore had to have the prior approval of the Directorate-General for Financial Control.

Secondly, the departments concerned did not know exactly how many contracts would be drawn up.

Under the circumstances, it seemed wiser to process each contract individually. So far, this applies to a very limited number of cases. Nevertheless, it goes without saying that if the number of contracts were to increase, the Commission's departments and Financial Control would together attempt to find the best way of speeding up commitments, payments and clearing operations.

9.25. *Bank interest*

The Commission will in future do as the Court asks.

Community contribution towards schemes concerning developing countries carried out by Non-Governmental Organizations (NGOs) (Article 945 of the budget)

- (a) The Commission agrees with the Court's opinion on project NGO/151/78-3(D) on housing orphans. It is true that the project is too expensive and should not be transposed to developing countries. Projects of this kind will no longer be accepted for co-financing.
- (b) Project NGO/83/77(F) has been revived by the NGO concerned. It is to be implemented in accordance with the original plans with no additional contribution from the Commission.

The general findings of the Court with regard to NGOs are also of concern to the Commission, which is currently reviewing the general conditions. The Commission will do all it can to take account of

the Court's remarks, although it must be remembered that the accounts of NGOs cannot be monitored in the same way as those for EDF projects, since NGO projects are co-financed by organizations which cover the major proportion of costs from private funds, and these can obviously not be controlled by the Community.

Emergency aid (Article 950 of the budget and Article 59 of the Lomé Convention)

9.35. In the first two years of the implementation of the Lomé Convention, aid financed under Article 59 tended to be exceptional aid rather than emergency aid. The projects implemented could include real reconstruction projects similar to those financed under indicative programmes and on similar time scales. It is quite possible therefore that some of this aid may be implemented over several years. Nevertheless, the large majority of the projects shown in the table were fully completed or nearing completion at the end of 1979.

Since 1978, the Commission, with the agreement of the Member States, has emphasized the emergency aspect. A whole series of provisions has been made, the most important of which is the specification of a maximum period — theoretically six months — for using appropriations, any amounts not used within this period being paid back into the EDF emergency aid funds. Accordingly, on 30 June 1980, only seven out of the 32 operations decided upon in 1979 under Article 59 had not been fully implemented, in some cases for overriding reasons.

9.37. (b) Connecting the two hospital centres visited by the Court to the water and electricity supply networks and providing furniture was part of the contribution to be made by the health services and local communities in the recipient country.

(c) Of the 2 735 000 EUA granted in aid under the Financing Agreement of 23 May 1978, the proportion not yet used, 335 000 EUA, was earmarked for deepening village wells and accounts for 13 % of the total. The delay is because the authorities had difficulty in creating an effective work force.

9.39. The appropriations provided for in Financing Agreement No 1218 for rebuilding a bridge were not sufficient. Moreover, because it was urgently necessary to rebuild the bridge to allow traffic to use the full length of the road (provision had been made under the emergency aid to finance the reinforcement of the access road), the authorities considered that the implementation of the work, the access road and the bridge, were connected and came under the heading of restoring the road link for which the project had been set up.

With the agreement of the national EDF authorizing officer and the Commission's representative (and in conformity with Article 11 of the Agreement), the decision was taken to use the rest of the appropriation from the first subparagraph of Chapter 2 A of the Agreement covering repair of the road, for rebuilding this bridge.

9.40. In this particular case the firm was paid in K. Escudos (the currency of the recipient country). Only 557 tonnes were delivered by this firm. The Commission had to use other agents to deliver the rest of the emergency aid consignment. It thus managed to place an order for FF 3 879 881.25 with a French firm and a final order for a small but necessary consignment with a Portuguese agent for an amount of US \$ 416 120. Because the products had to be delivered to the recipient country immediately, the Commission had to comply with the agent's demands and agreed to pay in the currency requested.

Nevertheless, out of a total amount of 1 200 000 EUA provided for this aid, only 290 993 EUA was not paid in a European currency or in that of the beneficiary country.

9.41. It is true that from 1976 to 1978 it was generally stipulated that recipients should provide information on implementation 'at the request of the Commission'. Since 1979, however, there is a new clause in agreements which makes the submission of these reports compulsory and, in certain cases, even specifies the information they should contain.

9.42. It is not always easy to obtain immediate information on the use of counterpart funds from the sale of goods provided as emergency aid. When there are difficulties, however, the Commission does not hesitate to contact the authorities in the recipient country.

With specific regard to the cases mentioned, the seeds provided by an FAO agent (250 000 EUA in

aid under Article 950 — 27 August 1979) were distributed free to the local peasants.

Following upon the efforts undertaken by the Commission's delegate, the Commission now has information on the counterpart fund in respect of the emergency aid granted to the country concerned (Decisions of 16 March and 23 April 1979).

Efforts are currently being made to obtain the requisite information on emergency aid (1 200 000 EUA in accordance with the Decision of 27 June 1979 and 300 000 EUA in accordance with the Decision of 17 August 1979).

Products supplied under emergency aid are not usually resold.

Cooperation with non-member countries

9.49. The procedure will be changed to comply with the Court's wishes as from the next academic year.

CHAPTER 10 — STAFF EXPENDITURE

10.3. Flat-rate allowances and overtime for drivers

The Commission can only reiterate the reply it gave in connection with the 1977 annual report.

A flat-rate allowance is paid to Commission drivers for overtime as laid down in Article 3 of Annex VI to the Staff Regulations.

The Commission repeats that, since this is a flat-rate allowance, it would be unfair to the officials concerned who have done the same overtime if the Commission used a fairly large number of different rates of allowances.

The reason why grade D1, step 8, is used to calculate the allowance is that out of a total of 80 drivers practically half are in grade D1 and 23 have reached step 8.

Another criterion used by the Commission to calculate this flat-rate allowance is the maximum number of hours of overtime authorized by Article 56 of the Staff Regulations (150 hours in any six months). In a large number of cases, despite efforts to cut down overtime, the criterion used is lower than the actual number of hours of overtime effected. It would hence be impossible to use less than the maximum number of hours of overtime authorized by the Staff Regulations to calculate this allowance.

The Commission would point out that the same criteria are applied by the majority of the institutions.

10.5. Coordination

The measures of which the Court was informed last year were adopted by the Commission on 11 December of last year and entered into effect on 1 February. There is thus now a system of interdepartmental coordination for officials' missions in non-European countries in operation.

With regard to the management of travel orders, the Missions Office — with the help of the official travel agency — has systematically coordinated the reservation of plane tickets and hotel rooms and has been able to obtain very reasonable group rates.

Computer analysis of mission management has revealed that it would be pointless to automate all the stages of administrative work involved because only certain of them could be usefully computerized to eliminate repetitive and tedious work.

As soon as the Computer Centre can spare an analyst, the preparatory work required for such a partial automation will be carried out.

One immediate effect of the computer analysis has been to simplify and decentralize and hence improve the efficiency of mission organization.

10.6. 'International organization'

The Court's interpretation of the concept of 'international organization' was reached after detailed

study. After discussing the comment made by the Court in its report for 1978 the heads of administration decided to retain the interpretation which was adopted. The Commission considers itself bound by this interpretation because it must ensure equality of treatment of officials and other staff of the institutions. It can only point to the difference of views held by the Court and the heads of administration.

10.10. Problems of organization

The Commission is looking into the possibility of centralizing the administration of all JRC staff remuneration.

10.11. Problems in monitoring procedures

The Commission is studying the procedures discussed to see what improvements need to be made.

10.12. Management of posts in research establishments

A job description for each member of the staff appears in the vacancy notices and staff reports.

The JRC establishments are of course prepared to provide any information required on the number of posts authorized in the different grades which have been filled.

10.13. to 10.15. Application of special provisions of the Staff Regulations

It is true that the first paragraph of Article 92 of the Staff Regulations includes, among officials in the

Communities' scientific and technical service covered by the special provisions of Title VIII of the Staff Regulations, officials expressly mentioned in the Staff Regulations, i.e.:

- (1) 'who occupy posts in the field of nuclear science calling for scientific and technical qualifications',
- (2) 'and who are paid from appropriations in the research and investment budget.'

It should, however, be remembered that when the Staff Regulations were drawn up Community research was confined to the nuclear field. Since the enlargement of the JRC's activities to areas of research other than that of nuclear energy there are now a number of officials and temporary staff who are engaged on work which is not in the nuclear field, but who are paid from the research budget, who occupy posts requiring scientific or technical qualifications and who are considered to be members of the scientific and technical service and are hence covered by the special provisions of Title VIII of the Staff Regulations.

This situation is perfectly justifiable not only for historical reasons (origin and subsequent developments) but also on the grounds that the determining factor in deciding whether an employee occupying a scientific or technical post can be classed as a member of the scientific and technical service should be the nature of his work, i.e. whether he is involved in research, whether it be in the nuclear or any other field. The existence of a scientific and technical service is justified by the nature and conditions of research activities. It is also essential to have uniform rules based on the principle of equality of treatment for all employees involved in research, whether in the nuclear or any other field.

The Commission is nevertheless prepared to consider any measures which may be necessary in this area with an open and constructive mind.

In addition to considering whether Article 92 of the Staff Regulations can be applied to non-nuclear researchers, the Commission will review the classification of officials or other staff in the scientific and technical service who occupy posts in JRC establishments not directly connected with research. The Commission would point out that a preliminary review has already been carried out and has led to a proposal being made in the preliminary draft budget for 1981 for some 50 JRC employees to be regraded.

10.16. Bonus for patented inventions

The Commission would refer the Court to its replies to points 10.13 to 10.15 on the question of bonuses awarded to staff occupying posts in non-nuclear fields.

All the employees who received bonuses for patented inventions in 1977, 1978 and 1979 were members of the scientific and technical service and were paid from the research and investment budget.

As regards the discrepancy between Article 2 of the implementing rules adopted by the Commission on 27 September 1973 and Article 94 of the Staff Regulations, it should be noted that some countries only issue patents after studying the patentability of the applications in question (e.g. the Federal Republic of Germany and the Netherlands) whereas in other countries they are issued without prior examination (e.g. Belgium, France and Luxembourg).

The purpose of the above-mentioned Commission rules is to prevent a bonus being granted for an invention patented solely in one country without a prior examination being effected and hence lays down two additional conditions:

- (i) application has been made for patent cover in other countries;
- (ii) a search must reveal that no publication has occurred.

The Commission would point out that in all cases where the bonus was awarded without the invention having been previously patented, patents were subsequently granted. Any defect of form was thus subsequently corrected.

It should also be remembered that there is often an appreciable time lag between the lodging of a patent application and the issuing of the patent. If a bonus is awarded long after research work has been done it will not achieve its goal, which is to motivate the researcher.

The Commission is looking into the question raised by the Court to see whether a satisfactory solution can be found.

10.17. Bonuses for exceptional services (Article 99)

According to Article 1 of the rules of 10 January 1975, last amended by the Decision of 19 December

1979, the purpose of the bonus for exceptional services is to reward each year the most deserving officials referred to in Article 92 of the Staff Regulations, working alone or as part of a team, for the initiative and dynamism they have shown in their research or technical work and for their performance and their achievements in the exercise of their functions.

The Commission has since stressed the need for the criteria on which bonuses for exceptional services are awarded to be scrutinized more carefully. Such bonuses will in future only be awarded for outstanding work or high-level performance in strictly scientific or technical fields or for special behaviour under particular circumstances which are of obviously exceptional nature.

The number of bonuses awarded in 1979 was much lower than in 1978 as a result of this measure. By way of example, the number of bonuses referred to in point 10.17 fell by 55 %, from 89 to 41 for Ispra alone. The number of bonuses awarded under Article 99 of the Staff Regulations fell by 42 %, from 145 in 1978 to 84 in 1979.

In order to ensure that the bonus remains a truly exceptional award it was increased to BFR 50 000 but without altering the overall cost to the budget. The Commission would point out that the individual amount of each bonus is well below the maximum statutory limit, which is three times the basic monthly salary.

The Commission would finally point out that it is stated in the second paragraph of Article 99 of the Staff Regulations that aggregate bonus awards for exceptional services may not exceed 3 % of the total basic salaries payable to all the scientific and technical staff. Bonuses awarded in 1979 amounted to less than 1 % of this ceiling.

10.18. Allowances for particularly arduous working conditions

The Commission would refer the Court to its replies to points 10.13 to 10.15.

10.19. The Commission has instructed that a review be made of all doubtful cases and that

declarations be regularly checked to ensure that they are truthful.

10.21. to 10.26. **Persons treated as dependent children**

A — Taking account of the income of the person for whom status equivalent to a dependent child is claimed and of the persons who are legally obliged to maintain that person

The questionnaire sent by Brussels departments to officials applying for this allowance requires details of any income other than that from professional activities and of the income of any kind of the persons for whom status equivalent to a dependent child is claimed. The applicant is required to make a solemn declaration as to the truth of his answers. Details of the salary and other income of other persons who are legally obliged to maintain the person in question are also required.

The administration decides, on a case-by-case basis, whether the official must provide further proof on certain points in addition to the supporting documents normally required. The Commission will take the necessary steps to ensure that the form used at the various places of employment is aligned on that used by Brussels.

Under Article 8 of the general implementing provisions, the rental value of a dwelling only has to be taken into account for the person for whom the status of dependent child is claimed.

B — Freezing of notional maintenance costs

As regards the freezing of notional maintenance costs at the levels obtained by using the weightings applying at 31 March 1979 for persons receiving this allowance at that date, it should be noted that, at their meeting on 5 June 1978, the heads of administration decided that if the up-dating of exchange rates (Council Regulation No 3085/78 of 21 December 1978) had the effect of reducing the maintenance cost in relation to the figure for March 1979, that figure would remain applicable until such time as the figure obtained from application of the new

exchange rates had reached the March 1979 figure or for a maximum period of five years (i.e. until March 1984).

Staff were officially informed of these transitional measures on 30 April 1979.

The Commission's administration, at the request of the Financial Controller, sent a draft amendment to Article 11 of the general provisions concerning persons treated as dependent children to the heads of administration to provide a legal basis for the decision taken on 5 June 1978.

The heads of administration met on 26 November and 21 March of this year but failed to reach agreement on the Commission's proposal.

The Financial Controller has withheld approval and the Commission is at present examining the problems concerning allowances for persons treated as dependent children.

10.27. **Transfers in June 1979**

The Commission must point out that the transfers were made in June 1979 under provisional rules with the approval of the Staff Regulations Committee because the institutions had failed to reach agreement on the rules to be adopted. These provisional rules had been endorsed by the Staff Regulations Committee before being applied on a provisional basis by the Commission.

The rules to be established by common agreement between the institutions required by Article 17(2) of Annex VII of the Staff Regulations entered into effect on 1 January.

Under these rules officials are no longer allowed to have their total net remuneration for June, minus regular transfers, transferred once a year through the institution either in the currency of their country of origin or in the currency of the country in which their institution has its seat.

The Commission has strictly applied these new rules ever since they entered into force and consequently the transfer operation for June was not repeated this year.

10.31. Transfers to the 'Beamtenheimstättenwerk' (BHW)

1. Since 1 April 1979 no transfers have been allowed to exceed the 35 % ceiling except in cases covered by the transitional arrangements due solely to an increase in exchange rates since that date.
2. Since 1 April 1979 the difference between the exchange rate used by the Commission and the bank exchange rate for the Belgian franc against the Deutschmark has been minimal. However, the difference between the exchange rates used by the Commission and those used by banks has made it more profitable to transfer part of emoluments paid in weak currencies (e.g. Lire) into DM.
3. There is, however, very little risk of fraud because:
 - (a) according to a study carried out by the BHW itself, a negligible number of savers cancelled contracts and thus requested repayment of the sums they have saved;
 - (b) BHW only offers a 3 % interest rate on savings;
 - (c) if a savings contract is cancelled the BHW keeps the 1 % commission on the total amount of the contract.
4. The Commission will ask the 'Beamtenheimstättenwerk' to specify the type of operation (savings, bridging loan or loan) in the transfer forms in order to ensure stricter control of these operations and access to detailed information about the number of savings contracts which are actually used for real estate transactions.

10.34. Installation allowances

The problem raised by the Court in its report with regard to the payment of an installation allowance to a person receiving an expatriation allowance but who is not obliged to change his place of residence in order to comply with Article 20 of the Staff Regulations is more complex than appears from the Court's remarks.

It is not necessarily true that a person who already resides in his place of employment will not incur

expenses as a result of being recruited by the European Communities. This is the case when someone wishing to work in a particular place sets up home provisionally prior to taking up his appointment. If, for example, he rents a small flat and leaves his family in his country of origin he will obviously incur installation expenses when he acquires this post and decides or is obliged to set up home finally at this place of employment. The allowance provided for in Article 5 of Annex VII of the Staff Regulations is intended specifically to cover such expenses.

10.37. Installation allowances

At the moment it would be impossible simply to delete the condition for the grant of an installation allowance to be subject to payment of an expatriation allowance since the Staff Regulations expressly lay down this condition.

The only way of achieving the result desired by the Court would be to amend the Staff Regulations.

The Commission will raise this matter with the other institutions.

CHAPTER 11 — OPERATIONAL EXPENDITURE

11.6. and 11.7. The Commission sent a detailed reply to the draft report mentioned by the Court of Auditors on 11 December 1979. On reception of the final report, the Commission noted that the Court of Auditors had largely accepted the points which it had put forward. As regards the final report, the Commission replied that it shares the desire of the Court that all the institutions, and the Commission in particular, should purchase as efficiently as possible. The Commission is ready to hold discussions with the other institutions on the rapid implementation of a system for a greater degree of centralized purchasing and, as far as possible, common standards for items used by more than one institution as recommended in the report.

The Commission is aware of the need for checks on and the safekeeping of its property. Nevertheless, it is clear that more effective checks require suitable provision both of staff and computer systems.

While it is desirable, such an aim must be set against the Commission's other priority objectives which require similar resources if they are to be achieved. Nevertheless the Commission can assure the Court that it will review its existing procedures in the light of the observations contained in the report to see how far the former can be improved.

11.9. In the second paragraph, it is stated that the Commission has not considered carrying the risk itself even though this is done by the national administrations of many of the Member States. Unlike these, however, the Commission is not the owner but the tenant of most of the buildings which it occupies. The tenancy agreements stipulate that the Commission must effect insurance; this is also the case with regard to rented buildings in the Member States.

11.12. The Commission sent its reply to the Court of Auditors on 18 July 1980.

Computer Centre

11.10. and 11.11.

Purchase or rental of equipment

The Commission had a choice of

- purchase;
- leasing (with no possibility of changing equipment during the course of the lease);
- rental.

The Commission chose rental as it wished to be able to change the initial equipment during the period of the five year contract for more powerful or more advanced equipment.

For example, the Commission is able to change the ICL 2980 system for a dual 2976 (if it needs greater resilience) or a 2982 (if it requires more power).

This facility of changing applies equally to the terminals (see clauses 5.3.1 and 5.3.2 of Contract No H/05).

Given the difficulty of forecasting the Commission's needs over a five year period and given the rate of advance of informatics technology (frequent introduction of equipment with better price/performance) the Commission decided it was essential to retain the flexibility of rental terms (with the possibility of changing equipment) rather than commit itself to a particular piece of equipment for 5 years or more, as would be the case with purchase or leasing.

The Commission would be able to purchase all or part of the equipment if at some future date it decided to do so. ICL (and its subcontractors) would welcome this, as they would be saved the risk of having to take back old equipment (e.g. a 2980 that is no longer marketed) which had not yet been amortized and for which they would have difficulty in finding another customer.

Financial compensation for delays

As regards timescales it must be stressed that the conversion of a heavy work-load from IBM to another computer (in order to permit the cancellation of IBM) is probably a world first. The problem was made even more complex in that ICL was being asked to replace an IBM network on an IBM machine with a mixed network (MITRA's, Nixdorf, Olivetti) on an ICL machine.

Neither side had therefore a firm basis for fixing a timetable which it could guarantee to respect.

On the Commission's side (and it must be remembered that such conversion is very much a cooperative effort) the problem was exacerbated by the fact that, during the conversion period, there was on the one hand a great increase in the demand for new applications and/or extensions to existing applications and on the other hand an insufficient number of informatics staff to cope with the situation (200 posts out of a necessary 344).

The Commission and ICL therefore took the decision to set out a timetable in the Bureau Service and Conversion Contract which would keep up the pressure on both parties to arrive at the speediest possible solution.

In such circumstances it would have been inappropriate in an endeavour of this nature to seek penalties for delays.

Nevertheless, the Commission could not accept that the conversion should continue indefinitely. For this reason, the Commission reserved the right to cancel the contract if acceptance for each of the major applications was not achieved by 31 December 1979.

Risk element

The risk element is properly defined in Clause 7.7.5 of Contract No H/05.

It is applied to equipment (i.e. the MITRA/Olinix network) and to services (i.e. the conversion) where these are provided by subcontractors.

ICL assumed certain risks with regard to the subcontractors (who were chosen by the Commission and not by ICL) — see clause 7.7.5.

ICL has incurred extra costs on a number of occasions with regard to these subcontractors. For example, the MITRA 125 supplied for use by the agricultural intervention service of the Commission by the MJI Company was not properly supported and maintained by the subcontractor, and was found to be inadequate for the work. At the Commission's request ICL organised the removal of the MITRA 125 and replaced it immediately with an ICL 2903 which was provided free of charge for a number of months.

Final systems acceptance

The final systems acceptance tests took place in December 1979. The result of these tests was evaluated during the first half of 1980 and a Protocol of Systems Acceptance (Addendum 21 to Contract No EEC/H/07) was signed on 2 August 1980.

The Protocol of Systems Acceptance indicates that

- the ICL 2980, the network, and the major converted applications (other than the European Community's information and documentary research centre, CIRCE) are accepted as of 12 December 1979;
- the Commission will not transfer CIRCE to ICL (the ECDOC (internal documentation) part of CIRCE will continue to run on CII-Honeywell Bull, the CELEX (data-base of Community law) part will be transferred to CII-Honeywell Bull);
- ICL will provide 7 man years of free systems engineering effort rather than the 4 man years agreed in the Protocol of Provisional Acceptance;
- ICL provides 5 of the 11 Megabytes of store on the 2980 free of charge for the life of the contract;
- ICL provides a second machine (ICL 2976) staffed by ICL personnel to absorb the expanding work-load of the Commission. The first year of use is provided free of charge (this has a value to the Commission of some Bfrs 135 million);
- ICL will not apply the 5 % indexation to the hire charges and program licence fees of the ICL 2980 for 1980 or 1981.

Other provisions cover the monitoring of magnetic tape performance and the free provision by ICL of a fourth shift until all of the 11 Megabytes of store are installed.

The Commission believes that these acceptance terms result in adequate capacity at tendered prices and, at the same time, compensate the Commission for expenses it has incurred needlessly (i.e. in attempting to convert CIRCE to ICL).

Computer management planning service

This service will become operative when the budgetary authority makes the posts available.

The planned establishment of this service is 6 'A', 6 'B' and 4 'C' posts. The service currently has the following permanent posts: 2 'A', 2 'B', 3 'C'.

It should be noted that the informatics services had a deficit of 144 posts at the end of 1979. 50 extra posts were requested for 1980; 13 posts (5 'B' and 8 'C') have been granted. These are in the process of being allocated between the various data-processing services.

Use of external staff

The Commission has repeatedly pointed out to the budgetary authority that the cost to the Community of an external informatics expert is approximately twice the cost of the equivalent official.

Nevertheless, with a deficit of 144 posts the Commission has had no opinion but to use external staff.

Apart from considerations of cost the use of external staff and temporary staff creates serious problems for the Commission. Such staff are useful when there are one-off non-repeating tasks to be carried out (e.g. conversion). However, now that the conversion exercise is virtually completed, the Commission is left with permanent tasks which require continuity. The maintenance of a system such as CRONOS (data-base of statistical time series), for example, requires one or more persons for a period of several years. The system has had to be jeopardized by employing contract staff or temporary officials with the attendant risk that their employment will cease and their know-how will disappear with them.

Final comment

The reply to their questionnaire was sent to the Court of Auditors on 7 July 1980.

11.12. The Commission addressed its reply on this point to the Court of Auditors on 18 July 1980.

11.15. Since the Court of Auditors carried out its audit in the Commission departments, the Commission has received further supporting evidence from the recipients who had not complied with their contractual obligations.

To date, the Commission has received evidence concerning the use of 34 grants. The Commission has

sent reminders to the recipients involved in the 7 cases not yet settled, and is at present taking more urgent steps to obtain the missing information.

A difference of opinion has arisen between the Commission and the Court of Auditors involving the 34 grants not yet settled. In some cases, the Court would like the recipient to present his entire accounting records. This is not provided for in the agreements. However, the desired objective could be attained if the Court was to make use of its right to carry out an audit in respect of the recipients. This right is expressly mentioned in the agreements with the recipients.

The supporting documents relating to the other items of expenditure paid by the Commission concerning the direct elections are at the Court's disposal.

CHAPTER 12 — SUMMARIES OF REPLIES FROM OUTSIDE BODIES

The Commission understands that the Court does not expect it to make comments as part of its annual report.

The replies will be made in accordance with the procedures specially laid down for this purpose.

PART II: THE EUROPEAN DEVELOPMENT FUNDS

Introduction

0.4. (final paragraph) In general the Commission shares the Court's views as to the factors it considers decisive for the success or failure of a development project.

Explanations of the policy adopted on each of these factors are given below.

0.5. Over-estimation of the human, financial or administrative resources of recipient countries*(a) Problems about land*

The Commission deals with these problems whenever they arise while a project is being investigated. The proposals and financing agreements mention them in the special conditions, which in most cases link the start of a project to arrangements for winding it up or compensating the former occupants. But the Commission's powers are necessarily limited and the ultimate solution does not rest in its hands as it obviously cannot act in place of the authorities when the latter are inadequate. One must not forget that the solution to problems about land, which is the province of the local authorities, may in many cases contain aspects which are essentially political.

(b) Failure to observe contractual obligations in financing agreements

This criticism is justified and such failures would make a long list. But one must bear in mind the extreme financial difficulties the ACP States have just to meet their own operating expenditure because of their very limited resources. The solution here is obviously not to charge regular maintenance costs to the development funds, even though the second Lomé Convention does allow some useful flexibility on this point. Community intervention in the sectors (particularly social infrastructure) which create the major sums of recurring expenditure should be carefully assessed. Part of the solution is to finance the training of technical staff responsible for maintaining equipment or to supply the materials needed for maintenance through appropriate and often inexpensive action.

Finally, one must stress how sensitive ACP States can be to having their weaknesses in this field exposed: a passage in the Commission's report for the financial year 1978 on the implementation of aid programmes which objectively explained the difficulties ACP States had because of their limited financial means and because of the shortage and low level of training of maintenance supervisors caused great difficulties when it was discussed; it actually had to be deleted in order to avoid a diplomatic incident.

0.6. Poor quality of preparatory studies

The recipients the Commission is dealing with are developing countries and it is unusual to find projects already covered by sound studies there. As the Commission is frequently offered only ideas for projects it makes available technical assistance personnel able to draw up the complete planning schedule for the project and then to supervise it. It can call on a large number of consultants for this purpose; they represent the know-how and the technological wealth of the nine Member States. Doubtlessly some of these consultancy bureaux have made, and will continue to make errors as a result of insufficient knowledge of the very special conditions that exist in tropical Africa. But on the whole these errors are exceptions; the Commission does not, however, hesitate to penalize bureaux by placing them on a black list if the errors are very obvious.

0.7. Failure to suit projects to local conditions

The Court's comments should not be generalized. There are projects which can be criticized but alongside them are to be found many satisfactory constructions that take account of local conditions.

Faults in design and construction, the inappropriateness of the installations and equipment and insufficient use of local materials are due to the interaction of many factors that are usually psychological and sociological in nature. In particular: the desire to carry out 'modern' projects like those in industrialized countries; rejecting traditional materials which do not have the nobility and prestige of imported materials; the fact that these materials are not approved, which cause problems at the time of acceptance and explains the undertakings' hesitation to grant a ten-year guarantee involving materials which are not officially accepted; the influence of expatriate technical consultants who sometimes press them to go one better; the laxity of some European architects keen to avoid conflicts with their principals, which can lead to 'super concrete' type projects.

For their part the Commission departments have learnt a lesson from the past and have taken measures to ensure that the partner countries are better informed. Measures are currently being taken to improve the suitability of the infrastructures to the locality and the use of local materials and the know-how of the small national firms. But one must

not forget that these operations are not easy and that time and virtually constant persuasion are needed in order to produce results.

More reasonable voices are finally beginning to be heard backing up the efforts of the Commission and the authorities in the ACP States. It is gratifying that one of the points in the resolution adopted by the ACP-EEC Council of Ministers at its meeting in Nairobi on 8 and 9 May 1980, recommends that care should be taken that consultants are given suitable instructions to encourage maximum utilization of appropriate technology and to exploit the human and material resources of the ACP States. These words, which are along the lines of the Court's recommendations, were inserted at the ACP's request.

0.8. Effects of policy for farm prices

It is true that the application of low producer prices has hindered the smooth progress of certain agricultural projects. The Commission is concerned about this and in some cases its intervention has led to an increase in the price paid to the producer. But here too discussions with the governments can prove difficult for political reasons; firstly, these governments tend to regard the subject as the province of their own authorities, and secondly, they do not hesitate to tell the Commission that they are not only responsible for guaranteeing agricultural producers reasonable prices but also have a duty to keep down the consumer prices paid in the towns; finally, they will tell the Community, with apparent justice, that farm prices depend on world markets which are influenced by a whole series of factors which are completely beyond their control. That is why when the Commission's 1978 report on the implementation of aid was being discussed an attempt by the Community to obtain a joint recommendation to fix remunerative farm prices failed completely. That does not mean that the Commission will not try again since it really is a basic aspect of development policy.

0.9. Problems of technical assistance and of local management

It becomes clearer every day that both the successful execution and satisfactory operation of many pro-

jects depend on the expatriate technical assistance personnel.

It is not always easy to maintain this high-quality technical assistance, whether because of the difficulty of finding experienced staff or because the ACP States want to replace them by local staff.

The frequent changes, the excessive number of staff or their inefficiency and the disparity between the salaries of European and local staff are all factors that exert a negative influence on the course of projects.

But the Commission is not autonomous in this field either and is therefore obliged to cooperate with the ACP States, who are free to select experts and their staffing policy.

0.10. Unnecessary risks from marginal economies

The Commission shares the Court's view. Many instances can be cited where existing economies or additional credit were used in order to finish or perfect a project. One should always bear in mind that this policy must be put into practice carefully, both because of the problem of the availability of credits and in order to prevent misuse by recipients. That is why the Commission judges that such actions should come within the powers of the chief authorizing officer.

It is furthermore a fact that making the execution of a project dependent on the completion of a small part of it by the recipients frequently delays its being brought into use.

0.11. Failure of the Commission to act in cases of claims by ACP States against European firms

The Commission does not share the Court's view that 'the Commission staff do not seem to have given sufficient help to the country concerned in the recovery of the claims'.

In fact the Commission did not spare any efforts in persuading the European Investment Bank to reimburse the amounts given as guarantees. Friendly negotiations produced no results and the Commission thought it undesirable to make a complaint; this would have placed it outside its position of provider of funds and its traditional role of 'friendly arbitrator' in disputes. It would also have established a dangerous precedent, contrary to the spirit of the Lomé Convention.

That is why the Commission has reservations on the Court's proposal to insert substitution clauses in financing agreements to allow it, at the request of recipient countries, to recover certain claims.

In the majority of cases the pragmatic and flexible 'friendly arbitrator' arrangement produces good results.

ger (1.2)); in determining the capacity of a plant in an agro-industrial complex, due allowance has always been made for the annual peak in a given crop but the implementation in phase with the long-term production forecasts is still an economic constraint.

Economic causes: Since projects take a number of years to complete, their design cannot take developments in the world markets or in the national economies into account.

During the last decade, there have been the oil crisis and increases in the costs of raw materials, manufacturing and national salaries; such factors have contributed to the exceeding of estimates (1.3) and delays in and the redesigning of projects (1.4, 1.5).

Economic reasons, profitability in particular, explain why one crop was not treated (1.6), the choice of technical approach to a revision in which the investment/value added ratio (or even the rate of return) was a determining factor (1.14) and the replacement of oil-fired kilns by ones burning peat (new financing, 1.3).

SECTION 1 — INVESTMENT PROJECTS

A. Agricultural and agricultural industry projects (1.1 to 1.18)

Because of the size and period required for completion (often several years) of agricultural programmes, these projects often run into difficulties peculiar to each case. Many of the difficulties or situations to which reference is made have political, technical, economic, socio-economic or human causes, either singly or in combination.

Political causes: Here the Commission has only limited freedom of action; it can scarcely do more than make recommendations or suggestions without always being able to influence the authorities of the country concerned. This was the case in the transfer of the rice mill (1.2), the abandonment of part of an area (1.5), the conflicting interests of leading local figures (1.8), land reform (1.10), pricing policy (1.15), marketing policy (1.13) and the extension of a nut-growing project (1.6).

Technical causes: Agriculture and the agricultural industry are subject to rules which cannot be changed on request: the results of agronomic research are usually known only after a considerable period of time (6 to 12 years and sometimes lon-

Technical, economic and human causes: The replacement of a reliable and economical piece of equipment (hot-air kiln) by a less efficient one (Ceylon kiln of known design — 1.9) was justified by:

- the lack of productivity of the local labour force;
- the lack of available materials (cement, iron, sheet steel, etc.);
- the need to process the harvest (Ceylon kilns were made from breezeblocks);
- antagonism between the technical assistants and the local person in charge.

In this case (1.12) neither the competence nor the qualifications of the technical assistant can be questioned. The local person who had been in charge for almost seven years and had just been made project leader found it difficult to accept the technical assistant's strong character. This personality clash had a deleterious effect on the progress of the project (1.6, 1.9) since the recommendations of the technical assistant were simply ignored. The local person in charge also requested the recall of the technical assistant.

1.17. The sugar complex in the ACP State concerned has received the following Community finance:

- 2nd Yaoundé Convention (3rd EDF): 5 040 000 EUA (loan on special terms);
- Lomé I (4th EDF): 3 000 000 EUA (conditional loan on risk capital);
- Lomé I (4th EDF): 1 428 000 EUA (subordinate loan on the sugar company's risk capital).

Since this was a project in the industrial sector, the Community, in accordance with the provisions of the Second Yaoundé Convention, gave the European Investment Bank on 5 January 1973 the broadest possible mandate for managing the loan on special terms, in particular as far as supervision of the project with regard to the special undertakings given by the ACP State and the sugar company and this company's financial situation were concerned.

Every year since 1973 the Bank has sent the Commission a report on the project and has exchanged views with Commission officials on matters of common interest. It has always been ready to give any information required.

The Commission delegate has always been informed verbally of the result of missions sent by the Bank to the project.

As far as the loans on risk capital are concerned, the Bank has sent the Commission and the Council the regular annual reports provided for in Article 31 (4) of the Internal Financial Agreement of 11 July 1975.

B. Road infrastructure projects (1.19 to 1.25)

1.22. (a) A distinction must be drawn between exceeding the time set for completion and extending this time. Where there is justification, extensions are granted by the supervisor of works. There are comparatively few instances of the time set being exceeded without extra time being granted; the example quoted is not typical. Technical completion should not be confused with closure of the file, which may take time because of difficulties which arise at the end of the contract (disputes, release of deposits and guarantees, making of final payments, etc.).

(b) The very fact that tenders entered by contractors vary so greatly (up to 100 %) shows the difficulty of making accurate estimates. If cost over-runs are considerable in the case of tenders, they become even greater in the case of works carried out by direct labour simply on the basis of estimates.

1.23. It is true that some studies are inadequate. Unfortunately these inadequacies are often only noticed during the course of a project. Some studies or parts of studies can only be checked by repeating them (for example, laboratory tests). On the other hand, the stability of a bridge and related measurements can be checked precisely. The best guarantee of a good study is the choice of a competent consultancy.

It should be noted that many studies for works financed by the Commission have been paid for by other aid agencies. Even where the quality of these studies is open to question, it is always difficult to persuade the countries concerned to finance new studies or checks.

In the comparatively rare cases of studies which prove inadequate while the work is being carried out, the best and cheapest course is to correct the errors without stopping the work.

For the rest, while the work is in progress it is quite reasonable to take measures to improve the quality of the investment which only become apparent after work has commenced (for example, the discovery of new deposits).

The very economical construction of a structure to which the railway company made a 50 % contribution should be regarded as a necessary investment.

1.24. The Commission certainly does not wish to make candle-end economies but is always faced by lack of funds.

(a) It is definitely preferable from a long-term point of view to construct double-track bridges. Nevertheless, the Commission very often comes up against existing positions and traditions in the ACP States. In the final analysis, it is the recipient State which has the right to decide on the technical characteristics.

In any case, the difference in cost between a single-track bridge and a double-track one is a sum which cannot be considered as of slight importance.

(b) The surfacing could not be finished because of lack of funds. The remaining section is therefore an earth road which requires different maintenance techniques from those used on bitumen roads if it is not to fall into disrepair.

(c) The tender in this case was not unrealistic. Unfortunately the group was very badly managed. Its withdrawal could not have been foreseen. The consultancy's position is not always dictated so much by objectivity as by the desire to avoid risk and damage to their reputation.

(d) The bridge mentioned collapsed as a result of the failure of a bolster and not because of the system chosen. This bridge, like any structure, had been built to withstand its own weight, loads and winds. The very strict rules on this which are in force were carefully followed, all the more so because the effect of cyclones in that country is well known.

1.25. Financing proposals have for many years included maintenance costs.

C. Health and social welfare projects (1.26 to 1.34)

1.28. (a) In the field of health especially, the choice of some large projects at the expense of smaller buildings or preventive and educational projects is largely dictated by the desire to have modern complexes like those in industrialized countries to give the impression of a certain type of progress; insufficient attention is paid to practical financial and technical considerations.

1.28. (b) and (c) The question of the running costs of projects and the maintenance of buildings and equipment are sources of major concern to the Commission since they determine the success or failure of the project.

The choice of national authorities is largely influenced by expatriate technical advisers who sometimes cause costs to rise and the slackness of certain

European architects who are reluctant to exceed their mandates.

The most important suggestions and actions leading to the success or failure of the project are those which the EDF or any other aid agency is least able to influence. These include factors such as the poverty of, or management of public finances in, the ACP countries which are not always adequate to provide the administration with sufficient regular information to function properly. On the other hand, the easiest measures to take, such as design research, the better adaptation of buildings and equipment to their surroundings, personnel training and familiarizing users with a building, while important, cannot by themselves finally solve the operational problem.

As far as the maintenance of infrastructure and equipment is concerned, action has been taken with some success and will continue to be taken. There are, however, no miracle cures which will put right rapidly operational oversights or defects.

1.29. Commission departments have already explained the reasons which in the past have led to the financing of some large hospital complexes.

They are aware of the problems which have arisen and which are still arising with regard to the operation and maintenance of these large hospitals. It is undeniable that, as the Court rightly says, the sectoral policy on health should in future be based on preventive medicine and education. It is however also true that while such activities are a very important link in the chain of health care, those aspects of curative health care which are dealt with by hospitals cannot be omitted from an overall health policy.

1.32. *Water-supply for health and social purposes*

(a) In the case of the breakdown of remote controls, all that can be hoped is that the Commission is made aware of this rapidly so that maintenance may be undertaken to restore this equipment to working order.

(b) Errors in estimating population growth may be attributed to the following causes:

- (i) over-estimation: the difficulties of taking into account the socio-economic situation and prospects of towns with a (Community-financed) water supply. Such situations form an obstacle to natural growth and to migratory movements from rural areas to the towns.
- (ii) under-estimation: the large and continually growing movement away from the countryside which increases unpredictably in times of drought.

(c) Considerably more time is needed to reach a satisfactory situation with regard to charges. It should be noted that the system of equalizing charges to subsidize smaller towns from the profits made in the cities has only recently been put into practice.

The Commission departments responsible recommend that all services should make a charge but it is up to the relevant ACP authorities to take the necessary decisions.

The remarks about the choice of water supply on the basis of 'price, quality and ease of access' reflect the usual situation in developing countries: the taste of dirty water is preferred to that of water sterilized by the addition of chlorine; fountains are monopolized by the water-carriers; the selling price of water is too high in relation to incomes, etc.

1.33. Although a project is usually preceded by an on-the-spot survey, the behaviour and customs of the recipient populations are often unpredictable. All that can be done is to note the digging of wells by hand and renew the efforts to spread understanding and an acceptance of modern methods through the local society.

D. Educational infrastructure projects (1.35 to 1.41)

The replies to the Court's remarks concerning the design of health and social welfare infrastructure projects are also relevant here.

The points raised about certain educational and industrial (slaughterhouse) projects may be answered as follows:

1.36. (d) The sanitary installations are provided with outlet pipes which conform with the relevant international standards. It is true that they are often blocked but this is due more to usage — and indeed cleaning — problems than to the design and diameter of the pipes.

As far as the protection of lighting systems is concerned, technical solutions which reduce certain types of deterioration may be sought and found but such deterioration cannot be totally prevented if a free and easy atmosphere prevails in the educational establishment.

In conclusion, technical solutions cannot do more than reduce the problems of the maintenance of sanitary installations, the protection of lighting systems, etc.; only an educational programme teaching respect for the buildings can have a lasting effect.

1.37. (a) The Commission is the first to regret any delays in the completion of construction projects since such delays inevitably lead to project cost increases.

Nevertheless, the Commission does not usually undertake to pay for connecting the site to outside services since, if it did, the project could very quickly become an excuse for the extension of urban water, electricity, road and telephone services.

(b) It may well be that of the 186 educational building projects of all types financed by Community aid, some roofs, particularly flat ones, have let a certain amount of water in under very stormy conditions. Nevertheless one may well wonder whether a general conclusion can be reached on the basis of a few specific instances.

(c) It is true that the teaching materials supplied to some educational establishments are not always completely suitable to their needs and the Commission has already stated that it will try to remedy this situation in future.

E. Industrial projects (1.42 to 1.46)

1.43. Slaughterhouses

(b) With regard to the slaughterhouse study, it would be more correct to speak of a combination of

cumstances rather than connivance. In fact the firm of architects retained for the slaughterhouse study engaged an expert from a firm making slaughterhouse equipment as a technical adviser.

When the Commission department responsible heard of this, to ensure observance of the rules of competition, it eliminated this firm from the tender competition for equipping the abattoir.

(c) The involvement of technical assistants in matters of financial management is not always easy and is sometimes impossible. The Commission shares the Court's views about this abattoir functioning at only 50 % of capacity. Nevertheless, it is unable to resolve this problem itself since any financial measures depend on government price policy and the control of undeclared slaughtering.

1.44. *Electricity*

The financial resources allocated to this competition were only sufficient to cover the cost of the lowest tender. However, this tender contained conditions allowing the contractor to request price revision if the geological conditions encountered differed from those on which the tender price had been based. In reply to requests from the local authorities for a clearer definition of these conditions, the tenderer required an increase of 16.5 % of his initial price but without deleting the original conditions. Finally, in view of the refusal of the Commission and the local authorities to concede on this point, the firm agreed to carry out the work on the basis of its original price and to rescind its conditions; it did however obtain from the local authorities alone a rather more flexible interpretation of Article 90 of the General Conditions as far as the tunnel was concerned. The Commission departments made formal reservations about this point but they did not think — and rightly so — that they should contest an agreement which had been negotiated so laboriously by the local authorities. A further factor in this decision was that the risks arising from this agreement were certainly no greater than those involved in issuing a new invitation to tender. In any case the agreement was a considerable retreat from the firm's initial position and any further delays would have involved a break in the supply of power to the country.

1.45. *Industrial estate*

At the planning stage, the industrial estate was to meet a genuine need. However, delays in executing the project led to a number of firms obtaining premises elsewhere. There is no doubt that in the medium term the estate will be used as planned.

1.46. The two solar pumps are the first part of a project on the construction of pumps and solar engines. This is essentially a scientific cooperation project which will provide the ACP country in question with greater knowledge of this type of technology.

To avoid installing equipment which would benefit only the research centre, the Commission suggested that the national authorities should make the installation on an operational site so that a comparison with traditional apparatus could be made while still pursuing the research aspect. That is why it was intended to use the two pumps in question for the irrigation of agricultural areas.

During the guarantee period, the first pump, which has been operating since mid-July 1979, has been the subject of some technical modifications which will benefit primarily the national research workers engaged on the project.

Unfortunately the second pump has not yet been installed because the national authorities have not honoured their undertakings with regard to the preparation of the site; it is expected that this will be ready fairly soon.

SECTION 2 — MICROPROJECTS

2.3. The rules for implementing the Lomé Convention with regard to microprojects (Doc. ACP-EEC/106 f/77) state that the period of actual work on a project should be as short as possible, theoretically no longer than a year.

Because of a combination of factors, projects generally take longer than a year to complete. For example:

- (i) even with small projects it still takes just as long to order and obtain delivery of materials;
- (ii) since earthworks depend on the availability of the local population, they cannot be carried out in winter-time;

- (iii) transitory shortages can also hold up work;
- (iv) since a whole annual programme may often consist of a number of different projects, it may well be difficult to complete the programme if there are difficulties or delays with one or more of these projects.

2.4. (a) The various operations involved (submitting programmes and estimates, follow-up work, inspections) progress much more smoothly in those ACP countries which have an organization responsible for coordinating activities. The ACP countries are beginning to realize this and are setting up suitable bodies.

(b) The delegations play a vital role but are somewhat hampered because there are so many projects and they are so widely dispersed.

(c) A project is rarely abandoned just because costs have been under-estimated. The number of projects where costs have been under-estimated in an overall programme is usually matched by the number of projects where costs have been over-estimated. Nevertheless there has been the odd case of flagrant under-estimation where a country was in a hurry to submit a programme and included projects several years old.

In any case, it is quite common for the costs given in the financing agreement to be changed since, according to the Lomé Convention, the decision is taken on the basis of the general outline of the proposed programme.

(d) Although the authorities in the beneficiary countries are not required to submit reports until projects have been completed, the half-yearly reports from the delegates give some idea of the progress being made. Moreover, the Commission is in full agreement with the Court's view in respect of the monitoring of these projects which, because they are so widely dispersed, can be checked only by making random checks.

SECTION 3 — GENERAL TECHNICAL COOPERATION

A. Training projects

3.3. The choice for the award of scholarships is made by the recipient ACP countries. The latitude

allowed the delegations varies from one country to another as regards deciding:

- (i) whether the multiannual training programme corresponds with the training requested;
- (ii) whether the candidate is qualified for the training applied for;
- (iii) whether funds are available.

The health insurance system for reimbursing medical expenses is a problem if scholarship holders are studying in an ACP State other than their own and come under the Commission delegate.

Since most ACP countries do not have a health insurance company, the Commission is looking into the possibility of signing an insurance contract with a European insurance company to cover sickness, accident, death and civil liability risks for all these scholarship holders. Meanwhile, the delegates have signed temporary insurance contracts locally or, where this is not possible, are paying the actual costs incurred by students out of multiannual training programme funds.

Students following courses in Europe are given full insurance cover. Students on training courses in their own countries (who come under the national authorities) are covered by the same systems as holders of national scholarships. The Commission is endeavouring to prevent discrimination between holders of EDF scholarships studying in their own countries and holders of national scholarships and makes every effort to provide proper cover for students on courses in another ACP country or in Europe.

As far as scholarship holders studying in Europe are concerned, it should be pointed out that:

- (i) the Commission generally aligns its scholarship grants and other allowances with the rates fixed under bilateral aid arrangements;
- (ii) some ACP States, particularly African States, award lower grants; this causes the students considerable difficulties. This is the case, for example, in one Member State, where the scholarship granted by the home State to some African students is half or two-thirds of the minimum amount awarded under bilateral arrangements by the host State. Because of the high cost of living, these students are unable to pursue their studies successfully.

SECTION 4 — TECHNICAL SUPERVISION AND
DELEGATED FINANCIAL CONTROL

A. European Association for Cooperation

4.1. As the Court points out, the forwarding of EAC accounts on 23 April 1980 represents a significant improvement over previous years. This improvement is the result of new guidelines jointly agreed with the Commission which make specific provision — to accelerate the closure of the accounts — that the overseas imprest accounts are closed at 30 November to enable them to be forwarded and verified by the headquarters departments by 15 February. No further improvement seems possible in this area, given the number of these accounts and their physical distribution throughout more than forty countries.

4.3. (a) According to the EDF entries drawn up on 31 December 1979, the outstanding advances paid to the EAC still awaiting clearance were as follows:

Advances to delegations and technical aid (see balance sheet)	22 570 520.02 EUA
Advances in respect of scholarships	3 063 365.79 EUA
	<hr/> 25 633 885.81 EUA

(b) According to the EAC entries drawn up on 31 December 1979 the accounts were as follows:

Total advances received by the EAC	189 526 952.12 EUA
Amounts justified	183 941 360.41 EUA

(1) Balance to be cleared	5 585 591.71 EUA
Total advances in respect of scholarships	8 151 858.68 EUA
Amounts justified	8 051 239.78 EUA

(2) Balance to be cleared 100 618.90 EUA

(c) Total outstanding balances to be cleared (1+2)
= which is the figure given by the Court 5 686 210.61 EUA

(d) Difference between the balance of advances to the EDF 25 633 885.81 EUA

and the balance of advances to the EAC 5 686 210.61 EUA

i.e. 19 947 675.20 EUA

This last figure represents the expenditure entered into the EAC accounts on 31 December 1979 but not recorded in the EDF entries on the same date since it was not forwarded to the Commission for clearance until after the close of the financial year.

In order to align the two accounting procedures in future a table of equivalents will be attached to the balance sheets and to the revenue and expenditure account.

The advance of Bfrs 18 500 000 (467 625 EUA) to the EDF was in fact booked to the 'exchange rate differences' account on 30 June 1979. The booking error was detected by the EAC during an accounting check and corrected at the end of December 1979.

The error would, in any case, have been detected when the advances received by the EDF were checked against the EDF entries, an operation which takes place before closure of the balance sheet. This revenue checking procedure at the end of the financial year has been carried out regularly since 1970.

Lastly, it should be pointed out that all transactions are recorded on a day-to-day basis and that none is held awaiting clearance.

The Commission would also point out that any transfer of funds from one bank account to another is recorded in the EAC entries as a provisional operation (funds in the course of transmission) which is finalized on receipt of the advice not showing that the transfer has been made. There would seem to be no justification for the Court's remark.

4.4. The clearance of outstanding expenditure is carried out on an *ad hoc* basis as imprest administrators reply to reminder notes, but some delay is inevitable given the time required for examination, despatch and return of correspondence with the imprest administrators and overseas agents or with the institutions or bodies concerned.

In many cases, the expenditure is ultimately approved. Any expenditure totally rejected immediately gives rise to the issue of a recovery order.

Lastly, it should be pointed out that the expenditure still awaiting clearance after over a year is but an

insignificant fraction of the total expenditure to be cleared at the end of the year.

4.5. Advances paid to certain staff to purchase a vehicle for official use are cleared by means of a kilometre allowance granted to the official in question.

Generally speaking, this clearance operation is carried out quarterly by means of a payment order issued by the headquarters departments and booked to the advances account.

Both cases mentioned by the Court are exceptions. The delay was due to the fact that the calculation of the exact distance covered was the subject of protracted correspondence between the staff concerned, the delegate and headquarters departments. The matter has now been settled. It should be noted that the EAC has not been disadvantaged in any way by this delay since the clearance was effected via an entry in the accounts without incurring any transfer of funds (delegation debited by crediting the advances account).

4.6. The Commission has replied to the same comments already made by the Court in respect of the financial year 1978. The fact that the post of auditor was entrusted to an official of DG VIII working under the authority of the Director-General and of a Director, who is also the Managing Director of the EAC, is fully consistent with the Commission Decision of 13 March 1968 on the organization of EDF auditing operations by DG VIII and DG XX. This Decision has remained in force until now. The incompatibility mentioned by the Court is much more theoretical than real since the audit is carried out by the only department which — in view of its powers — is able to carry out a detailed inspection of the accounts with the documentation available to it. Under the new EAC Statute now being discussed with the Council, however, the problem of the separate functions of authorizing officer and controller will be automatically resolved since all operations carried out by the agency will, from the start, be scrutinized by the Directorate-General for Financial Control.

4.7. The recruitment of EAC staff is conducted in accordance with clear rules or regulations:

- The maximum number of staff to be recruited is laid down in the EAC Budget submitted annually to the EDF Committee.
- the EAC keeps and updates a large file of applications received or obtained via the specialist agencies in the Member States. If necessary, it may also advertise in the press. Candidates are interviewed by a selection board which gives an

opinion on their professional competence. Their names are then listed in order of merit by the committee for delegation staff, in accordance with the provisions laid down in the EAC 'Texts and Administrative Instructions' concerning publication of the General Clauses and the administrative arrangements applicable to overseas staff.

- it is true that two new contracts were signed, one in July 1979 and the other in January 1980, in order to replace two agents who had resigned.

4.9. No prior approval is required by the EAC for any expenditure over 200 EUA. Approval is required only in the case of expenditure on goods subject to inventory and on painting, upkeep and repair of offices and living accommodation in accordance with Article 11.7.3 of Texts and Administrative Instructions. This limit is raised to 300 EUA for car repair costs except in emergencies where an explanatory note from the delegate attached to the supporting document will suffice.

If the delegate complies with the above requirements, it would not only be difficult but impossible to send a telex whose cost amounted to 20 % of the expenditure itself. In the case mentioned in the report, the amount spent on a car repair was less than 300 EUA and it was wrong of the delegate to telex the EAC.

A long-standing provision of the Texts and Administrative Instructions of the EAC is that *supporting documents for expenditure of less than 20 EUA* in respect of car expenses, petrol, telegrams and registered letters and certain items of mission expenses should be kept on the spot. Amendments to the Instructions now under consideration call for greater flexibility by extending this provision to all expenses of less than 20 EUA.

The rules in respect of inventory contained in paragraph 8.1.2 of the 'Texts and Administrative Instructions relating to the execution of the contracts of overseas agents' set out the conditions in which inventories are to be kept. The real matter at issue is not the drawing up of documents but compliance therewith. The administrative departments concerned will make the appropriate comments to the delegations.

Turning to the question of the vehicle fleet, the choice of a particular make of vehicle is made on a proposal from the delegate having regard to the needs of the service (rough terrain or town driving, long distances etc.) from the category corresponding

to the official's grade and depending on the market availability of the vehicle and above all the after-sales service provided (maintenance and spare parts).

These are the only reasons on which the choice of vehicles by a specific delegation is based.

As far as possible, the policy of seeking a balance between the different European makes of car is formulated for the totality of the delegations.

4.10. *Medical expenses of locally-recruited staff*

Rules laying down the conditions for the reimbursement of medical and pharmaceutical expenses for locally-recruited staff had been drawn up and are contained in the Collected Texts and Instructions applicable to the administration of contracts of staff employed overseas (Ch. 6.4).

These rules operate as follows:

The delegation assumes responsibility for all medical and pharmaceutical expenses of local staff only in those countries where no national social security arrangements exist.

In line with these principles a number of delegations have signed medical care contracts with a doctor who is required to care for the local staff in the delegation.

To prevent abuse a number of delegations have indeed considered it necessary to fix maximum levels of reimbursement.

This measure is justified in particular by the difficulties of keeping a check on which members of a family are truly dependent (several wives and numerous children) and to prevent certain types of abuse.

4.11. It is true that certain supporting documents dating back to 1976, 1977 and 1978 do not comply with the usual rules, although this does not call into question the validity of the expenditure accepted. Nevertheless, the situation is now being rectified.

The allowances paid to the project director and to his driver were fixed in accordance with the rates of allowances paid by the administrative body responsible for these persons.

4.12. The payment of US \$ 27 000 into a Swiss bank account was made directly by the project leader against the bill for services before any action had been taken by the relevant Commission departments.

SECTION 6 — STABILIZATION OF EXPORT EARNINGS (STABEX)

6.5. The two transfers to which the Court refers are simply the result of applying Chapter I of Title II of the First Lomé Convention which requires that transfers must cover losses.

The two ACP States in question suffered exceptionally severe disasters causing them serious losses in export earnings from one commodity vital to an ACP State.

6.6. It is correct that iron-ore pellets are not explicitly mentioned in Article 17 § 1(m) of the Lomé Convention. The precise description is as follows: 'Iron-ores and concentrates and roasted iron pyrites'.

This heading is identical to NIMEXE heading 26.01 A in the Community Customs Nomenclature. It covers the NIMEXE headings from 26.01.12 to 26.01.19 inclusive. Iron-ore pellets are included in heading 26.01.19.

In the French version of the Convention, Article 17 § 1(m) is 'Minerais de fer et pyrites de fer grillées'. It is significant that here the text is not a literal translation of the English text, but is however identical in every respect with the French version of NIMEXE heading 26.01 A.

It is therefore quite possible that the intention in using the precise wording of Article 17 § 1(m) was to indicate this NIMEXE tariff heading. If this is correct, then pellets must be considered as a Stabex product.

However, the imprecision of the text has unfortunately made it impossible to arrive at a strict interpretation of the Article in question.

Legal opinion was that the only way of arriving at a definitive ruling in the matter would be recourse to

the procedure for the settlement of disputes provided for in Article 81 of the Convention. This option would have had two disadvantages: firstly, the Community would be formally in dispute with an ACP State at the time of the negotiation of the new Convention; secondly, it was likely that the matter would be decided in favour of the ACP State.

A pragmatic solution was therefore sought, during the renegotiation of the Lomé Convention, with a view to arriving at a position which could be agreed by both parties signatory to the Convention.

It was finally agreed that the transfer request would be accepted, on condition that in all future cases iron-ore pellets would be defined as not falling under Article 17 § 1(m), and would be added to the list of those mineral products covered by the minerals system of the new Lomé Convention.

6.6. (last paragraph) The Commission is aware that the fact that the Stabex system is automatic, objective and neutral in its operations, is of supreme political importance and will continue to defend this value in the future as it has done in the past.

The Commission does not consider that the examples quoted by the Court justify the allegation of 'improperly wide' interpretation of the Convention. Because the Commission attaches importance to this question the examples quoted by the Court are examined below in more detail:

- (a) The possibility of 'totalizing' the earnings of several commodities to calculate the dependence threshold — diametrically opposed to the strictly 'commodity-by-commodity' approach of the Stabex system — is clearly provided for in Article 17 which states that 'the system shall apply to an ACP State's export earnings... if... earnings from the export of *the product or products*...'. In a literal and narrow interpretation it might be concluded that the total earnings from the export of several related commodities (e.g. groundnuts shelled or not plus groundnut oil plus groundnut oilcake, or cocoa beans plus cocoa paste plus cocoa butter) could be added together to exceed the package threshold. Article 19(1) does not allow this interpretation for the calculation of transfers.

A number of ACP States have tried on several occasions — on the basis of Article 17(2) — to persuade the Commission to accept such requests for 'totalization'. Apart from two

exceptions, the Commission has refused these requests; this action is, in the view of the applicant states, an interpretation of the Convention far removed from the letter thereof. The two exceptions were made in view of circumstances entirely out of the ordinary; had the system not intervened to deal with these circumstances, it would have failed to fulfil its purpose.

- (i) The first case concerned a severe drought which destroyed the entire groundnut crop and caused dependence rates for each sub-product to fall drastically below the threshold. Since the Commission did not wish to withhold the assistance the system could provide in such a disaster it agreed, exceptionally, to a request for groundnut products to be 'totalized'.
- (ii) In the second case, the continuity of the process of industrialization in the cocoa sector, which had only just got under way, would have been seriously jeopardized if the request for products to be 'totalized' had been refused. The amount transferred was repaid into the system in full for the following year.

The two transfers account for 1.6 % of total transfers made.

- (b) As regards the choice of particular reference years other than the four years preceding the year of application, the Court is undoubtedly referring to the Community declaration made to the ACP-EEC Council of Ministers in Fiji in 1977:

'For the purposes of applying the provisions relating to the reference period, where an ACP State reports difficulties due to a year characterized by exceptional events, the seriousness of which has been recognized by the international community, the Community declares itself ready to seek on a case-by-case basis, in conjunction with the ACP State concerned, a solution to these difficulties through as favourable as possible an interpretation of the existing provisions.'

This declaration was applied in the case of two ACP States which clearly fulfilled the conditions for its application: in the case of one State, the reference period covered the last years of a war of liberation; in the case of the other, the period covered a long period of drought. The seriousness of these events was recognized in UN resolutions. In order to reconcile the con-

tent of the declaration with Article 19(1) of the Convention, the Commission proposed, in implementing this provision, to use the unit values of the four years preceding the year of application. The quantities were based on the years preceding the respective war and drought because these years are undoubtedly a better reflection of production and export possibilities than normal years are. In order to revert to normal practice, as soon as possible from this exception to the rule laid down by Article 19(1) of the Convention, the Commission decided to calculate the reference level by replacing each year one 'abnormal' pre-war or pre-drought year by the quantities of the reference period defined in Article 19(1).

Total transfers on this basis amount to 9 584 960 EUA, i.e. 2.6 % of total transfers.

- (c) On the question of the acceptance of late applications, the Commission would point out that its approach on the three requests for transfers was based on Article 18(3) of the Convention which provides that whatever balance remains at the end of each year of the first four years of application must be carried forward automatically to the following year. Thus, for example, the balance of the 1975 instalment was carried forward to the 1976 instalment at 31 December 1976. In 1977 there were hence no more funds to meet requests relating to 1975.

The ACP States concerned did not share this interpretation. They managed to secure the initiation of the goodwill procedure provided for in Article 18(2). Once this procedure had been completed the Commission was asked to consider, exceptionally, the requests in question despite their lateness. In two of the three cases mentioned, transfers were accepted after examination of the requests because there was an indisputable loss of earnings from the Community. These transfers account for 1.9 % of total transfers.

The transfers which the Court considers to have resulted from too wide an interpretation, but which are all in fact justified by the principle of the system or by institutional decisions represent 20 MEUA (6.1 % of all transfers made in five years).

- (6.8.) 6.7. The criticisms levelled by the Court at a Stabex correspondent and local authorities responsi-

ble for these matters are too harsh, whatever inevitable deficiencies there may be in the organization and efficiency of the responsible official departments in the recipient States.

The statistics of the ACP State in question are export statistics drawn up by the customs authorities and are cross-checked against the statistics drawn up by the competent Stabilization Funds.

Finally, it must be reiterated that the ACP States are responsible for deciding how to use the resources (Article 20 of the Convention). If an ACP State which is not listed in Article 48 of the Convention decides not to use the funds transferred it is perfectly at liberty to do so. The Court's remarks are not generally borne out by the — albeit incomplete — information obtained by the Commission. A large proportion of the funds has in fact been spent in the rural sector.

- (6.9.) 6.8. As regards the second sentence in the first paragraph, the Commission would point out that it has never made transfers to firms whatever their articles are. The sums are always paid to governments into one of their accounts in the Member State in whose currency they are requested. Once the sum has been paid, Article 20 of the Convention applies.

In the Commission's report to the Council on the operation of the system of stabilization of export earnings in 1977, the Commission noted with satisfaction that, in the countries in question, over half the funds paid had been used to develop commodities for which the transfers were requested (a total of 58 % for the period 1975-1977).

Despite the fact that the firms which act as Stabex correspondents have different types of articles, statistics are collected satisfactorily.

The Commission purchased a small computer package, which included a cassette reader, to store information for the management of Stabex.

After being used for some time the cassette tapes became slack as a result of continual winding and

rewinding, so that the date actually produced was not that sought.

Consequently it was decided in 1978 to replace the cassette reader by a very reliable small disc reader.

Since this change took place shortly before the requests for the 1977 year of application were examined, the information stored on the cassettes was transferred to small discs by means of a programme drawn up and supplied by the equipment manufacturer. The Commission was not involved in this operation.

The only possible explanation for the phenomenon discovered by the Court is an error in transcription during this operation caused by the bad quality of the cassette.

This is a regrettable error. The Commission, however, believes that there is no reason for the ACP State to repay the amount in question since it accepted it in good faith.

(6.10.) 6.9. The ACP State in question supplied annual statistics for groundnuts for 1976 and 1977. No groundnuts were exported in 1978 and 1979. The statistics adopted after cross-checking were Community statistics and there is hence no question of any arrangement having been reached.

(a) It should be noted in this context that the weather was to blame for the bad harvest in the 1976/77 marketing year: no rain for a fortnight in August followed by a long period of rain late in the year. This had dire effects on groundnuts in particular, because the lack of rain prolonged the growing cycle and the long period of rain at the end of the season caused pest problems, rotting and regrowth.

(b) In view of these explanations with regard to statistics and the 1976/77 agricultural year, the Commission must refute the suggestion that the transfer on which the Commission decided was 'to put an end to a troublesome case'. The rules of the system were simply applied.

(6.11.) 6.10. The Commission has been given a firm promise by the French Minister of Foreign Affairs that the French authorities will restore the resources relating to the transfer to the New Hebrides to their original level.

(6.12.) 6.11. The situation regarding the reports on the use of Stabex funds is beginning to improve, but fairly slowly. There is plenty of evidence to prove that the Commission is pressing for the reports to be submitted within the desired time limits.

(6.13.) 6.12. The Commission intends to have an economic study analysing the impact of the Stabex system on the development of the economies of the ACP States concerned carried out in 1981.

INDUSTRIAL COOPERATION

7.2. Under Article 4 of the Financial Regulation governing the CID, the latter's Director may without restriction authorize the carrying over of appropriations left unused at the end of one financial year to the following year. It is true to say that the Director has used this facility widely.

7.3. The Committee on Industrial Cooperation, whose task it is to steer, supervise and monitor the activities of the CID, has already drawn the Director's attention to the problem of providing strict administrative and accounting control, especially with regard to claims for mission expenses.

SECTION 8 — ANALYSIS OF THE ACCOUNTS OF THE EUROPEAN DEVELOPMENT FUNDS

8.1. It is true that the EDF accounts and balance-sheets were sent to the Court on 29 May 1980 in their provisional form only, i.e. without being formally adopted by the Commission.

There were two reasons for this:

- (a) the data-processing departments at the Computer Centre in Luxembourg, which keep the EDF accounts, sent the end-of-year reports in mid-March only;

(b) the documents to be published in the 'Official Journal of the European Communities', such as the balance-sheets and the profit-and-loss accounts, have to be translated into the six official languages of the Community before they can be approved by the Commission.

8.3. The figures quoted by the Court prove that the Commission is making every effort to close projects as soon as possible, especially those coming under the first and second EDFs.

It is anticipated that the first EDF will be closed during 1980.

The Commission has already remarked that most of the remaining decisions to be taken under the second EDF in fact stem from the need to adjust projects either because of a cost over-run or because a current measure needs to be supplemented in order to make it more appropriate or effective. By adopting this approach, is not the Commission in fact applying the kind of policy which the Court recommended in its introduction?

8.10. Reconstituted Stabex transfers have indeed been deducted from the relevant payments in the accounts for about a year. This, purely formal, change was made at the request of certain ACP States which believe that it is the net transfer amount (i.e. less the reconstituted sum) which should appear in the EDF's financial situation figures.

8.11. The Commission would point out that the sum of 9 438 500 EUA is divided into two amounts. Following the accession of three more countries to the Lomé Convention, the Council decided that the Commission could ask the EIB for the main portion (7 438 500 EUA) as part cover for the contributions

which the six original Member States ought to pay to it under the schedules for the collection of financial contributions.

On 29 June 1976 the Council decided that the remaining 2 000 000 EUA would be devoted to financing operations in the French Overseas Departments.

In view of the rate of commitments, the state of the projects specifically concerning the three new ACP countries and the French Overseas Departments and the amount of cash at the Commission's disposal, the Commission, in complete agreement with the competent bodies in the Council, did not think it appropriate or urgent, when the financial contributions were last collected, to ask the EIB to pay it the sums in question.

When the contributions for 1981 are decided with the Member States, the Commission will once again definitely examine whether to ask the EIB to pay part of these contributions.

In this respect, the EIB, in future, will have more on deposit than it has to pay out — an important factor to be taken into account.

8.12. The Commission is continually trying to find ways of improving the EDF's automated accounting system, the aim being to produce the end-of-year accounts by computer without further manual treatment, so as to reduce the risk of error and speed up the approval procedure for the balance-sheets and the profit-and-loss accounts.

That the aim has not yet been achieved is due to the fact that a number of hardware changes were made in 1979, necessitating conversion of the software.

*ANNEX V***THE COURT OF JUSTICE****Answer of the Court of Justice to the observations contained in the Annual Report of the Court of Auditors for the financial year 1979**

The Court of Justice notes that none of the observations directly concern the financial management of the Court.

As regards the observations common to all the institutions subject to the audit, such as the fixed allowance for drivers' overtime (paragraph 10.3), the concept of 'international organization' to be re-considered in connexion with the grant of the expatriation allowance (paragraph 10.6), the Court of Justice is of the opinion that uniform rules should be followed by all the institutions.

We therefore propose to submit these questions to a meeting of the heads of administration in the near future.

10.34. to 34.37. System of the installation allowance

The Court of Justice fully shares the views of the Court of Auditors with regard to the grant of the installation allowance.

As regards the practice of the various installations we should like to make it clear that at the Court of Justice the installation allowance is paid exclusively on production of documents evidencing the change of residence.

ANNEXE VI**THE ECONOMIC AND SOCIAL COMMITTEE****Commentary on certain matters referred to in the Court of Auditors' observations on the 1979 financial year (15 July 1980)****10.7. Management of bodies set up by the institution in the interest of its staff**

The Committee had endorsed the Court's proposals for the establishment of an inter-institutional legal, financial and general accountancy framework in the form of general implementing provisions for Article 9 (3) of the Staff Regulations.

Pending the introduction of such rules in line with the Staff Regulations, the Committee applies *ad hoc* rules.

10.21. ff Persons treated as dependent children

The Committee maintains that the Staff Regulations must be amended to solve this problem properly.

Pending the amendment of the existing rules, the Court is right to insist that they be used to the full to ensure that all relevant factors are taken into account when applications are being vetted.

The Committee has adopted the Court's recommendation that applicants be required to complete a detailed questionnaire.

10.33. Transfers

The Committee shares the Court's concern but points out that the problem referred to does not really arise at the ESC Secretariat.

10.34. ff Installation allowances

The Committee feels that the Staff Regulations should be amended for the reasons given by the Court.
