

COURT OF AUDITORS



In accordance with the provisions of the Treaties (Article 78f(4) ECSC; Article 206a(4) EEC; and Article 180a(4) EAEC) and the Financial Regulation of 21 December 1977 (Article 83), as well as the corresponding provisions relating to the European Development Funds, the Court of Auditors of the European Communities, at its meeting on 9 November 1989, adopted its

ANNUAL REPORT

concerning the financial year 1988

The report, together with the institutions' replies to the Court's observations, was transmitted to the authorities responsible for giving discharge and to the other institutions by 30 November 1989

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FOREWORD

1. The key to the abbreviations and symbols used in this report is given on the second page of Annex II
2. The institutions' replies are set out after the annexes to this report and are marked with a grey strip along the edge
3. The references to the Official Journals in which the Court of Auditors' previous annual reports were published are listed below
 - Annual report concerning the financial year 1977 OJ C 313, 30.12.1978
 - Annual report concerning the financial year 1978 OJ C 326, 31 12.1979
 - Annual report concerning the financial year 1979 OJ C 324, 31.12.1980
 - Annual report concerning the financial year 1980 OJ C 344, 31 12.1981
 - Annual report concerning the financial year 1981 OJ C 344, 31.12.1982
 - Annual report concerning the financial year 1982 OJ C 357, 31 12.1983
 - Annual report concerning the financial year 1983 OJ C 348, 31 12 1984
 - Annual report concerning the financial year 1984 OJ C 326, 16 12 1985
 - Annual report concerning the financial year 1985 OJ C 321, 15.12.1986
 - Annual report concerning the financial year 1986 OJ C 336, 15 12.1987
 - Annual report concerning the financial year 1987 OJ C 316, 12 12 1988

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the financial year 1988**

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**Annual report of the Court of Auditors
concerning the financial year 1988**

INTRODUCTION

THE PROCEDURE FOR THE ANNUAL REPORT

1. This is the twelfth annual report of the Court of Auditors of the European Communities and it concerns the accounts for the financial year 1988 ⁽¹⁾.

2. The Treaties ⁽²⁾ and the Financial Regulation ⁽³⁾ require the Commission to draw up, for each financial year, the accounts relating to the implementation of the budget and a financial statement of the assets and liabilities of the Community, together with a financial analysis of the financial year, and to forward these documents to the European Parliament, the Council and the Court of Auditors by 1 June of the following financial year at the latest. All the comments which it considers suitable for inclusion in its annual report are sent by the Court to the Commission by 15 July, and those observations that relate to the other institutions are likewise sent to the respective recipients. The Financial Regulation stipulates that each institution must send its reply to the Court by 31 October at the latest and that the Court must draw up its annual report by 30 November ⁽⁴⁾. In practice, the formal replies are preceded by bilateral discussions between the institutions and the Court. These discussions cover both the Court's comments and the draft replies which have been made

available to the Court on an informal basis. The aim of this procedure is, where appropriate, to modify both the comments and the replies, so that the points of view expressed are presented to the reader as objectively as possible.

3. In the light of the Court's report in particular, Parliament, acting on a recommendation from the Council, gives its opinion on the discharge to be given to the Commission in respect of the implementation of the budget by 30 April of the following year.

CONTENT OF THE ANNUAL REPORT CONCERNING THE FINANCIAL YEAR 1988

4. This annual report consists of two parts and two annexes and is accompanied by the institutions' replies.

5. In Part I of the report, Chapter 1 sets out the Court's overall message concerning the Communities' financial situation.

6. Chapter 2 contains all the Court's observations on the results of a horizontal audit of the implementation of the budget and an examination of the legality and regularity of operations during the year, irrespective of budgetary sector. This chapter also contains all the Court's findings with regard to accounting matters.

7. Chapter 3 analyses the structure of internal control within the Commission, which, pursuant to Article 205 of the EEC Treaty, implements the budget on its own responsibility.

8. Chapters 4 to 13 deal more specifically with the Court's findings with regard to sound financial manage-

⁽¹⁾ The annual report is produced in accordance with the:
ECSC Treaty, Article 78f(4);
EEC Treaty, Article 206a(4);
EAEC Treaty, Article 180a(4);
Article 83 of the Financial Regulation of 21 December 1977, OJ L 356, 31.12.1977, and with similar provisions in each of the Financial Regulations for the third, fourth, fifth and sixth European Development Funds, respectively:
(i) Council Decision 71/68/EEC, OJ L 31, 8.2.1971;
(ii) Council Decision 76/647/EEC, OJ L 229, 20.8.1976;
(iii) Council Decision 81/215/EEC, OJ L 101, 11.4.1981;
(iv) Council Decision 86/548/EEC, OJ L 325, 20.11.1986.

⁽²⁾ ECSC Treaty, Article 78d;
EEC Treaty, Article 205a;
EAEC Treaty, Article 179a.

⁽³⁾ Article 77.

⁽⁴⁾ Articles 83 and 84 of the Financial Regulation.

ment in selected areas. The observations in these chapters are potentially very wide in scope, and, unlike the observations in Chapter 2, they may in some cases go beyond the 1988 annual accounts.

9. Part II of the report is concerned with the European Development Funds, which do not constitute an integral part of the general budget of the Communities but are financed by specific contributions from the Member States.

10. Annex I lists the reports and opinions adopted by the Court over the past five years, whilst Annex II contains summary tables and various detailed analyses of the financial information relating to the general budget of the Communities and to the European Development Funds.

SPECIFIC ANNUAL REPORTS

11. The Court has sent separate reports to the relevant discharge authorities on the 1988 accounts of JET (the Joint European Torus), the European Centre for the Development of Vocational Training (Berlin), the European Foundation for the Improvement of Living and Working Conditions (Dublin), the Euratom Supply Agency and the European Schools. The Court has also drawn up a separate annual report on those accounting transactions that relate to the operational activities of the ECSC and on the Commission's financial management of these transactions, as required by Article 78f(5) of the ECSC Treaty.

OPINIONS AND SPECIAL REPORTS

12. Since its last annual report, the Court has adopted an opinion on a proposal for a general revision of the Council Regulation (ECSC, EEC, Euratom) amending the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁵⁾. It has, furthermore, adopted the following special reports, on:

(a) the agrimonetary system ⁽⁶⁾;

⁽⁵⁾ Opinion No 1/89, OJ C 72, 20.3.1989.

⁽⁶⁾ Special report No 1/89, OJ C 128, 24.5.1989.

(b) the organization of the markets in fresh and processed fruit and vegetables ⁽⁷⁾.

13. In this connection, the Court would like to point out to the discharge authority and to readers of its annual report that the special reports are complementary to this annual report, in particular in that they supply additional information.

COURT BUDGET AND STAFF

14. The Court's expenditure in 1988 (payments against appropriations for 1988 plus payments against carry-overs from 1987) was 25,8 Mio ECU.

15. The budgets for 1987 and 1988 provided for the following numbers of posts:

	1987	1988
Category A	132	134
Category LA	46	46
Category B	74	77
Category C	86	89
Category D	28	29
Total	366	375 ⁽⁸⁾

AUDIT OF THE COURT'S ACCOUNTS

16. Under the Treaties, the Court is required to examine the accounts of all revenue and expenditure for all the institutions, including itself. The arrangements which the Court introduced in 1983 for the audit of its own accounts provide that the audit of a given topic in the other institutions shall also include an examination of the use made of the corresponding appropriations in the Court's budget. Any observations arising from this examination are included in the relevant chapter of the Court's annual report. Furthermore, the Court has engaged a private auditing firm to audit its accounts for the financial year 1988.

⁽⁷⁾ Special report No 2/89, OJ C 128, 24.5.1989.

⁽⁸⁾ Consisting of 319 permanent posts and 56 temporary posts.

PART ONE

General budget of the European Communities

CHAPTER 1

General matters

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THE COMMUNITIES' FINANCIAL SITUATION

1.1. The general budget of the European Communities for the financial year 1988 ⁽¹⁾ was not adopted until 1 June 1988. This budget amounted to 45 302,6 Mio ECU of appropriations for commitment and 43 778,8 Mio ECU of revenue and appropriations for payment. On 6 July 1988 the President of the Parliament declared the

adoption of amending and supplementary budget No 1/88 ⁽²⁾, whereby the abovementioned amounts were increased to 45 344,1 Mio ECU and 43 820,4 Mio ECU respectively. A detailed analysis of the implementation of the 1988 general budget is given in Chapter 2 of this report.

1.2. The accounts adopted by the Commission, pursuant to the regulations in force, show a surplus of 1 140,0 Mio ECU for the financial year 1988. This surplus would have amounted to 2 778,0 Mio ECU had Italy and Spain paid all of their compulsory contributions to the general budget within the prescribed periods.

1.3. Moreover, the Court notes that expenditure which had actually been incurred during previous financial

⁽¹⁾ OJ L 226, 16.8.1988.

⁽²⁾ OJ L 265, 26.9.1988.

years was charged to the 1988 budget. The expenditure in question totalled 2 184,4 Mio ECU, i.e.:

(a) sums repaid to the Member States in respect of the depreciation of stocks of agricultural products:	1 240,0 Mio ECU
(b) reimbursement of expenses incurred by the Member States in the collection of own resources in 1987:	442,7 Mio ECU
(c) repayment in 1988 of advances previously authorized by the Member States to cover the 1984 budget deficit:	501,7 Mio ECU
Total	2 184,4 Mio ECU

The Court points out, however, that that did not affect the final balance for the financial year 1988, since charging this expenditure to 1987 would have increased the deficit for that financial year, which would have constituted an item of expenditure of the same amount for 1988.

1.4. The Court must stress, moreover, that the effects on the 1988 budget of charging to it these items of expenditure from previous financial years was rendered less evident on account of the fact that, on the one hand, the world economic situation favoured reduced agricultural spending and that, on the other hand, the following items of expenditure were not charged to the budget:

- (a) pursuant to Council Regulation (EEC) No 2048/88 of 24 June 1988 ⁽³⁾, the agricultural year was limited to 11,5 months, resulting in 'non-expenditure' of approximately 1 150,0 Mio ECU;
- (b) pursuant to Council Regulation (EEC) No 801/87 of 16 March 1987 ⁽⁴⁾, the repayment of expenditure in 1987 and 1988 by the Member States for the disposal of surplus stocks of butter (3 177,8 Mio ECU) was carried forward to the financial year 1989 and subsequent years.

The Court observes that the surplus revenue described in paragraph 1.2 above was not used to redeem, by an

⁽³⁾ OJ L 185, 15.7.1988, p. 1.

⁽⁴⁾ OJ L 79, 21.3.1987.

amendment of the abovementioned Regulation (EEC) No 801/87, all or part of the debts contracted by the Communities in respect of the disposal of butter stocks.

1.5. In general, and despite its repeated requests, the Court notes that the Commission continues to omit the following vital financial information from its accounts, or the annex thereto:

- (a) a complete and precise description of the Communities' potential liabilities and expenditure. The Court notes in this respect that the information on potential expenditure contained in Volume V of the Revenue and Expenditure Account for the financial year 1988 is even markedly less copious than that provided in 1987;
- (b) a timetable, even if only indicative, of the due dates, not only of outstanding commitments but also of other potential liabilities and expenditure;
- (c) an analysis of the principal causes of under-utilization of budget headings.

OBSERVATIONS ON THE EFFECTIVENESS OF THE BUDGETARY MANAGEMENT

Management of revenue

1.6. The rules governing the establishment, collection and accounting for the Communities' revenue are designed to ensure that all revenue which is due is fully collected and accounted for and that all Member States are treated equally. It is for the Commission to ensure that the rules are properly and evenly applied. The Court has found, however, that the Commission's approach is less than rigorous in this area and that it has not made full use of all the powers available to it. Chapters 3, 4 and 6 (paragraph 6.157), provide evidence of a degree of laxity on the part of the Commission in relation to management and control.

1.7. The Court notes in particular that the late payment of a considerable proportion (27 %) of revenue covered by the Intergovernmental Agreement, together with the budgetary surplus for the financial year (see paragraph 1.2), on the one hand, involved the needless mobilization of resources, given the expenditure actually effected and,

on the other hand, produced an unequal response from the Member States to their financial obligations towards the Communities.

1.8. Moreover, the Court considers that the new Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989⁽⁵⁾ implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources and Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989⁽⁶⁾ on the definitive uniform arrangements for the collection of own resources accruing from value-added tax have strengthened the Commission's management and control powers. Regulation (EEC, Euratom) No 1552/89 gives the Commission explicit power to carry out independent on-the-spot inspections in relation to traditional own resources. With these strengthened powers the Commission should now provide itself with the means to exploit them effectively.

Control of agricultural expenditure

1.9. In its 1987 annual report the Court drew attention to important weaknesses in national controls over Community expenditure for which Member States have the principal day-to-day management responsibility. The Court's findings were especially serious in relation to EAGGF expenditure. On the basis of its audit of public storage arrangements⁽⁷⁾, and export refunds in the beefmeat sector⁽⁸⁾, the Court concluded that the shortcomings observed were such as to cast serious doubt on the reliability of the accounts for the expenditure concerned.

1.10. The Court has continued its enquiries into export refunds. Export refunds in the sugar sector are the subject of observations in paragraphs 6.108 to 6.159 of the present report, and the results of the Court's enquiries in the milk, milk products and cereals sector will be included in a forthcoming special report. In the present report the Court sets out the findings of its examinations of selected measures in the third main category of CAP expenditure, production and consumption aids. They again illustrate the difficulties experienced by the Member States in exercising adequate control over Community expenditure.

⁽⁵⁾ OJ L 155, 7.6.1989, p. 1.

⁽⁶⁾ OJ L 155, 7.6.1989, p. 9.

⁽⁷⁾ Special report No 5/88, OJ C 274, 24.10.1988.

⁽⁸⁾ Annual report concerning the financial year 1987, paragraphs 4.20 to 4.59.

1.11. Weaknesses at the national level are not compensated for by sound controls at Commission level. The Court's examination of the effectiveness of the clearance of accounts procedures — the Commission's key, if not sole, control of the propriety of Member States' declared expenditure under the CAP — showed that, despite the Court's criticisms over many years, the clearance procedures are still far from adequate for the task concerned, mainly because the Commission has not devoted to the execution of this task the amount of resources needed for it to be carried out to a satisfactory standard.

1.12. Finally, the Court would like to draw attention to the management of milk quotas (see paragraphs 5.33 to 5.38). During the financial year under consideration, the Commission and the Council amended this scheme retrospectively to the advantage of the Netherlands, France, the Federal Republic of Germany, Italy, Belgium and Denmark. The financial effect of this amendment is estimated by the Court at some 520,0 Mio ECU, even though this chapter's initial allocation had already had to be increased by 300,0 Mio ECU. In this way an end was put, at considerable cost to the general budget, to a situation that had resulted from a regulation which had not been drafted precisely enough and had been implemented in an irregular fashion by the Member States. The Court considers that this type of legislative amendment, far from serving the objectives of budgetary discipline and strict management of the resources available, was dictated by nothing more than reasons of convenience and only made possible by the overall availability of appropriations during the financial year.

Effectiveness of structural operations

1.13. With regard to Community expenditure for structural purposes, the Court notes that the figures for actual expenditure in relation to the previous financial year (see *Table 1.1*) represent the first step on the road back to a balanced budget, as requested by the European Council in Brussels. The Court notes, however, that management of this expenditure indicates a lack of effective monitoring of the projects (see paragraphs 9.18 to 9.24 and 10.33) and assessment of their results (see paragraphs 8.64 and 9.25 to 9.31), as well as by an element of additionality which is still largely theoretical (see paragraphs 8.65 to 8.67, 9.15 to 9.17 and 10.15 to 10.16).

1.14. As the Court has already pointed out several times since its first annual report concerning the financial year 1977, there are considerable weaknesses in the implementation of the various structural instruments managed by the Commission. In particular as regards the resources mobilized to meet objectives of Community interest, the

Table 1.1 — Changes in actual structural expenditure ⁽¹⁾ between 1987 and 1988

(Mio ECU)

Sector	1987	1988	1988 compared with 1987	
			Amount	%
3. Agricultural structures				
— Guidance Section of the European Agricultural Guidance and Guarantee Fund (Chapters 30 B and 33 B)	790,3	1 140,9	+ 350,6	+ 44,4
— Expenditure in the agricultural sector (Chapter 38 B)	35,3	57,1	+ 21,8	+ 61,8
Sub-total	825,6	1 198,0	+ 372,4	+ 45,1
5. Regional and transport policy				
— European Regional Development Fund (Chapters 50 B and 51 B)	2 562,3	2 979,8	+ 417,5	+ 16,3
— Other regional policy operations (Chapter 54 B)	12,9	55,7	+ 42,8	+ 331,8
— Mediterranean programmes (Chapter 55 B)	76,8	86,0	+ 9,2	+ 12,0
— Community support programmes (Chapter 56 B)	—	5,0	+ 5,0	—
— Transport (Chapter 58 B)	27,0	65,6	+ 38,6	+ 143,0
Sub-total	2 679,0	3 192,1	+ 513,1	+ 19,2
6. Social policy				
— European Social Fund (Chapters 60 B and 61 B)	2 542,2	2 298,6	− 243,6	− 9,6
— Protection of the environment and consumer protection (Chapter 66 B)	31,6	25,5	− 6,1	− 19,3
— Aid to disaster victims in the Community (Chapter 69 B)	37,8	33,2	− 4,6	− 12,2
— Miscellaneous intervention expenditure in the social sector (Chapters 63 B, 64 B, 67 B)	111,3	163,0	+ 51,7	+ 46,5
Sub-total	2 722,9	2 520,3	− 202,6	− 7,4
7. Research, energy and industry				
— Energy policy (Chapter 70 B)	89,5	131,2	+ 41,7	+ 46,6
— Nuclear safeguards (Chapter 71 B)	4,1	3,9	− 0,2	− 4,9
— Research and investment (Chapter 73 B)	774,9	872,2	+ 97,3	+ 12,6
— Information market and innovation (Chapter 75 B)	23,7	20,7	− 3,0	− 12,7
— Industry and the internal market (Chapter 77 B)	70,6	62,0	− 8,6	− 12,2
— Financial engineering operations (Chapter 79 B)	2,0	1,4	− 0,6	− 30,0
Sub-total	964,8	1 091,4	+ 126,6	+ 13,1
Grand total	7 192,3	8 001,8	+ 809,5	+ 11,3

⁽¹⁾ Payments against appropriations for the financial year plus appropriations for the financial year carried over to the following financial year.

manner in which operations that make a joint call upon the resources of the Member States and of the Community are coordinated is often open to criticism. With regard to the European Social Fund (ESF), the Court has once again noted this year that the imprecise definition of certain criteria for eligibility — combined with the vast amount of appropriations available against the budget headings — results in financial assistance being granted to certain specific measures which, at the very least, deserve to be more rationally presented, justified and assessed by their promoters in the Member States before being approved by the Commission (see paragraphs 9.7 to 9.12, 9.30, to 9.31 and 9.56).

1.15. As regards the European Regional Development Fund (ERDF) the above observations also apply to industrial investments: in the absence of a real definition of development policies and strategies in this area, the Fund's operations amount, in a significant proportion of cases, to assisting projects which do not, in certain respects, satisfy the requirements of the regions in which they are located (see paragraphs 8.15, to 8.16, 8.18, 8.42, 8.52 and 8.57). Finally, as regards transport policy, the Commission, despite the complementary nature of the operations that it finances within this framework, thanks to the ERDF, has not set up internally sufficient coordination between the staff of this Fund and those responsible for implementing the Community programme of transport infrastructures, whereas, since the launch of this programme in 1984 and despite the Commission's requests, no multiannual development plan for transport infrastructures has yet been drawn up in liaison with the beneficiary Member States. The Community budget is thus confined to making annual payments, usually at the close of the financial year, in support of national projects which have been conceived and implemented within a framework which is certainly multiannual but not Community-orientated. It therefore hardly comes as a surprise to note that the contribution paid by the Community to national projects already in the course of implementation does not always produce the expected additional effects in terms of the Community interest, (see paragraphs 10.7 to 10.10 and 10.17 to 10.20).

DIFFICULTIES IN THE CONTROL AND MONITORING OF SHARED MANAGEMENT BY THE COMMISSION AND MEMBER STATES

1.16. The Court gives below some illustrations of the results of its analyses, taken from various chapters of this report, which highlight the existence of worrying shortcomings in the management procedures of the Commission and the Member States.

Shortcomings in the legislation

1.17. The Court points out, as it did before in paragraphs 6.13 *et seq.* of its annual report concerning the financial year 1986, the heterogeneous nature of the Community legislation applicable to the various areas of budgetary expenditure. The variety of provisions and procedures instituted by the Community legislator, according to the various Community policies, opens the door to differing interpretations and hampers the effectiveness of the central role assigned to the Commission. This applies in particular to the own resources and Agricultural Guarantee sectors, where the regulations in respect of controls are, according to the legislation concerned, incomplete, too complex, imprecise or devoid of penalties with regard to parties who commit a breach (see paragraphs 4.37, 4.39, 4.57, 6.2 (c), 6.141, 9.54 — 9.57 and 10.36).

1.18. The Court notes, in addition, that the weaknesses and unsuitability of certain Community legislative provisions, in particular in respect of control, may be attributable to the absence of any monitoring by the Commission, as initiator of the projects, of the national structures and administrative methods concerned (see paragraph 6.39), or to the lack of internal coordination within the Commission departments (see paragraphs 6.101, 6.102), or again to the lack of coordination between the Commission departments and those of the Member States (see paragraphs 6.103, 6.104 and 7.60 to 7.63).

Weaknesses in the decision-taking procedures

1.19. The quality of the decision-taking processes depends, to a large extent, on the precision of the instructions given to the managing departments. In this respect, the Court has often been obliged to note that the effectiveness of the management of Community funds and, therefore, the effectiveness of the Commission's supervisory role, is often hampered by the inadequacy — or even, in certain cases, the lack — of internal rules or clear instructions given to the Commission departments concerned. Thus, with regard to the collection of own resources, the Commission has not compiled sufficient instructions on the procedure to be followed in the event of disagreement between itself and the Member States (see paragraph 4.20). Moreover, the method for applying the Member States' subsidiary liability under the present ESF has not been laid down within the departments concerned (see paragraph 9.62). Similarly, the rules governing the granting of subsidies to transport infrastructures do not specify the method for determining, within the limit of the maximum ceiling, the rates corresponding to specific projects. The management files thus do not contain the specific reasons for each decision and are thus difficult for the Court to scrutinize (see paragraphs 10.17 to 10.20).

Shortcomings in the implementation of the administrators' controls

1.20. The precision and consistency with which the controls are carried out by the Community and national authorities are of prime importance for the quality of the Commission's supervision of the decentralized implementation of the budget. Thus, besides the Court's comments on the Commission's internal control structure (see paragraphs 1.7, 1.8 and Chapter 3), it should be noted that, where the controls by which its administrators check that the objectives of the Community are attained are concerned, the imprecise nature of the methodology or of the implementing rules, combined with unfamiliarity with the national systems and, in some cases, with the inadequate use made of the results of these controls, represent so many obstacles in the way of the sound financial management of Community funds (see paragraphs 4.9, 4.37, 5.16 (c), 6.158, 10.29, 10.30 and 13.13).

1.21. Moreover, with regard to Community borrowing and lending operations, the Court sets out in Chapter 13 below the weaknesses in the system implemented by the Commission as regards the control of the necessity of, procedures for and authorization of borrowing operations.

1.22. The Court is pleased to note that, during the financial year 1989, a pragmatic solution was found to the obstacles standing in the way, up to and including 1988, of the exercise of its responsibility for on-the-spot audits of the Community borrowing and lending operations managed under mandate by the EIB.

INTERNAL CONTROL

1.23. The short history of the Court of Auditors has seen the Community confronted by pressing budgetary problems to which the Court has repeatedly drawn attention in its previous annual reports. The meeting of the European Council on 11 and 12 February 1988, however, seemed to represent an important turning point, promising reforms in Community finances of which one of the most important was the introduction of a regime of budgetary discipline. Successful implementation of these reforms offers the prospect of greater predictability of the Community's budgetary needs (a key objective of the Interinstitutional Agreement), more effective management of budgetary appropriations and greater transparency in the Community revenue and expenditure accounts.

1.24. The improvement of Community systems of internal control is an essential condition for the success of

the reforms. The coming into force of the budgetary regime established by the European Council on 11 and 12 February 1988 makes it imperative, in the Court's view, to examine all aspects of the supervision and control which will to a large extent determine the success or failure of that regime. The Court has already offered some suggestions on this matter in its Opinion No 1/89 ⁽⁹⁾ on the Commission's proposed revision of the Financial Regulation (that Opinion, in its turn, being based to a significant extent on earlier published work of the Court). In Chapter 3 of this report, the Court now returns to that theme, and examines in more detail the roles of Authorizing Officer, Accounting Officer and Financial Controller, the three pillars of the Community's internal control system.

1.25. The conclusions drawn are important, not least because of the ever-growing budget with the shift of expenditure towards the structural Funds and the need for sound management of new expenditure programmes, if these latter are to stand a chance of succeeding. In particular, the Court recommends that the Commission develop a modern internal control function which is properly equipped to assist the Community in attaining sound management of its resources, not only for those resources which fall directly within the competence of the Institutions, but also the majority of Community resources which are under the day-to-day management of Member States.

CONCLUSION

1.26. The Court considers it essential that the discharge authorities' attention be drawn to the series of weaknesses that it has described in more detail in the chapters dealing with the various sectors contained in this report and which, in certain cases, call into question the conditions on which the Commission executes its task of supervising the shared implementation of the budget. Indeed, this analysis shows, on several occasions, that the Commission needs to be more dynamic in carrying out its

⁽⁹⁾ OJ C 72, 20.3.1989.

supervision work and ought to do so on the basis of clearly defined methods for the purpose of achieving management objectives which have been precisely established beforehand. In the Court's opinion the Commission should:

- (a) update the structure of its internal control and in particular the task of Financial Controller in such a way as to assign him the role of internal auditor of the managing departments (see Chapter 3);
- (b) pursue its efforts to reorganize the procedure for clearing the EAGGF accounts (see paragraph 5.32);
- (c) ensure that the Member States carry out their duties to the full in the area of shared management and, primarily, the establishment, collection and accounting for revenue (see paragraphs 4.42 and 6.155);
- (d) initiate legislative reform designed to preserve the Communities' financial interests, whether by the extension of the Commission's auditing powers in respect of revenue in particular or by the definition of the Community powers of sanction both in respect of private economic operators and the Member States.

CHAPTER 2

Implementation of the budget and accounting matters

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ANALYSIS OF THE IMPLEMENTATION OF THE 1988 GENERAL BUDGET

General data

2.1. In accordance with Article 77 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽¹⁾, the Court of Auditors has received from the Commission the revenue and expenditure account, the analysis of the financial management and the balance sheet of the European Communities for the financial year 1988 ⁽²⁾. On the basis of the information contained in these documents, the Court has drawn up four financial tables. **Tables 2.1** and **2.2** show, respectively, the development and utilization in 1988 of the available appropriations, broken down by main areas of Community activity, while **Table 2.3** shows the utilization of payment appropriations, for the same areas, broken down ⁽³⁾ into compulsory expenditure (CE) and non-compulsory expenditure (NCE). Other financial information regarding the guarantee section of the European Agricultural Guidance and Guarantee Fund (EAGGF-Guarantee) appears in **Table 2.4**, which provides a breakdown of expenditure by budgetary chapter and economic nature. **Table 2.5** summarizes, by type, the revenue that was collected during the financial year and indicates how the balance for the year was calculated by the Commission. For a more detailed picture of the year-on-year changes and of the use that was made of these appropriations, reference should be made to Annex II, **Tables 6, 7, and 14**, of this report.

Utilization of appropriations

2.2. Taking into account appropriations carried over from the financial year 1987, final appropriations for commitment and payment available in 1988 were, respectively, 46 087,7 Mio ECU and 45 205,4 Mio ECU. Total utilization of appropriations amounted to 94,0 % of appropriations available for commitment (compared with 95,0 % in 1986 and 96,7 % in 1987) and 91,3 % of appropriations available for payment (compared with 94,3 % in 1986 and 94,0 % in 1987). This drop in utilization rates, of both appropriations for commitment and appropriations for payment, was mainly due to the fact that about 2 100 Mio ECU which were originally intended for the guarantee section of the European Agricultural Guidance and Guarantee Fund, and had been entered under Titles B1, B2 (1 100 Mio ECU in total) and 10 (1 000 Mio ECU under the 'monetary reserve') of the budget were not in the end needed to cover

the financial year's final expenditure in this area, which still accounted for about two-thirds of total expenditure (see **Table 2.6**), and were, therefore, cancelled on 31 December 1988. For budget headings other than those concerning the EAGGF-Guarantee Section and the 'reserve' under Title 10, utilization rates increased considerably (see **Table 2.2**), amounting to 96,4 % (compared with 92,9 % in 1987) for appropriations for commitment and 88,5 % (compared with 85,3 % in 1987) for appropriations for payment.

2.3. For the same headings, the total utilization rate of CE appropriations available for payment amounted to 89,3 % (see **Table 2.3**), compared with 79,7 % in 1987. As regards NCE, 9 918,9 Mio ECU of appropriations for payment were utilized and 1 324,8 Mio ECU remained unutilized. The total utilization rate for NCE thus amounted to 88,2 % in 1988 (see **Table 2.3**), compared with 86,8 % in 1987.

2.4. The appropriations for commitment available in 1988, other than those of the EAGGF-Guarantee Section and those of the 'reserve', which remained unexpended as at 31 December 1988, amounted to 579,3 Mio ECU (compared with 1 186,3 Mio ECU in 1987), 168,0 Mio ECU of which were cancelled and 411,3 Mio ECU of which were carried over to 1989.

2.5. The appropriations for payment available in 1988, other than those of the EAGGF-Guarantee Section and those of the 'reserve', which were still unexpended as at 31 December 1988, amounted to 1 765,3 Mio ECU (compared with 2 129,7 Mio ECU in 1987), 955,5 Mio ECU of which were cancelled and 809,8 Mio ECU (that is, 53,4 Mio ECU of payment appropriations and 756,4 Mio ECU of undifferentiated appropriations) were carried over to 1989.

2.6. As regards appropriations entered following amendments by the Parliament, which in total amounted to 725,1 Mio ECU of appropriations for commitment for 190 budget headings and 471,4 Mio ECU of appropriations for payment for 185 budget headings, it should also be emphasized that the amount still unexpended at the end of the year was in several cases higher than the amount involved in the amendment itself. As **Table 2.7** shows, in the case of headings for which the amendment involved at least 1 Mio ECU, this was true of 32 budget headings and a sum of 110,4 Mio ECU of appropriations for payment.

2.7. The quality of the management and implementation of the budget cannot be assessed purely on the basis of the rates of utilization of appropriations. Nevertheless, the Court attaches great importance to these rates, inasmuch as they act as objective indicators of the financial activity of the Communities and of the reliability of the budgetary forecasts. In this respect, the information provided in the present chapter should be viewed in the light of the Court's observations on the subjects dealt with in the subsequent chapters.

⁽¹⁾ OJ L 356, 31.12.1977.

⁽²⁾ Doc. COM(89) 229-233 final.

⁽³⁾ According to the classification adopted by the Commission to distinguish between 'compulsory' expenditure and 'non-compulsory' expenditure in the revenue and expenditure accounts.

Table 2.1 — Appropriations for commitment and payment in 1988

Sector	(Mio ECU)									
	Appropriations for commitment					Appropriations for payment				
	Approps. outstanding from 1987 (1)	Approps. made available (2)	Initial approps. for the financial year 1988 (3)	Amendments in the course of the year (4)	Total approps. available in 1988 = (1) + (2) + (3) + (4)	Approps. carried over from 1987 (6)	Initial approps. for the financial year 1988 (7)	Amendments made in the course of the year (8)	Total approps. available in 1988 = (6) + (7) + (8) (9)	
1. Administration (all institutions)	—	—	1 974,1	+ 19,9	1 994,0	136,3	1 974,1	+ 19,9	2 130,3	
2. EAGGF-Guarantee	—	—	27 500,0	—	27 500,0	0,7	27 500,0	—	27 500,7	
3. Agricultural structures	59,0	2,8	1 217,7	- 17,7	1 261,8	26,6	1 219,0	- 8,5	1 237,1	
4. Fisheries	6,5	0,0	339,9	- 2,6	343,8	38,9	281,9	+ 5,1	325,9	
5. Regional and transport policies	149,7	150,7	4 022,7	- 11,9	4 311,2	199,2	3 211,4	- 1,9	3 408,7	
6. Social policy	2,1	35,0	3 101,6	- 0,5	3 138,2	113,2	2 837,2	- 3,7	2 946,7	
7. Research, energy, etc.	103,1	18,3	1 295,2	+ 39,7	1 456,3	164,0	1 117,8	+ 46,5	1 328,3	
8. Reimbursements to Member States	—	—	3 688,3	+ 41,6	3 729,9	99,8	3 688,3	+ 41,6	3 829,7	
9. Cooperation with developing countries	98,1	87,3	1 045,2	+ 55,5	1 286,1	581,8	882,8	- 16,7	1 447,9	
10. Provisional approps. and contingency reserve	—	—	1 117,9	- 51,5	1 066,4	—	1 066,3	- 16,2	1 050,1	
Grand total	418,5	294,1	45 302,6	+ 72,5	46 087,7	1 360,5	43 778,8	+ 66,1	45 205,4	
of which:	—	—	34 882,5	+ 20,3	34 902,8	543,1	34 882,5	+ 20,3	35 445,9	
non-differentiated approps.	418,5	294,1	10 420,1	+ 52,2	11 184,9	817,4	8 896,3	+ 45,8	9 759,5	
differentiated approps.	—	—	—	—	—	—	—	—	—	

(1) Excluding non-automatic carry-overs from 1987.

(2) Through cancellations and monetary adjustments to commitments outstanding as at 31 December 1987, following decommitments made between 1 January 1988 and 18 July 1988, the date on which the revision of the Financial Regulation entered into force.

Table 2.2 — Utilization of appropriations for commitment and payment in 1987 and 1988

Sector	Appropriations for commitment						Appropriations for payment			
	1987		1988		1987		1988			
	Available approps.	Commitments entered into	Available approps.	Commitments entered into	Available approps. (1)	Payments made	Available approps. (1)	Payments made	(7)	(8)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)		
1. Administration (all institutions)	1 759,9	1 719,0 (97,7 %)	1 994,0	1 943,0 (97,4 %)	1 883,5	1 683,4 (89,4 %)	2 130,3	1 899,8 (89,2 %)		
2. EAGGF-Guarantee	22 960,8	22 950,3 (99,9 %)	27 500,0(2)	26 400,3(2) (96,0 %)	22 964,3	22 951,8 (99,9 %)	27 500,7(2)	26 389,6(2) (96,0 %)		
3. Agricultural structures	1 067,8	979,2 (91,7 %)	1 261,8	1 237,7 (98,1 %)	931,9	888,6 (95,4 %)	1 237,1	1 194,6 (96,6 %)		
4. Fisheries	295,3	232,4 (78,7 %)	343,8	324,7 (94,4 %)	216,4	157,8 (72,9 %)	325,9	260,0 (79,8 %)		
5. Regional and transport policies	4 119,4	3 931,9 (95,4 %)	4 311,2	4 286,4 (99,4 %)	2 922,1	2 687,2 (92,0 %)	3 408,7	3 348,5 (98,2 %)		
6. Social policy	3 758,1	3 694,2 (98,3 %)	3 138,2	3 107,2 (99,0 %)	2 984,1	2 852,5 (95,6 %)	2 946,7	2 501,3 (84,9 %)		
7. Research, energy, etc.	1 448,8	1 336,2 (92,2 %)	1 456,3	1 437,7 (98,7 %)	1 078,4	900,3 (83,5 %)	1 328,3	1 196,4 (90,1 %)		
8. Reimbursements to Member States	2 869,0	2 380,9 (83,0 %)	3 729,9(3)	3 347,6(3) (89,8 %)	2 996,8	2 408,9 (80,4 %)	3 829,7(3)	3 447,4(3) (90,0 %)		
9. Cooperation with developing countries	1 407,2	1 265,4 (89,9 %)	1 286,1	1 257,8 (97,8 %)	1 489,1	793,9 (53,3 %)	1 447,9	1 041,3 (71,9 %)		
10. Provisional approps. and contingency reserve	115,2	—	1 066,4	—	109,2	—	1 050,1	—		
Grand total	39 801,5	38 489,5 (96,7 %)	46 087,7	43 342,4 (94,0 %)	37 575,8	35 324,4 (94,0 %)	45 205,4	41 278,9 (91,3 %)		
of which:										
non-differentiated approps.	28 235,8	27 623,4 (97,8 %)	34 902,8	32 308,2 (92,6 %)	28 691,1	27 490,3 (95,8 %)	35 445,9	32 392,7 (91,4 %)		
differentiated approps.	11 565,7	10 866,1 (94,0 %)	11 184,9	11 034,2 (98,7 %)	8 884,7	7 834,1 (88,2 %)	9 759,5	8 886,2 (91,1 %)		
Sectors other than EAGGF-Guarantee and the contingency reserve (1 plus 3 to 9)	16 725,5	15 539,2 (92,9 %)	16 281,4(4)	15 702,1(4) (96,4 %)	14 502,3	12 372,6 (85,3 %)	15 414,6(4)	13 649,3(4) (88,5 %)		
Operating sectors other than EAGGF-Guarantee (3 to 7 plus 9)	12 096,6	11 439,3 (94,6 %)	11 797,5	11 651,5 (98,8 %)	9 622,0	8 280,3 (86,1 %)	10 694,6	9 542,1 (89,2 %)		

(1) Including appropriations carried over from the previous financial year.

(2) Excluding 1 240,0 Mio ECU entered for the EAGGF-Guarantee Section under Chapter 81 'Repayment to the Member States of costs incurred for depreciation of stocks of agricultural products'.

(3) Including 1 240,0 Mio ECU entered for the EAGGF-Guarantee Section under Chapter 81.

(4) After deducting 1 240,0 Mio ECU for the EAGGF-Guarantee Section under Chapter 81.

Table 2.3 — Utilization of appropriations for payment in 1988 broken down into compulsory (CE) and non-compulsory expenditure (NCE)

Sector	Final approps. for 1988		Rate (as a %)		Carry-overs from 1987	Payments		Rate (as a %)	Total approps. in 1988	Total payments		Rate (as a %)
	(1)	(2)	(2a)	(2b)		(3)	(4)			(4a)	(4b)	
1. Administration (all institutions)	CE	188,1	179,8	(95,6)	5,8	5,8	(100)	193,9	185,6	(95,7)		
	NCE	1 805,9	1 600,1	(88,6)	130,5	114,1	(87,4)	1 936,4	1 714,2	(88,5)		
	Total	1 994,0	1 779,9	(89,3)	136,3	119,9	(88,0)	2 130,3	1 899,8	(89,2)		
2. EAGGF-Guarantee	CE	27 500,0	26 389,1	(96,0)	0,7	0,5	(71,4)	27 500,7(1)	26 389,6(1)	(96,0)		
3. Agricultural structures	CE	920,1	915,1	(99,5)	7,9	4,5	(57,0)	928,0	919,7	(99,1)		
	NCE	290,4	259,5	(89,4)	18,7	15,5	(82,9)	309,1	274,9	(89,0)		
	Total	1 210,5	1 174,6	(97,0)	26,6	20,0	(75,2)	1 237,1	1 194,6	(96,6)		
4. Fisheries	CE	221,9	181,6	(81,8)	21,7	20,2	(93,1)	243,6	201,8	(82,8)		
	NCE	65,1	55,7	(85,7)	17,2	2,5	(14,5)	82,3	58,2	(70,8)		
	Total	287,0	237,3	(82,7)	38,9	22,7	(58,4)	325,9	260,0	(79,8)		
5. Regional policy	NCE	3 209,5	3 159,3	(98,4)	199,2	189,1	(95,0)	3 408,7	3 348,4	(98,2)		
6. Social policy	NCE	2 833,5	2 440,0	(86,1)	113,2	61,3	(54,2)	2 946,7	2 501,3	(84,9)		
7. Research, energy, etc.	NCE	1 164,3	1 060,6	(91,1)	164,0	135,9	(82,8)	1 328,3	1 196,5	(90,1)		
8. Reimbursements to the Member States	CE	3 729,9	3 347,6	(89,8)	99,8	99,8	(100)	3 829,7(2)	3 447,4(2)	(90,0)		
9. Cooperation with dev. countries	CE	121,6	121,5	(99,9)	99,8	94,4	(94,6)	221,4	215,9	(97,5)		
	NCE	744,5	592,0	(79,5)	482,0	233,4	(48,4)	1 226,5	825,4	(67,3)		
	Total	866,1	713,5	(82,4)	581,8	327,8	(56,3)	1 447,9	1 041,3	(71,9)		
10. Provisional approps. and contingency reserve	CE	1 044,4	—	—	—	—	—	1 044,4	—	—		
	NCE	5,7	—	—	—	—	—	5,7	—	—		
	Total	1 050,1	—	—	—	—	—	1 050,1	—	—		
Total	CE	33 726,0	31 134,7	(92,3)	235,7	225,2	(95,5)	33 961,7	31 360,0	(92,3)		
NCE	10 118,9	9 167,2	(90,6)	1 124,8	751,8	(66,8)	11 243,7	9 918,9	(88,2)			
Total	43 844,9	40 301,9	(91,9)	1 360,5	977,0	(71,8)	45 205,4	41 278,9	(91,3)			
Total CE excluding EAGGF-Guarantee (2) and contingency reserve (10)	CE	5 181,5	4 745,7	(91,6)	235,0	224,7	(95,6)	4 176,6(3)	3 730,4(3)	(89,3)		

(1) Including 1 240,0 Mio ECU charged against the EAGGF-Guarantee Section under Chapter 81. Repayments to the Member States of costs incurred for depreciation of stocks of agricultural products.

(2) Including 1 240,0 Mio ECU charged to the EAGGF-Guarantee Section under Chapter 81.

(3) After deducting 1 240,0 Mio ECU for the EAGGF-Guarantee Section under Chapter 81.

Table 2.4 — EAGGF-Guarantee 1988: expenditure (1) by chapter and economic nature

Chapter	Sector	(Mio ECU)											
		Category 1 intervention					Category 2 intervention (public storage)						
(1)	(2)	(3) = (4) + (10) + (14)	(4)	(5)	(6)	(7)	(8)	(9)	(10) = (5) + ... + (9)	(11)	(12)	(13)	(14) = (11) + (12) + (13)
		Total	Refunds	Withdrawal	Compensatory aid to sector	Guidance premiums	Private storage	Total	Technical expenses	Financial expenses	Losses	Total	
					Production	Processing							
10	Cereals	4 264,4	2 924,6	—	-361,6	426,7	—	65,1	225,6	93,2	955,9	1 274,7	
10	Rice	72,8	61,0	—	—	11,8	—	11,8	—	—	—	—	
11	Sugar	2 081,8	1 566,1	—	—	86,7	429,8	516,5	0,6	0,7	-2,1	-0,8	
12	Olive oil	939,4	64,2	—	319,6	469,6	—	789,2	38,2	30,9	16,9	86,0	
12	Oil seeds	2 971,8	24,9	—	2 944,5	—	—	2 944,5	1,9	1,1	-0,6	2,4	
13	Protein plants	689,3	—	—	689,3	—	—	689,3	—	—	—	—	
14	Textile plants and silkworms	454,4	—	—	453,2	—	1,2	454,4	—	—	—	—	
15	Fruit and vegetables	708,2	64,5	169,2	11,0	461,5	2,0	643,7	—	—	—	—	
16	Wine	1 545,5	43,5	724,4	100,2	—	85,5	910,1	4,4	11,2	576,3	591,9	
17	Tobacco	966,1	43,2	—	895,3	—	—	895,3	7,3	4,1	16,2	27,6	
18	Other sectors	59,8	—	—	59,8	—	—	59,8	—	—	—	—	
20	Milk and milk products	5 909,7	3 013,9	—	-535,6	2 046,9	145,7	2 251,8	76,5	301,0	266,5	644,0	
21	Beef and veal	2 475,8	768,7	—	—	419,1	60,2	521,7	174,9	104,0	906,5	1 185,4	
22	Sheepmeat and goatmeat	1 293,6	—	—	1 292,8	—	0,8	1 293,6	—	—	—	—	
23	Pigmeat	215,6	172,3	—	—	—	43,3	43,3	—	—	—	—	
24	Eggs and poultrymeat	194,1	194,1	—	—	—	—	—	—	—	—	—	
25	Products not listed in Annex II	602,4	602,4	—	—	—	—	—	—	—	—	—	
27, 28	MCA's	569,5	142,7	—	—	426,8	—	426,8	—	—	—	—	
40	Fisheries	46,9	—	8,4	—	38,6	-0,1	46,9	—	—	—	—	
	Total	26 061,0	9 686,1	902,0	5 768,3	4 487,9	637,2	768,4	12 563,8	529,4	2 735,6	3 811,2	
29	Other expenditure	375,1	—	—	—	—	—	—	—	—	—	—	
	Grand total	26 436,1											

Figures taken from 1988 general budget accounts.

(1) Note: in order to establish total gross expenditure, the proceeds of intra-Community MCAs and co-responsibility levies (negative expenditure) should be added.

Table 2.5 — Revenue and balance for the years 1987 and 1988

(Mio ECU)

Type of revenue	1987	1988	
	Actual revenue	Budget (after supplementary and amending budget No 1)	Actual revenue
		(1)	(2)
Customs duties (Ch. 12)	8 936,5	9 550,2	10 344,7
Agricultural levies (Ch. 10)	1 626,1	1 594,4	1 504,6
Sugar and isoglucose levies (Ch. 11)	1 471,7	1 539,9	1 390,7
VAT own resources (Ch. 13)	23 463,5	23 917,8	23 927,6
Financial contributions (Ch. 20)	210,6	211,6	211,4
Adjustments to VAT own resources and financial contributions for previous years (Ch. 31)	- 359,3	350,0	383,6
Miscellaneous revenue (Titles 4-9)	434,2	311,3	460,0
Previous year's surplus (Ch. 30)	—	500,0	500,0
Costs incurred by the Member States in the collection of own resources (Ch. 19)	—	- 1 268,5	- 1 325,0
Revenue to balance the general budget (Ch. 21)	—	7 113,7	4 445,8
Total revenue	35 783,3	43 820,4	41 843,4
Adjustments:			
Cancellation of the balance of appropriations for payments carried over from previous year	189,5		381,5
Exchange-rate differences	17,9		36,1
Total adjusted revenue	35 990,7		42 261,0
Expenditure charged to the financial year	35 469,2 ⁽¹⁾		41 120,9
Balance for the year	521,5		1 140,1

⁽¹⁾ Including the deficit for the financial year 1986 (819,9 Mio ECU) which was charged to the 1987 budget.

Analysis of the reasons for the under-utilization of appropriations

2.8. The Court's analysis mainly concerned the utilization of appropriations relating to the six operating sections of the budget other than the EAGGF-Guarantee Section. A general feature of appropriations for commitment is their high utilization rate, which can range from 94 % for fisheries to 99 % for regional and transport policy or social policy (see *Table 2.2*).

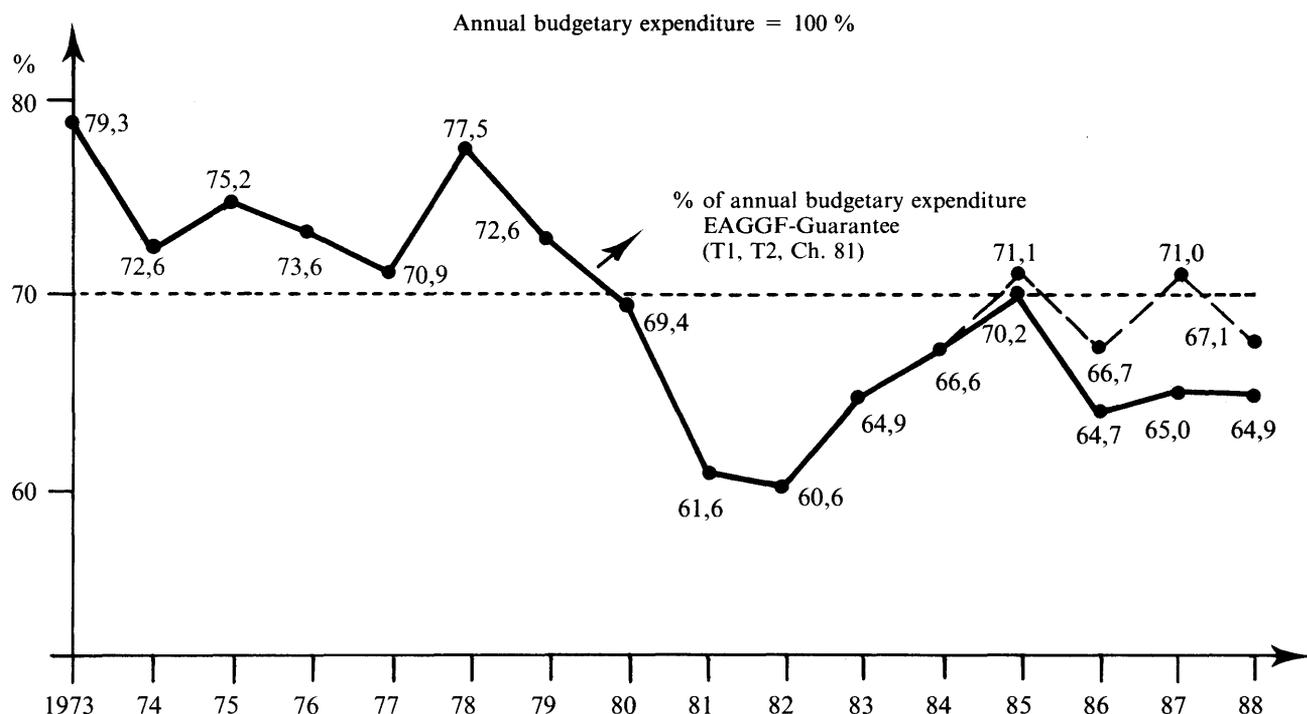
2.9. Although the total utilization rate of appropriations for payment in these six sectors was higher than that of the previous financial year (89,2 % compared with 86,1 % in 1987), the total utilization rate of these appropriations in three operating sections of the budget — for both CE and NCE — was less than 90 %. The areas in question are: fisheries: 79,8 % (compared with 72,9 %

in 1987); social policy: 84,9 % (compared with 95,6 % in 1987); and cooperation with developing countries: 71,9 % (compared with 53,3 % in 1987) (see *Tables 2.2* and *2.3*).

2.10. In the six areas in question, the Court drew up a list (see *Table 2.8*) of budget headings with allocations greater than 5 Mio ECU where the utilization rate of the appropriations for payment and/or commitment originally made available for 1988 was less than 75 %. The Court's list shows, where appropriate, the extent to which the headings in question were amended by Parliament. The Court found that:

- (a) 20 budget headings (24 in 1987) which were allocated over 5 Mio ECU in appropriations for commitment were utilized to an extent of less than 75 %. These headings account for a total of 476,6 Mio ECU (1 150,1 Mio ECU in 1987), of which 249,2 Mio ECU

Table 2.6 — Relative share of annual EAGGF-Guarantee expenditure in total annual budgetary expenditure ⁽¹⁾ (1973-88)



⁽¹⁾ Annual expenditure = payments against appropriations for the financial year plus payments against carryovers from the previous financial year.

Note: For the financial years 1985, 1986, 1987 and 1988, the relative shares of 70,2 %, 64,7 %, 65,0 % and 64,9 % are calculated on the basis of figures taken from the revenue and expenditure account. The relative shares of 71,1 %, 66,7 %, 71,0 % and 67,1 % (marked in dashes) have been calculated by the Court of Auditors by first calculating real EAGGF expenditure over a 12-month period and then adding 'negative' expenditure to the result. For 1988, costs incurred in the collection of own resources (1 325,0 Mio ECU) continued to be taken into account as budgetary expenditure and not as negative revenue.

(547,9 Mio ECU in 1987) were not used for the purpose initially intended, i.e. they were transferred, cancelled or carried over;

- (b) 63 budget headings (62 in 1987) which were allocated over 5 Mio ECU in appropriations for payment were utilized to an extent of less than 75 %. These headings account for a total of 1 906,0 Mio ECU (3 492,4 Mio ECU in 1987), 949,4 Mio ECU of which (1 971,6 Mio ECU in 1987) were not, like those above, used as initially intended.

2.11. Although there was some improvement compared with 1987 as regards the amount of statistical information provided in the Revenue and Expenditure Account, the Court deplores the fact that, despite having been asked to do so by the budgetary authority, the Commission is still not in a position to provide an analysis of the reasons for the under-utilization of appropriations. The Court still feels that the information on this matter, as included in Volume I of the Revenue and Expenditure Account, which is entitled 'Analysis of the Financial Management', is inadequate. On the basis of information collected in the

course of its audit but also in the light of information extracted from the abovementioned Volume I, the Court has once again endeavoured, as it also did last year, to make up for this major deficiency and has attempted to identify the major causes of under-utilization for the budget headings in question. The various reasons it has identified are listed in **Table 2.9**, together with the sums relating to them. Where there is more than one explanation, only the main reason affecting a particular budget heading is given. The Court's analysis shows that all of the principal explanations for the low utilization rate of certain appropriations which it identified last year still apply, despite the fact that the Commission refers here and there to the late adoption of the budget for the financial year (1 June 1988) to justify the under-utilization for some headings.

2.12. The fact that the above observations crop up from one year to another, often apropos the same areas of activity, ought to induce the Commission to give thought to the reasons why they continue to recur, so as to draw the necessary conclusions as soon as it comes to make its future budget forecasts.

Table 2.7 — Appropriations entered following a parliamentary amendment against budget headings for which the amount of the appropriations remaining unutilized at the end of the year exceeded the amount of the amendment

(Mio ECU)

Sector	Budget heading	Heading	Appropriations for payment entered following a Parliamentary amendment
<i>Part A</i>			
Operating	211	Computer network	1,4
	2204	Electronic office equipment	1,4
<i>Part B</i>			
Agricultural structures	382	Inspection in agriculture	5,0
Regional and transport policies	580	Financial support for transport infrastructure projects within the Community	10,0
	5812	Financial support for transport infrastructure projects facilitating transit through Yugoslavia	5,0
Social policy	631	Cooperation between universities and industry; training in new technologies (Comett)	5,0
	634	Vocational training and guidance activities	4,2
	6400	Measures in the field of employment and the Community social dimension	4,0
	6450	Measures for the social integration of disabled persons	1,0
	6470	Measures to combat cancer	5,0
	6471	Measures to combat AIDS	1,0
	6610	Protection and management of the natural environment and natural resources and direct action in regions under threat	1,5
	6661	Protection of forests	1,5
	6672	Monitoring operations in relation to the safety of consumer products	1,3
	6673	Child safety	1,2
	6701	Support measures for the architectural heritage	2,0
	6740 and 6741	Information — Centralized and Decentralized activities	1,4
	679	European cinema and television year (1988)	4,8
	Research, energy, etc.	7301	Horizontal action — Strengthening the scientific and technical potential of the Community — Research workers' Europe
7330		Research linked to development — Science and technology for development	2,1
7353		Research programme — Automobile technology	1,0
7356		Biotechnology	2,5
7372		Environment	1,0
7700		Operations concerning the approval of telecommunication terminals and preparatory operations in the field of telecommunications	2,4
Cooperation with developing countries	925	Food-aid transport costs	1,7
	9281	Community participation in storage programmes and early-warning systems	4,0
	9300 and 9310	Financial and technical cooperation with Asian and Latin American developing countries	20,0
	9303 and 9313	Cooperation with Asian and Latin American countries on energy	1,5
	937	System of compensating export earnings losses for least-developed countries not signatory to the Lomé Convention	5,0
	9500	Aid to disaster victims in developing and other third countries	1,5
	954	AIDS control in developing countries	3,5
	9900	Operations under commercial and economic cooperation agreements with third countries	2,5
Total			110,4

Table 2.8 — Budget headings with allocations greater than 5 Mio ECU where the rate of utilization of the appropriations for payment (AFP) and/or appropriations for commitment (AFC) initially made available for the financial year 1988 (initial appropriations and appropriations outstanding or carried over from 1987) was lower than 75 %

(Mio ECU)							
Sector	Budget heading (1)	Heading	Type of approps.	Approps. initially made available (2)	of which approps. entered following a Parliamentary amendment	Rate of utilization of these approps.	Major cause of under-utilization (3)
Agricultural structures	3210	EAGGF-Guidance — Improvement of infrastructures in certain less-favoured areas	AFP AFC	6,8 52,4		51 38	(a) (a)
	3220	EAGGF-Guidance — Direct regional measures	AFP AFC	60,9 24,7		74 2	(a) (a)
	3221	EAGGF-Guidance — Indirect regional measures	AFP AFC	84,0 84,0		58 58	(a) (a)
	323	EAGGF-Guidance — Specific regional measures provided for in Title IV of Regulation (EEC) No 797/85	AFP AFC	20,0 20,0		22 22	(a) (a)
	330	EAGGF-Guidance — Producer organizations	AFP AFC	7,4 7,4		45 45	(a) (a)
	333	EAGGF-Guidance — Fruit and olives sector	AFP AFC	30,7 30,5		65 65	(b) (b)
	380 (NDA)	Specific veterinary measures	AFP AFC	6,1 5,5		11 1	(f) (f)
	382 (NDA)	Inspection in agriculture	AFP AFC	39,2 25,0	5,0 5,0	38 94	(a) (—)
	384	Agricultural research	AFP AFC	4,3 23,5	— 13,5	87 15	(—) (d)
	385 (NDA)	Restructuring of agricultural systems	AFP AFC	8,1 6,0		27 57	(a) (a)
Fisheries	411	Financial participation in inspection and surveillance operations in the maritime waters of certain Member States	AFP AFC	10,5 22,0		43 77	(a) (—)
	460	EAGGF-Guidance — Common measures to restructure, modernize and develop the fishing industry and to develop aquaculture	AFP AFC	57,2 —		65 —	(a) —
	4701	Redeployment of fishing activities	AFP AFC	4,4 13,2		100 35	— (d)
	4702	Adaptation and modernization	AFP AFC	51,1 131,4	11,6 37,0	40 80	(d) —
Regional and transport policies	5421	Construction, fitting-out and equipment of centres for the treatment and medical, vocational and social rehabilitation of the mentally disabled	AFP AFC	7,8 12,4	0,5 0,5	35 100	(a) (—)
	550	Mediterranean programmes — preparation of integrated programmes	AFP AFC	14,8 —		15 —	(a) —
	552	Integrated Mediterranean programmes — Technical assistance	AFP AFC	4,0 6,0	2,0 4,0	6 16	— (a)
	580	Financial support for transport infrastructure projects within the Community	AFP AFC	61,4 60,0	10,0 60,0	71 100	(c) —
Social policy	610	European Social Fund — Specific measures	AFP AFC	147,1 115,2		40 94	(e) —
	630 (NDA)	Education	AFP AFC	13,4 8,1		61 100	(a) —
	631 (NDA)	Cooperation between universities and industry; training in new technology (Comett)	AFP AFC	31,4 20,0	5,0 5,0	70 100	(a) —
	634 (NDA)	Vocational training and guidance activities	AFP AFC	16,9 13,0	4,2 4,2	40 83	(d) —
	6400 (NDA)	Measures in the field of employment and the Community social dimension	AFP AFC	8,4 7,0	4,0 4,0	39 100	(e) —
	6470 (NDA)	Measures to combat cancer	AFP AFC	8,6 8,0	5,0 5,0	41 100	(e) —
	6600	Community measures on the environment	AFP AFC	5,0 0,0		56 100	(a) —
	6631	European year of the environment	AFP AFC	5,9 3,0	2,0 2,0	67 100	(d) —
	6661	Protection of forests	AFP AFC	9,0 6,4	1,5 1,5	27 98	(e) —
	6701 (NDA)	Support measures for the architectural heritage	AFP AFC	6,7 4,0	2,0 2,0	66 100	(b) —
	671 (NDA)	Study and development projects in the audiovisual industry	AFP AFC	5,5 5,5	4,5 4,5	45 99	(e) —
	6740 (NDA) and 6741 (NDA)	Information — Centralized activities	AFP AFC	23,1 17,6	1,4 1,4	69 100	(f) —
Research, energy, etc.	7301	Horizontal actions — Strengthening the scientific and technical potential of the Community — Research workers' Europe	AFP AFC	26,4 35,2	5,0 10,0	71 100	(c) —
	7326	Health and safety — Biology and health protection; radiation protection	AFP AFC	20,4 13,1		66 100	(f) —
	7328	Environment	AFP AFC	28,2 17,4		63 97	(d) —
	7330	Research linked to development — Science and technology for development	AFP AFC	18,3 35,7	2,1 2,0	66 100	(d) —

(Cont.)

(Mio ECU)

Sector	Budget heading (1)	Heading	Type of approps.	Approps. initially made available (2)	of which approps. entered following a Parliamentary amendment	Rate of utilization of these approps.	Major cause of under-utilization (3)
	7350	Industrial technologies, applied metrology and reference materials	AFP AFC	6,7 6,2	3,4 0,0	77 70	— (c)
	7372	Environment	AFP AFC	6,9 12,4	1,0 2,0	60 96	(c) —
	750	Community projects in the field of information technology	AFP AFC	8,9 9,5	1,0 3,5	71 100	(e) —
	751	Promotion and development of multilingual activities	AFP AFC	7,8 7,2	0,5 2,2	72 99	(e) —
	753	Dissemination and optimum use of the findings of Community research development and technological demonstrations	AFP AFC	5,8 4,0		65 100	(e) —
	7700	Operations concerning the approval of telecommunications terminals and preparatory operations in the field of telecommunications	AFP AFC	11,8 17,0	2,4 4,0	66 98	(e) —
	7717	Standardization in information technologies	AFP AFC	6,3 7,5	— 2,1	60 100	(e) —
	774	Monitoring the application of certain steel industry measures	AFP AFC	15,6 13,7		55 32	(f) (f)
	7750	Completing the internal market	AFP AFC	12,2 11,8	1,0 3,0	71 100	(e) —
	777	Business promotion (SMEs)	AFP AFC	18,1 16,9	2,0 5,0	66 100	(f) —
	Cooperation with developing countries	9201	Food aid in rice	AFP AFC	34,7 14,0		33 67
923		Food aid in vegetable oil/olive oil	AFP AFC	49,7 24,0		44 100	(d) —
924		Food aid (other commodities)	AFP AFC	64,5 30,0		37 100	(d) —
925 (NDA)		Food aid and other aid transport costs	AFP AFC	175,8 95,0	1,7 1,7	65 74	(d) (d)
927 (NDA)		Other expenditure associated with food aid	AFP AFC	5,9 5,0	2,5 2,5	66 100	(d) —
9280		Exceptional measures	AFP AFC	74,0 42,0	30,0 42,0	51 94	(d) —
9281		Community participation in storage programmes and early-warning systems	AFP AFC	13,3 10,0	4,0 10,0	63 45	(d) (d)
929 (NDA)		Food projects in place of food aid	AFP AFC	15,6 10,0	10,0 10,0	38 14	(d) (d)
9300 and 9310		Financial and technical cooperation with Asian and Latin American developing countries	AFP AFC	352,1 266,6	20,0 70,0	46 95	(a) —
9301 and 9311		Promotion of trade relations with Asian and Latin American developing countries	AFP AFC	15,9 14,9	-1,0 7,1	48 100	(a) —
9303 and 9313		Cooperation with Asian and Latin American developing countries on energy	AFP AFC	9,0 9,6	1,5 2,0	38 100	(a) —
937		System of compensating export earnings losses for least-developed countries not signatory to the Lomé Convention	AFP AFC	15,4 13,8	5,0 3,8	59 100	(a) —
946		Ecology in the developing countries	AFP AFC	6,0 7,0	3,0 3,0	52 100	(a) —
9500 (NDA)		Aid to disaster victims in developing and other third countries	AFP AFC	27,3 20,0	1,5 1,5	30 100	(d) —
951 (NDA)		Contribution to financing the purchase of food products and seeds by non-governmental and international organizations	AFP AFC	10,0 10,0	5,0 5,0	4 34	(d) (f)
958		Special programmes to combat hunger in the world	AFP AFC	7,9 —		29 —	(d) —
961		Financial cooperation with Malta	AFP AFC	5,5 8,0		— 100	(a) —
9630		Third Financial Protocol with Turkey	AFP AFC	21,8 0,0		33 100	(f) —
9632		Special aid for Turkey	AFP AFC	13,7 27,1		3 70	(d) (d)
9651		Third Financial Protocol with the southern and eastern Mediterranean countries	AFP AFC	15,0 100,0		72 96	(d) —
982 (NDA)	Commission delegations in the ACP States and the OCTs	AFP AFC	17,4 17,4		6 6	(f) (f)	
9900 (NDA)	Operations under commercial and economic cooperation agreements with third countries	AFP AFC	14,8 10,0	2,5 2,5	41 100	(b) —	

(1) NDA = non-differentiated appropriations.

(2) Initial budget appropriations and appropriations carried over/outstanding as at 31 December 1987.

(3) Indicates the type of cause (as described on Table 2.9) which provides the main explanation for the under-utilization of the appropriations for the budget heading in question.

Table 2.9 — Analysis of the main causes of under-utilization of appropriations for commitment and payment in 1988

(Mio ECU)

Causes of under-utilization	Type of approps.	Number of budget headings	Approps. initially made available	Unutilized approps.
(a) Structural delays related to the unrealistic nature of certain programmes and the slowness with which they are implemented	AFP	20	770,4	382,8
	AFC	7	200,5	119,3
(b) The unwieldiness and, in some cases, the complex nature of the procedures and mechanisms which condition the recipients' access to Community funds	AFP	3	52,2	21,9
	AFC	1	30,5	10,6
(c) Absence of legal basis	AFP	3	94,7	28,7
	AFC	1	6,2	1,9
(d) Problems related to the winding-up of actions which were terminated, the starting-up of new programmes or the implementation of new regulations	AFP	19	634,8	321,5
	AFC	7	192,8	79,9
(e) Unsatisfactory management in certain cases by Commission departments	AFP	11	231,4	125,6
	AFC	—	—	—
(f) Miscellaneous or unidentified	AFP	7	122,5	68,9
	AFC	4	46,6	37,5
Total	AFP	63	1 906,0	949,4
	AFC	20	476,6	249,2

Carry-overs of differentiated appropriations from the financial year 1988 to the financial year 1989

2.13. The Court welcomes the Commission's thoroughness in its initial application of the new provisions governing the carrying over of differentiated appropriations, which were added to Article 6(2), of the Financial Regulation by Council Regulation (ECSC, EEC, Euratom) No 2049/88 of 24 June 1988 ⁽⁴⁾. Of a total of 141,4 Mio ECU of available commitment appropriations, only 15,9 Mio ECU, i.e. 11 %, were carried over to 1989 (compared with 418,5 Mio ECU carried over from 1987 to 1988, which represents 100 % of the appropriations which the Commission considered could be carried over), and of a total of 563,5 Mio ECU of available payment appropriations, only 48,0 Mio ECU, i.e. 9 %, were carried over to 1989 (compared with 815,1 Mio ECU automatically carried over from 1987 to 1988, which also amounted to 100 % of unexpended appropriations).

⁽⁴⁾ OJ L 185, 15.7.1988, pp. 3-5.

Appropriations restored in the 1989 budget as a result of decommitments in 1988

2.14. Under Article 6(6) of the Financial Regulation, as amended by the abovementioned Regulation (ECSC, EEC, Euratom) No 2049/88, new rules have also been introduced on making appropriations corresponding to cancelled commitments available again (that is, appropriations corresponding to cancellations in the course of the current financial year of commitments made in previous financial years). As from 18 July 1988, the date on which this amendment of the Financial Regulation entered into force, cancelled commitments are, as a general rule, to result in the cancellation of the corresponding appropriations, unless there is an explicit decision to the contrary, which has to be taken by the Commission by 15 February of the year following that in which the commitment was cancelled. On 15 February 1989, the Commission decided to make 400 Mio ECU of commitment appropriations available again for the budget for the financial year 1989. These appropriations related to cancellations of commitments totalling 1 066,2 Mio ECU which had been effected after 18 July 1988. The Court reserves the right to evaluate the justification for this decision when it comes to examine the management for the financial year 1989.

MONITORING OF OUTSTANDING COMMITMENTS UNDER DIFFERENTIATED APPROPRIATIONS

Introduction

2.15. The Court considers that monitoring outstanding commitments is one of the main tasks in the management and control of the use of budgetary appropriations. Indeed, if Community measures which have been suspended are not rapidly identified, the related funds will be pointlessly immobilized, which prevents them from being allocated to other measures and increases the risk that advances already disbursed will not be recovered.

2.16. Outstanding commitments in the areas covered by differentiated appropriations amounted to 14 975,5 Mio

ECU as at 31 December 1988, which is an increase of 5,2 % compared with the corresponding figure at 31 December 1987 (see *Table 2.10*). After deducting the corresponding payment appropriations carried over to the financial year 1989, that is, 50,7 Mio ECU, there is a balance of 14 924,8 Mio ECU of outstanding commitments not covered by payment appropriations. This balance, which will, for the most part, have to be financed from future Community budgets, appears under the heading 'Commitments not included in the balance sheet' and is dealt with in a note accompanying the consolidated balance sheet of the Communities as at 31 December 1988.

2.17. The table on page 35 of Volume V of the revenue and expenditure account shows that very large sums may continue to be committed for long periods, sometimes even exceeding ten years. In its annual report on the financial year 1986, (see paragraphs 2.54 — 2.58), the Court noted that 'with the exception of the management of Title 6 of the budget (appropriations for intervention in the social sector), in which notable improvements were made in 1986, the (internal) decision taken by the

Table 2.10 — Accumulated outstanding commitments (differentiated appropriations)

Changes in commitments	(Mio ECU)					
	1986		1987		1988	
Accumulated commitments outstanding at the beginning of the financial year	11 805,1		12 458,1		14 230,8	
Cancellations and revaluations of commitments from previous years	- 1 298,0		- 1 259,3		- 1 403,3	
Payments against commitments from previous years	- 3 860,1		- 3 871,5		- 4 538,6	
Accumulated commitments from previous years outstanding at the end of the financial year	6 647,0		7 327,3		8 288,9	
Commitments entered into during the financial year	+ 9 121,2		+ 10 866,1		+ 11 034,2	
Payments made against commitments specific to the financial year	- 3 310,1		- 3 962,6		- 4 347,6	
Accumulated commitments outstanding at the end of the financial year	12 458,1	(+ 5,5 %)	14 230,8	(+ 14,2 %)	14 975,5	(+ 5,2 %)(¹)
Breakdown of the cumulative total of commitments by budget title:						
Agricultural structures (Title 3)	1 259,8	(+ 7,7 %)	1 253,8	(- 0,5 %)	1 236,4	(- 2,4 %)
Fisheries (Title 4)	187,3	(+ 48,9 %)	255,3	(+ 36,3 %)	312,4	(+ 22,4 %)
Regional and transport policies (Title 5)	6 049,0	(+ 13,4 %)	6 982,2	(+ 15,4 %)	7 381,0	(+ 5,7 %)
Social policy (Title 6)	2 071,0	(- 27,4 %)	2 182,7	(+ 5,4 %)	2 117,6	(- 3,0 %)
Research, energy, etc. (Title 7)	1 278,1	(+ 19,8 %)	1 649,1	(+ 29,0 %)	1 839,5	(+ 11,5 %)
Cooperation with developing countries (Title 9)	1 612,9	(+ 28,4 %)	1 907,7	(+ 18,3 %)	2 088,6	(+ 9,5 %)

(¹) The figures in brackets show the percentage increase compared with the previous year.

Commission on 18 November 1985, with the aim of implementing stricter procedures for monitoring commitments outstanding, has not had the expected effects', and that its 'examination of a sample of (...) outstanding commitments in other areas has shown that monitoring by the departments responsible at the Commission is inadequate'. The Court therefore felt that 'Directorates-General XIX (Budgets) and XX (Financial Control) should be in a position to ensure that the procedures laid down in the Commission Decision of 18 November 1985 are rigorously applied by the departments invested with the powers of authorizing officer for the different spheres of Community activity'.

2.18. In its replies to the Court's observations, the Commission stressed the fact that 'following the Commission's Decision of 18 November 1985, various steps have been taken by the authorizing officers of the structural Funds to monitor and clear old cases. The Court itself remarks on the already very notable effects on the Social Fund. Similar steps have been taken for the Regional Fund and EAGGF-Guidance, but the effects are not so evident for two reasons: first, the measures financed by these two Funds extend, by their very nature, over a longer period and, second, the rules applying to them are less binding.' In order to ascertain whether the desired improvements had in fact been achieved, the Court paid particular attention, in its examination of the financial year 1988, to this aspect of management by the Commission departments responsible for the main areas in question.

Growth of outstanding commitments

2.19. As can be seen from *Table 2.10*, the total for outstanding commitments under differentiated appropriations is constantly increasing. Given the rise in total appropriations entered each year in the general budget, this increase is not in itself abnormal. However, a sector-by-sector analysis of the situation at the end of each of the last three financial years (see *Table 2.11*) reveals that, with the exception of the ESF, which has undeniably improved in this respect (outstanding commitments fell from 2 850,5 Mio ECU at the end of 1985 to 2 117,5 Mio ECU at the end of 1988), the percentage of commitments outstanding for more than four years has regularly increased as a proportion of the total of outstanding commitments at 31 December of each year. This is the case, in particular, for the agricultural structures (Title 3), fisheries (Title 4) and cooperation with developing countries (Title 9) sectors. This trend indicates that the monitoring of outstanding commitments in all these areas is far from having become stricter following the Commission's decision on the matter on 18 November 1985.

Findings concerning the system for monitoring outstanding commitments

2.20. The abovementioned Commission Decision of 18 November 1985 stipulated that all the Authorizing Officers responsible for budgetary appropriations would, in cooperation with the Directorates-General for Budgets and Financial Control, set up a system for clearing financial cases and that the Authorizing Officers would introduce manual and/or computerized systems for monitoring the financial situation and the progress of financial cases at regular intervals. In a reminder sent out by Directorates-General XIX (Budgets) and XX (Financial Control) concerning the steps to be taken in order to prepare the closure of the 1988 accounts, the Commission's Authorizing Officers were advised that differentiated appropriation commitments should be subject to constant scrutiny in order to prevent commitments which had ceased to have any purpose from being perpetuated year after year. Neither DG XIX nor DG XX has given more precise guidelines to simplify the implementation of the Decision of 18 November 1985 by the Authorizing Officers. Consequently, the level of improvement as regards outstanding commitments still varies considerably from one authorizing department to another.

2.21. For example, of the 122 projects funded under budget heading B 301 (EAGGF, Guidance Section — 'marketing and processing of agricultural products'), for which 24 Mio ECU was still outstanding even though the aid had been granted during the period 1978 to 1983, the Court examined 56 cases, which represented 18 Mio ECU of outstanding commitments. This time criterion was selected as a basis for identifying files which had become more or less 'dormant' because Council Regulation (EEC) No 355/77 of 15 February 1977⁽⁵⁾ allows recipients of EAGGF guidance aid a period of two years in which to launch their projects and the timetables for carrying out projects do not extend beyond three years in most cases. Of the 56 cases examined, 18 cases (sum outstanding: 5,6 Mio ECU) concern projects which have failed either in part or entirely and nine cases (sum outstanding: 2,5 Mio ECU) look highly unlikely to be concluded because there has already been a delay of at least five years in their execution and the Commission has no recent information on their progress.

2.22. The files consulted showed that DG XX occasionally urges speeding up the closing of files and that the Directorate-General responsible for agricultural structures takes refuge behind a passive application of the abovementioned Regulation No (EEC) 355/77. Indeed, according to the Regulation, the Commission could — after consulting the Standing Committee on Agricultural

⁽⁵⁾ OJ L 51, 23.2.1977.

Table 2.11 — Comparative review of outstanding commitments under differentiated appropriations 1986-88

(Mio ECU)

Sector	Situation as at 31.12	Total	% (1)	Year in which the commitments were entered into					
				Current year	% (2)	3 years prior to the current year	% (2)	4 years and more prior to the current year	% (2)
				(1)	(2)	(3)	(4)	(5)	(6)
Agricultural structures (Title 3)	1988	1 236,4	8,3	323,6	26,2	695,7	56,3	217,1	17,6
	1987	1 253,7	8,8	361,1	28,8	719,8	57,4	172,8	13,8
	1986	1 259,8	10,1	403,2	32,0	707,8	56,2	148,8	11,8
Fisheries (Title 4)	1988	312,4	2,1	117,2	37,5	181,8	58,2	13,4	4,3
	1987	255,3	1,8	122,9	48,1	126,2	49,4	6,2	2,4
	1986	187,3	1,5	114,7	61,2	68,9	36,8	3,7	2,0
Regional and transport policy (Title 5)	1988	7 381,0	49,3	3 007,3	40,7	3 216,8	43,6	1 156,9	15,7
	1987	6 982,2	49,1	2 849,7	40,8	3 169,7	45,4	962,8	13,8
	1986	6 049,0	48,6	2 538,9	42,0	2 745,3	45,4	764,8	12,6
Social policy (Title 6)	1988	2 117,6	14,1	1 496,1	70,7	617,0	29,1	4,5	0,2
	1987	2 182,7	15,3	1 803,2	82,6	360,0	16,5	19,5	0,9
	1986	2 071,0	16,6	1 290,1	62,3	684,8	33,1	96,1	4,6
Research, energy, etc. (Title 7)	1988	1 839,5	12,3	929,2	50,5	845,1	45,9	65,2	3,5
	1987	1 649,1	11,6	960,6	58,2	633,0	38,4	55,5	3,4
	1986	1 278,1	10,3	688,1	53,8	548,0	42,9	42,0	3,3
Cooperation with dev. countries (Title 9)	1988	2 088,6	13,9	813,3	38,9	932,4	44,6	342,9	16,4
	1987	1 907,8	13,4	829,9	43,5	819,1	42,9	258,8	13,6
	1986	1 612,9	12,9	776,1	48,1	594,1	36,8	242,7	15,0
Grand total	1988	14 975,5	100,0	6 686,7	44,7	6 488,8	43,3	1 800,0	12,0
	1987	14 230,8	100,0	6 927,4	48,7	5 827,8	41,0	1 475,6	10,4
	1986	12 458,1	100,0	5 811,1	46,6	5 348,9	42,9	1 298,1	10,4

(1) % of the sum total of outstanding commitments accounted for by the sector.

(2) % of the total of outstanding commitments in the sector accounted for by these years.

Structures — suspend, reduce or abolish Fund aid if a project is not being carried out as planned or if certain conditions are not fulfilled. If there is a disagreement between the Commission and the Committee, the matter is put before the Council. However, given the optional, cumbersome nature of this procedure, and, in addition, the real shortage both of computer resources and staff, the Directorate-General responsible prefers either to allow recipients more time or ask them to relinquish the aid. To ensure that outstanding commitments are effectively verified, it appears essential that the Commission and the Standing Committee should agree on a reasonable time limit, at the end of which a decision on 'dormant' files would become compulsory.

procedures for drawing up recovery orders for sums to be repaid. However, the Court notes that the tasks of drawing up recovery orders and recording the corresponding cancellations of commitments are not carried out with all the diligence required under Article 23(2) of the Financial Regulation and under Articles 16, 19 and 20 of the Regulation of 11 December 1986 laying down detailed rules for the implementation of the above-mentioned Financial Regulation (6). In fact, the relevant Commission departments carry out these operations only when they receive a new application for payment from the Member State in question. Consequently, several months can go by before these sums to be recovered from the Member States are entered in the accounts. Apart from the lack of transparency this situation creates, the Court wishes to emphasize the considerable risk of overlooking sums to be recovered.

2.23. As regards the European Regional Development Fund (ERDF), an improvement was observed, compared with the situation in 1986, in the procedures for closing files which no longer served any purpose and in the

(6) OJ L 360, 19.12.1986.

2.24. In the 'Research/Energy' sector, the Court's examination revealed that a considerable proportion of the commitments outstanding could be linked to the inadequate monitoring of contracts, in particular by DG XVII ('Energy'), DG XII (as regards indirect Research) and DG XIII ('Telecommunications, Information Industries and Innovation'). As at 31 December 1988, outstanding commitments for these three DGs amounted to 1 654,3 Mio ECU, which represents 90 % of the total for the whole of the research and energy sector.

2.25. In the section for cooperation with developing countries, 114 commitments booked before 31 December 1986 which come under Chapters 93 ('Cooperation with Latin American and Asian developing countries') and 96 ('Cooperation with Mediterranean countries') had not been cleared as at the end of 1988 but had not, however, given rise to any payment in the 1987 and 1988 financial years. An examination of these 114 commitments revealed that:

- (a) 81 cases, totalling 4,3 Mio ECU, concerned projects or operations which had been completed but for which the balance had not been decommitted;
- (b) 10 cases, totalling 25,9 Mio ECU, concerned projects which had been cancelled before the end of 1988 without the necessary decommitments being made at the same time.

Out of a total of over 100 commitment files amounting together to 6,1 Mio ECU, which were entered against Chapter 94 ('Specific measures for cooperation with developing countries') and were still to be wound up in conditions identical to those mentioned above, the Court examined the 10 oldest cases, which accounted for 0,6 Mio ECU. The examination revealed that six of these cases, accounting for over 0,3 Mio ECU, should have been wound up at least two years earlier, and, moreover, that in one case the Commission should have recovered interest.

2.26. The Court concludes from this that no systematic procedure for the decommitment of sums left over after operations have been terminated has been set up for Title 9 as a whole. For instance, for the most important headings of Chapter 93, under which projects in Latin American and Asian developing countries are funded, when the Authorizing Officer validates what he considers to be the final payment for a project, a letter is sent to the recipient country to confirm that the project has been wound up. If there is no reply (which is usually the case), the project is automatically wound up one year later. In the Court's opinion, if this procedure were made general practice, many purposeless commitments would be eliminated. The Court also feels that it should be extended to projects which have not been launched or which have failed to make any progress over several years.

2.27. In the absence of adequate analytical accounts, enabling the monitoring of all the legal undertakings

contracted with various third parties in connection with a single financial commitment, the 'Finance' department of DG VIII ('Development') keeps certain manuscript records for each contract. However, there are no standards or departmental instructions concerning the keeping of these records, which are, however, essential for monitoring the implementation of a contract and the payments to be made. Everything appears to depend on the initiative of the staff in question in the 'Finance' department. For instance, for Chapter 93, the records usually comply with the minimum requirements, whereas for Chapter 96 the Court found that this was not the case. The Court has already pointed this problem out before, in its annual report concerning the financial year 1982 (paragraph 10.8) but, six years on, there has been no improvement. Consequently, the 'Finance' department cannot systematically draw the attention of the Authorizing Officers to the possibility of winding up certain projects or operations. Furthermore, the Authorizing Officers have not yet set up a system for the automatic clearance of projects which have been completed, despite a specific decision taken on 18 November 1985 by the Commission on the question of 'the clearance of financial cases'.

Conclusions on the monitoring of outstanding commitments

2.28. Although the Commission has taken a specific decision on this question, the Court noted that some departments were not sufficiently thorough in drawing up and applying procedures for the efficient monitoring of outstanding commitments. The situation at the end of the financial year 1988 confirms the fear expressed by the Court in its annual report concerning the financial year 1986, that the Commission's decision would go unheeded if the Directorates-General for Budgets and Financial Control did not put their full weight behind its implementation. Furthermore, apart from the financial consequences, and the effects on the accounts, of these shortcomings, the Court is of the opinion that this situation indicates occasional inadequate monitoring of projects by the administration, which could call into question the soundness of the financial management of Community resources.

OBSERVANCE OF THE FINANCIAL REGULATION

2.29. As a result of its examination of the legality and regularity of budgetary expenditure during the financial year 1988, the Court detected a number of transactions which formally infringed certain provisions of the Financial Regulation. These infringements have been drawn to the attention of the institutions in question so that the officials concerned (Authorizing Officer, Finan-

cial Controller and Accounting Officer) can take all necessary measures to prevent a repetition of such violations in the future. In contrast, bearing in mind their importance, the Court has a duty to point out the following budgetary irregularities in particular.

Charging of food aid to the budget

2.30. On 8 June 1988, the Commission decided to grant ordinary food aid of 110 000 tonnes of grain to Mozambique. This decision was dealt with under two separate budgetary commitments:

- (a) 1,2 Mio ECU, i.e. the equivalent of 10 000 tonnes, against heading B 9200, 'Food aid in cereals other than rice' (CE);
- (b) 17,0 Mio ECU, i.e. the equivalent of 100 000 tonnes, against heading B 9280, 'Exceptional reserve' (NCE).

This second entry must be viewed as irregular, since the Commission's decision concerned ordinary food aid and the appropriations under item B 9280 are intended to be used for the purpose of meeting the cost of creating an emergency reserve of cereals' equivalent.

2.31. In July 1988, foreseeing that payment appropriations for heading B 9200 (CE) would soon be exhausted, the Commission reduced payments already entered against this heading by 16,5 Mio ECU, so that they could be re-entered against heading B 9202, 'Additional food aid in cereals' (NCE). In October 1988, probably for similar reasons involving the exhaustion of appropriations under a number of budget headings and the maximum utilization of carry-overs under other headings, the Commission re-entered 30 payments against heading B 9280, 'Exceptional reserve' (NCE). The sum involved amounted to a total of 18,1 Mio ECU and came from outstanding commitments contracted in 1987. These payments had previously been entered against a whole series of other budget headings classified as CE or NCE (food aid measures in rice, in other cereals, and other products and transport costs). In reply to a written request by the Court, which, in July 1988, asked for information concerning the reasons and the validity of similar accounting entries which the Commission had made during the financial year 1987, the authorizing department at the Commission gave the terse reply, in January 1989, that the changes in the entries were for 'management reasons'.

2.32. The Court finds such arguments unsatisfactory and has a duty to emphasize that the procedures followed in this case are not only contrary to both the principle of

the specific purpose of appropriations and the rules allowing transfers by way of derogation, but also give the budgetary authority a false impression of the way in which appropriations entered for the creation of an 'exceptional reserve' for food aid have been used.

2.33. In the same connection, the Court is unclear on what basis the Financial Controller granted his approval for the transactions described in paragraphs 2.30 — 2.31.

Monitoring of advances recorded as budgetary expenditure

2.34. Since 1983, payments totalling 94,9 Mio ECU have been entered against Article B 958, 'Special programme to combat hunger in the world', in order to cover expenditure arising from support measures for countries which have undertaken to increase their self-sufficiency in food supplies and from measures intended to safeguard their natural resources and improve the conditions for exploiting those resources. Most of these payments are, in fact, advances, which have often been transferred to special bank accounts opened for this purpose. In its annual report concerning the financial year 1985, paragraph 10.39, the Court criticized the fact that these advances did not appear as such in the Community accounts and balance sheet and, in addition, argued that to treat them as budgetary expenditure was an infringement of the provisions of Article 37 of the Financial Regulation.

2.35. It has so far proved impossible to examine the final uses of these advances in 1988, since the Commission itself did not have sufficient information on the situation of the bank accounts into which the funds had been paid or on how certain sums had actually been spent. Since the Commission has not set up any structured monitoring system in this area, the Court notes that these transactions are, in effect, being managed in secret, contrary to all the rules on budgetary and accounting management, and thus escape any effective form of control.

THE COMMUNITY GENERAL ACCOUNTS AND BALANCE SHEET

Introduction

2.36. In this area, the Court's audits mainly focused on the balance sheets of the Commission, the Court of Justice and the Community, on the one hand, and, on the other hand, on the management of liquid assets at the

Council, the Commission in Ispra, the Court of Justice, the Court of Auditors and the Economic and Social Committee.

Observations on the general accounts and balance sheets

PARLIAMENT

2.37. Prior to setting out the observations resulting from its audits, the Court notes that the amount of 4,1 Mio BFR ($\pm 0,1$ Mio ECU), which was already included in the Parliament's balance sheet at 31 December 1987 as deferred expenditure under the heading 'Cash deficit', is still to be seen in the balance sheet at 31 December 1988. In this connection, the Court must refer the reader to its reports on previous financial years (7).

COMMISSION

2.38. The Commission's balance sheet at 31 December 1988 includes 'paying agents' accounts', (used to pay for the local expenditure part of Community aid projects in eight countries of the Maghreb and Mashreq), totalling 10,9 Mio ECU. This total is inaccurate, since many payments were not recorded in the Commission's accounts. Moreover, since the opening of the paying agents' accounts in 1981, the Commission has not established any procedure to ensure, on the one hand, that these accounts are kept up-to-date and, on the other hand, that they are regularly reconciled with the corresponding bank statements. Despite the absence of certain documents from the files, it may be estimated that this item of the balance sheet is overstated by more than 2 Mio ECU.

2.39. The Commission pays advances to the European Association for Cooperation and to the British Council, both of which manage Community study grants. The amounts of these advances, as entered in the balance sheet, appear to be overstated by approximately 2,6 Mio BFR and 0,8 Mio UKL, taking into account the statements of these two bodies. Moreover, no reconciliation has been made between the Commission's imprest accounts and the corresponding accounts of these two bodies for several years.

(7) Special report on the Members' cash office of the European Parliament, OJ C 202, 5.8.1982;
Annual report on the financial year 1982, OJ C 357, 31.12.1983, paragraph 2.9;
Annual report on the financial year 1983, OJ C 348, 31.12.1984, paragraphs 2.5-2.7;
Annual report on the financial year 1984, OJ C 326, 16.12.1985, paragraph 2.2;
Annual report on the financial year 1985, OJ C 321, 15.12.1986, paragraphs 2.2-2.3;
Annual report on the financial year 1986, OJ C 336, 15.12.1987, paragraph 3.2;
Annual report on the financial year 1987, OJ C 316, 12.12.1988, paragraph 2.55.

COURT OF JUSTICE

2.40. The furniture and equipment owned by the Court of Justice is valued in its balance sheet at 3,7 Mio ECU. This figure does not represent the true value of these assets as at 31 December 1988. Indeed, no inventory has been made since the end of 1983, not even when items of Court property have been put up for sale (replacement of a vehicle, for example). Above all, before closing its accounts, the Court of Justice should have effected a reconciliation between the entries in the inventory and property actually in its possession, so that the accounts reflect reality. The Court of Auditors requests the Court of Justice to keep its inventory of immovable property up-to-date and to check regularly that this inventory corresponds to the facts, as required by the Financial Regulation and as pointed out by the Court of Auditors in its previous reports (8).

2.41. Many items of expenditure (purchases of petrol, repair of vehicles, experts' expenses and legal advice) are initially charged to extra-budgetary accounts. This irregular procedure has had two consequences:

- (a) on the one hand, the principle of charging items of expenditure to the financial years in which they arise has not been observed, despite previous observations by the Court on this matter (9);
- (b) on the other hand, it was thus possible for 0,1 Mio ECU to be disbursed despite the absence of available budgetary appropriations.

2.42. The recovery of claims, and in particular advances, should be more closely monitored. Moreover, it is essential that the Financial Controller should give his approval to all recovery orders in accordance with the Financial Regulation. The Court of Auditors requests the Court of Justice to comply more fully with the provisions of the Financial Regulation.

ECONOMIC AND SOCIAL COMMITTEE

2.43. In order to catch up more rapidly on a considerable backlog of work regarding the accounting of its

(8) Annual report on the financial year 1981, OJ C 344, 31.12.1982, paragraph 2.13(a);
Annual report on the financial year 1982, OJ C 357, 31.12.1983, paragraphs 2.45, 2.46 and 2.47.

(9) Annual report on the financial year 1981, OJ C 344, 31.12.1982, paragraph 2.13(c).

operations, and on account of computer-related problems, the Economic and Social Committee did not systematically draw up the monthly balance sheet of its accounts during the financial year 1988. Moreover, certain monthly balance sheets which had been established were not kept, although the balance sheets, once destroyed, cannot be reprinted at a later date. This method does not make for adequate monitoring of the accounts: a monthly balance sheet should be drawn up and kept each month.

2.44. Operations in respect of the guarantee accounts held by the Accounting Officer and Assistant Accounting Officers are still recorded in separate bank accounts, which is contrary to the Regulation laying down detailed rules for the implementation of certain provisions of the Financial Regulation. These accounts must be closed and the guarantee accounts held in accordance with the new provisions at present in force.

2.45. Allowances for advisers' meeting and travel expenses are paid out in cash (approximately 12 Mio BFR per month), which involves the risk of errors and needlessly immobilizes funds. The Economic and Social Committee should follow the example of the Council and Commission and reduce cash payments to the strict minimum, in accordance with the Court's previous recommendations ⁽¹⁰⁾.

Observations on cash management in respect of the implementation of the general budget

Rate of coverage of net needs

2.46. In its annual report concerning the financial year 1984 ⁽¹¹⁾, the Court compared the average monthly balance of all the bank accounts held by certain institutions with their net financing needs. This comparison showed clearly that the cash balances held by all the institutions examined were excessive and were well above the theoretical optimum of a nil balance. The Court recalculated this rate of coverage of net needs for the Council, the Court of Justice, the Court of Auditors, the Economic and Social Committee and the Commission in Ispra.

2.47. **Table 2.12**, containing the results of this comparative study, shows that several institutions (the

⁽¹⁰⁾ Annual report on the financial year 1987, OJ C 316, 12.12.1988, paragraphs 10.99 and 10.100.

⁽¹¹⁾ Annual report on the financial year 1984, OJ C 326, 16.12.1985, Table 2.3.

Table 2.12 — Rate of coverage of net needs ⁽¹⁾

Institution or body	Financial year 1983 (12 months)	Financial year 1988 (6 months January to June)
Council	115 %	45 %
Commission in Ispra	not calculated	288 %
Court of Justice	255 %	52 %
Court of Auditors	121 %	19 %
Economic and Social Committee	118 %	192 %

⁽¹⁾ Average bank balances for the period/net needs for the period (payments from appropriations carried forward plus payments from appropriations of the financial year minus revenue for the period).

Note: A 100 % rate of coverage of net needs means that all the net needs for a month are covered, i.e. that at the beginning of each month the institution has always had the funds required to cover the entire month's expenditure. A 200 % rate means that at the beginning of each month the institution had the funds required to cover two months' expenditure. A 50 % rate means that the institution only has the funds required to cover two weeks' expenditure.

Council, the Court of Justice and the Court of Auditors: the latter only kept under a week's cash needs available, despite being situated in Luxembourg) have succeeded in reducing their cash surplus, although there is still room for further progress (except for the Court of Auditors). On the other hand, the Economic and Social Committee's coverage rate has significantly deteriorated. Finally, the coverage rate of the Commission in Ispra, which corresponds to approximately 12 weeks' expenditure, is clearly excessive by a wide margin.

Estimates of expenditure

2.48. The rates of coverage of net spending needs appear all the more excessive since, on the one hand, the bulk of the payments that these institutions and bodies have to make consists of expenditure on staff and the renting of buildings, the amounts and due dates of which are known long in advance, and, on the other hand, the Commission transfers the necessary sums to the institutions' bank accounts on the value date set by the latter. However, at the Economic and Social Committee, calls for funds are not based on estimated requirements, according to the estimates drawn up by the Authorizing Officers, but on a constant monthly amount. Similarly, at the Court of Justice, approximately 20 % of all cash requirements are simply estimated by the Accounting Officer, on the basis of his personal experience, instead of being based on the Authorizing Officer's estimates of expenditure.

Punctual payment

2.49. Similarly, in order to reduce the level of ready cash, payments should not be made until they are due. Although the Court has twice made similar observations⁽¹²⁾, this does not always happen at the Council and the Court of Justice, where advantage is not systematically taken of credit terms granted by suppliers, on account of the fact that the Authorizing Officers do not always quote the due date for each invoice and thereby prevent the Accounting Officer from setting a value date for payment. Moreover, certain institutions (the Council, the Court of Justice and the Economic and Social Committee) continue to pay their officials' August salaries in July (237 Mio, 91 Mio and 53 Mio respectively in BFR alone), which is, however, contrary to the provisions of the Staff Regulations.

Number of bank accounts

2.50. The Court has criticized on several occasions⁽¹³⁾ the excessive number of bank accounts held by the institutions, which may be explained, more than it can be justified, by the institutions' desire to speed up payments to their various creditors (mainly suppliers and officials) by using accounts at the same banks as their creditors. Moreover, the Court also recommended that bank accounts where the volume of transactions was non-existent or exceedingly low should be closed⁽¹³⁾.

(a) Thus, in its annual report concerning the financial year 1984 the Court criticized the excessive number of bank accounts held by the Council⁽¹⁴⁾. The number of these accounts has not been reduced; on the contrary, they have increased from 19 to 20. And yet, there *are* ways of reducing the number. Thus, the Council has:

- (i) two accounts in UKL, one of which is practically not used: for the first six months of 1988 there were only three transactions — the accounts were credited twice to cover interest deductions — and moreover this account was not included in the list of banks kept by the accounting department at the time of the audit;
- (ii) three bank accounts in BFR where, in order to earn interest all the accounts together needed to total a minimum balance of 30 Mio BFR. Following the Court's audit, this sum was reduced to 15 Mio in December 1988; in reality, the minimum balance on these accounts was never less than 51 Mio BFR during the first six

months of 1988. In the Court's opinion, the arguments for keeping funds in these three accounts are not justified. The fact is that the desire to speed up salary payments to officials who have opened accounts at one of these three banks does not justify maintaining considerable balances at three banks.

- (b) Similarly, the number of bank accounts held by the Commission in Ispra is excessive, since, out of a total 17 bank accounts, there are two accounts per currency for six of the currencies used.

Crediting accounts at the Economic and Social Committee

2.51. In its annual report concerning the financial year 1984⁽¹⁵⁾, the Court observed that the fact that funds intended for the Economic and Social Committee are transmitted via the Council results in delays and lost interest. This situation has not changed, and the corresponding loss of interest for the Communities amounted in 1988 to approximately 1,2 Mio BFR.

Banking terms

2.52. In its annual report concerning the financial year 1984, the Court criticized the fact that the institutions and Community bodies were unable to supply it with a document setting out all the terms governing their banking arrangements⁽¹⁶⁾. Neither the Council nor the Commission in Ispra possess such a file. It is therefore still as difficult, if not impossible, to check that these terms are being applied correctly.

2.53. In this same report⁽¹⁷⁾, the Court also observed that the banking terms are not negotiated sufficiently thoroughly. This observation still applies. Thus:

(a) at the Commission in Ispra:

- (i) an account in BFR receives approximately 5 % less interest than that paid on the same kind of account at another bank;
- (ii) a bank in whose books the Commission has six different accounts does not grant same-day value when a transfer is made from one to the other.

⁽¹²⁾ Annual report on the financial year 1985, OJ C 321, 15.12.1986, paragraph 11.39;

Annual report on the financial year 1986, OJ C 336, 15.12.1987, paragraphs 3.12, 3.13, 3.14, 3.15, 3.16 and 3.17.

⁽¹³⁾ Annual report on the financial year 1982, OJ C 357, 31.12.1983, paragraphs 2.11, 2.12, 2.14, and 2.30; Annual report on the financial year 1984, OJ C 326, 16.12.1985, paragraph 2.39.

⁽¹⁴⁾ Annual report on the financial year 1984, OJ C 326, 16.12.1985, paragraph 2.39.

⁽¹⁵⁾ *Idem*, paragraph 2.45.

⁽¹⁶⁾ *Idem*, paragraph 2.40.

⁽¹⁷⁾ *Idem*, paragraphs 2.41 and 2.42.

These transfer delays from one account to another within the same bank sometimes amount to five days and may even exceed the time required to carry out an identical transaction with a bank located abroad;

(iii) there are five non-interest-bearing accounts, whereas the Council earns interest on two accounts held in the same currency;

(b) at the Court of Justice, the monthly crediting of bank accounts is effected by the Commission's cash office in Brussels, using accounts held at the same banks. While the principle of same-day value is observed for the account in ECU the same does not apply to the account in LFR, nor for that in DM, where losses of two to four days' value were recorded.

Conclusions

2.54. In order to reduce cash surpluses and keep them at a reasonable level, the Court again recommends⁽¹⁸⁾ that the Community institutions and bodies should ensure that:

(a) a system for estimating revenue and expenditure is set up at Authorizing Officer level (so that the Commission is requested to make available only those funds that are needed and that this is done only a few days before the expected date of payment);

(b) payments are not made until their due date, by arranging a value date for the transaction at the bank;

(c) the number of bank accounts is reduced and limited to the banks offering the best terms, preferably by competitive tender, and that bank accounts which are hardly or never used are closed;

(d) banking terms are negotiated or renegotiated, in conjunction with the Commission, and that the requisite machinery is set up to check that such terms are being soundly implemented.

⁽¹⁸⁾ *Idem*, paragraphs 2.51 and 2.52.

Observations on the Community accounting system

Internal control of cash operations

2.55. Just as it has done this year at a very general level (see paragraphs 3.27 — 3.32), the Court has recommended on several occasions in the past⁽¹⁹⁾ that the institutions improve their internal control structure relating to cash management — i.e. all the procedures and means that make it possible, in particular by the definition and separation of duties, to guarantee the regularity and validity of information and safeguard assets. However, the institutions and bodies examined (the Council, the Commission in Ispra, the Court of Justice, the Court of Auditors, and the Economic and Social Committee), have still to make considerable progress in this area, as the following examples reveal:

(a) none of the institutions audited has a manual of procedures in respect of cash operations;

(b) the general principle of the separation of incompatible duties is not always heeded:

(i) at the Council:

— at the end of February 1989, three Authorizing Officers were still authorized to sign in respect of banking transactions, contrary to the general principle of the separation of duties laid down in Article 17 of the Financial Regulation, and in spite of the fact that this irregularity has already been criticized by the Court, in its annual reports for the financial years 1986⁽²⁰⁾ and 1987⁽²¹⁾;

(ii) at the Commission in Ispra, and the Economic and Social Committee:

— three persons handle cash in the same cash office, which makes it impossible to blame any one person for any errors or losses;

(iii) at the Council and the Commission in Ispra:

— the same person handles the funds, keeps the cash accounts and bank accounts, effects bank reconciliations and is authorized to sign in respect of banking transactions:

⁽¹⁹⁾ Study of the financial systems of the European Communities (1981), OJ C 342, 31.12.1981, paragraphs 3.15, 3.2.3 and 6.8.5.

Annual report on the financial year 1984, OJ C 326, 16.12.1985, paragraph 2.43.

⁽²⁰⁾ Annual report on the financial year 1986, OJ C 336, 15.12.1987, paragraph 2.47.

⁽²¹⁾ Annual report on the financial year 1987, OJ C 366, 12.12.1988, paragraph 2.28.

- (iv) at the Commission in Ispra:
- it is possible to operate the bank accounts without the signature of the Accounting Officer, an Assistant Accounting Officer or an Imprest Administrator, contrary to Article 49 of the Regulation laying down detailed rules for the implementation of certain provisions of the Financial Regulation, which stipulates that in order to draw on such accounts 'the joint signatures of two duly authorized members of the staff shall be required, one signature necessarily being that of the Accounting Officer, an Assistant Accounting Officer or an Imprest Administrator'. Moreover, two hierarchically subordinate persons are authorized to validate banking operations;
- (c) certain vital checks are not carried out by the persons in charge of handling funds, or are carried out under unsatisfactory conditions. Thus:
- (i) at the Council:
- the Accounting Officer checks on the cash office every first day of the month. Without denying the value of such checks, the importance of carrying them out on unannounced dates should be stressed. It is for this reason, moreover, that Article 58 of the Regulation laying down detailed rules for the implementation of certain provisions of the Financial Regulation stipulates that checks carried out on funds allocated to the imprest administrators should be effected 'without warning';
- (ii) at the Commission in Ispra:
- there are no unannounced checks on the cash office and no checks were effected in 1988;
 - the person responsible for checking imprest accounts is neither the Accounting Officer nor the Assistant Accounting Officer, contrary to the provisions of Article 58 of the Regulation laying down detailed rules for the implementation of certain provisions of the Financial Regulation;
 - for practical reasons, the person responsible for making the check announces his visit in advance. Such a procedure deprives these checks of any unexpectedness, and thus utility;
 - the checks are not adequate, since out of 12 imprest accounts only five were checked in 1988;
- (iii) at the Commission in Ispra and the Economic and Social Committee:
- the cashier does not check his cash situation every day and any cash differences are not immediately highlighted;
- (d) certain operations which ought to be banned are nevertheless allowed:
- (i) at the Commission in Ispra:
- undated cheques drawn by two cashiers on their own bank accounts were cashed to satisfy their personal cash requirements without prior authorization, even though the cashiers go to the bank every day, where, using the same cheques, they could have obtained cash directly;
 - payment cheques received at the Treasury Department are recorded at the cash office and considered as cash;
- (e) certain operations are not effected, or are carried out incorrectly:
- (i) at the Council, the Commission in Ispra and the Court of Justice:
- receipts issued when revenue is collected are not numbered in advance, which prevents this revenue from being adequately monitored. Moreover, there is no control at all over the use of the receipt books. Receipts are not even issued for certain payments made to the Commission at Ispra, which is contrary to Article 25 of the Financial Regulation;
- (ii) at the Council:
- decisions to create four imprest accounts do not comply with the Financial Regulation or the Regulation laying down detailed rules for the implementation of this Regulation;
- (iii) at the Economic and Social Committee:
- all payments to advisers are made from one cash office, without the Financial Controller's prior approval: all these payments are thus irregular (see paragraph 2.45) since only an Imprest Administrator may make payments without the Financial Controller's prior approval;

(iv) at the Commission in Ispra :

- the acts of recording and collecting of certain items of revenue relating to day-to-day management are not preceded, as required by the Financial Regulation, by the issue of a recovery order approved by the Financial Controller;

(f) as pointed out in paragraphs 3.17 — 3.18, the Financial Controller does not carry out any check on the Treasury Department as part of his auditing activities.

2.56. The Court again recommends⁽²²⁾ that all the Community institutions and bodies draw up an organization chart within their accounting departments, with job descriptions and a manual of procedures setting out in detail all the duties and operations to be carried out within these departments and organizing them so as to guarantee that the systems are reliable. The Financial Controllers should extend their internal auditing activities to detailed checks on cash operations.

Study of the Commission's central accounting system

2.57. In 1987 the Court commissioned an independent auditor to carry out a study (financed by the Court and the Commission) of the Commission's central accounting system and presentation of accounts. The report starts with a summary description of the Commission's budgetary and accounting procedures and goes on to present a number of observations on certain aspects of this Community accounting system, in particular:

- (a) the practice of carrying forward appropriations, which is described as generous, since it is normally done automatically;
- (b) the large number of extra-budgetary operations and the risk of their becoming more widespread;

⁽²²⁾ Study of the financial systems of the European Communities (1981), OJ C 342, 31.12.1981, paragraphs 14, 3.15.8 and 6.11.

(c) defects in the general accounting system, in that the latter does not include all assets or all liabilities;

(d) the absence of management accounting systems, in the sense of accounts classified by type of transaction or by sector;

(e) the absence of any clear basic concept in the Community regulations (the present basic concept is merely a compromise between cash-based and accruals-based accounting);

(f) the absence of any official Commission publication of annual accounts, which are mainly of use in the discharge procedure;

(g) the non-inclusion in the balance sheet of the potential costs associated with the disposal of stocks of agricultural produce from intervention;

(h) the omission of all non-budgetary operations from the consolidated accounts;

(i) the inadequate nature of the explanatory notes annexed to the annual accounts, which makes them less comprehensible;

(j) the limited effectiveness of the financial control, owing to the predominance of purely formal checks and the virtual impossibility of verifying *a priori* whether the principles of sound financial management have been observed.

2.58. To a considerable extent these findings bear out the observations made by the Court in its opinions and reports, as well as comments addressed by the Members of the Court to certain Directorates-General at the Commission. The Court recommends that the Commission should complete its examination of all these observations, as well as the implementation of the proposals contained in the study, in the light of the corresponding observations made by the Court.

CHAPTER 3

System of internal control

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INTRODUCTION

3.1. Under Article 205 of the EEC Treaty, the Commission implements the budget on its own responsibility. The Financial Regulation maintains a clear distinction between the functions of the Authorizing Officer, the Accounting Officer and the Financial Controller. The Court has analysed this internal control structure and communicated a summary of its criticisms to the Community legislator in the form of its Opinion No 1/89⁽¹⁾, which was delivered on 9 February 1989, following the Commission's submission of a proposal for an overall amendment of the Financial Regulation. On 13 April 1989 the Parliament gave its own opinion on the matter, without calling into question the present internal control arrangements in the Community institutions. On 19 June 1989 the Council adopted a joint guidance document which may be supposed to adumbrate the main features of the regulation which will eventually be adopted. A reading of this document suggests that the Council does not intend to amend the provisions of the Financial Regulation that concern internal control along the lines suggested by the Court in its Opinion No 1/89. Each type of financial control — the one laid down in the present Financial Regulation and the one that the Court recommends — has its own logic and justification and the Court is well aware that the Community legislator has the last word when it comes to deciding on the rules to be applied in respect of financial control. All the same, it

seemed to the Court that it was duty-bound to inform the legislator of its detailed analysis of the existing mechanism and of its concrete effects, such as the Court has been able to assess them during the execution of documentary and on-the-spot audits over recent years. This detailed analysis constitutes the subject matter of this chapter.

3.2. Of the three abovementioned functions (Authorizing Officer, Accounting Officer and Financial Controller), only those of the Authorizing Officer and the Accounting Officer are provided for in the EEC Treaty (Article 209 (c)). They thus share, to varying degrees, the Commission's responsibility, when implementing the Community budget, for ensuring that funds are spent only to the extent and for the purposes authorized by the general budget and in accordance with the relevant EEC legislation, in particular the Financial Regulation, and the principles of sound financial management. In cases where revenue and expenditure are administered directly by the Commission, the positions of Authorizing Officer and Accounting Officer are filled by Community officials. Where administration is shared with Member State agencies, the financial authority of the Authorizing and Accounting Officers is partly delegated to agency officials in the Member States, although the Commission retains central responsibility for laying down procedures governing financial and accounting practice (which it usually does by issuing regulations) and for seeing that they are applied and that Community funds are wisely managed in the Member States.

(1) OJ C 72, 20.3.1989.

3.3. The function of the Financial Controller and the legal powers invested in him are laid down in the Financial Regulation applicable to the general budget and are formally governed solely by that text. Initially, the regulation was intended for the purposes of the internal functioning of the Community institutions. However, with the development of joint policies, additions have been made to the general Financial Regulation and financial regulations specific to certain of these policies have supplemented the general measures. This has implicitly extended the field of competence of the Financial Controller, on the same basis as that of other agents of the Commission.

3.4. Nevertheless, the Financial Regulation does restrict the actual intervention of the Financial Controller to very general matters. For instance, as regards revenue, he approves only the entry of it in the central accounts, and as regards agricultural expenditure he ensures that it does not exceed the overall budget ceilings. Scrutiny of the day-to-day management of agricultural spending by the Member States is the prime responsibility of the Commission's Authorizing Officer, whose inspectors draw up proposals, on the basis of audit reports, for the acceptance or rejection of expenditure. The Financial Controller approves, or declines to approve, the corresponding decisions. Consequently, for this important part of Community expenditure (60 to 70 % of the budget), the Financial Controller has to rely on the work of the Commission's clearance auditors.

3.5. The effectiveness of the work done by the Commission's clearance auditors is examined in paragraphs 5.1 to 5.32. In this chapter, the Court analyses how the framework of internal control, comprising the separate functions of Authorizing Officer, Accounting Officer and Financial Controller, fulfils its task of safeguarding Community funds. The Court also gives some ideas as to how the structure of internal control might be strengthened, with reference to its previous work in this field (study on the systems of financial organization (1981) and its Opinion No 1/89 on the revision of the Financial Regulation).

THE FINANCIAL CONTROLLER

3.6. The Financial Controller plays a role in internal financial control in three different ways. First of all, he has to give prior approval to a whole series of financial operations (involving revenue as well as expenditure). In addition, he may intervene, without having to give approval, in matters concerning the management of assets and the rendering of the accounts. Finally, he also carries out *a posteriori* duties.

Prior approval by the Financial Controller

3.7. Prior approval of measures concerning revenue must, according to the rules, certify that the revenue has been correctly booked and that the measures conform to the relevant legal provisions. This applies only to the central accounting management, the main part of the collection process being carried out in the Member States. A decision to withhold approval cannot, of course, prevent either the establishment or the making available of resources: it does not, therefore, entirely mirror the effect of withholding approval of a proposed item of expenditure.

3.8. Prior approval of expenditure must, according to the Financial Regulation, certify that the relevant commitments and payments comply with the rules, have been correctly booked and do not violate the principles of sound financial management. However, for a variety of reasons, this certification is sometimes in practice of insufficient value.

3.9. First of all, as a result of the fact that there is no clear and consistent definition of a commitment (see the annual report on the financial year 1986, paragraphs 2.50 to 2.53), approval of accounting commitments as formally provided for in the Financial Regulation often takes place after the decision to disburse Community funds has actually been taken. Nevertheless, in a number of cases of this kind, the Financial Controller has been allowed to give an opinion at the time the decision was taken. The possibility that he may, at a later date, withhold approval of the accounting commitments has invested his opinion with such importance that, if it is negative, the Authorizing Officer usually feels it necessary to reconsider his decision.

3.10. As regards the EAGGF's Guarantee Section, which accounts for over 60 % of expenditure, approval procedures differ from the usual ones in the following ways:

- (a) no approval is needed for decisions which result in expenditure (e.g. the fixing of seasonal prices, the fixing of refund rates and the award of contracts for public storage) (see the annual report on the financial year 1983, paragraphs 4.51 to 4.65);
- (b) in practice, funds are made available to the Member States through the payment of monthly advances (since 1987 these have, in fact, been refunds to the Member States). However, at this stage prior approval is confined, under the rules, to examining the overall availability of the appropriations;
- (c) approval of the detailed commitment and the charging of the payment, which follows the Member States' declarations of expenditure, covers no more than the simple act of making entries in the accounts;

(d) prior approval of clearance decisions, which usually result in the confirmation of expenditure or the recovery of funds, is the only type of approval which can be of any practical significance. However, it depends to a large extent on the controls carried out by the Authorizing Officer (see paragraph 5.26.). All in all, the Financial Controller has never had any significant influence on the clearance deadlines. Nor has he been able to prevent excessive multiplication of clearance reserves.

3.11. When approval is withheld on the basis of objective, indisputable reference standards (e.g. availability of appropriations, accuracy of the calculations, observance of rules and provision of supporting documents) the Financial Controller does not interfere with the administrator's responsibilities. This is generally what happens in matters concerning legality and regularity, where the Financial Controller provides a safeguard, without sharing the administrator's responsibilities. However, this is not the case when he is required to assess the 'sound financial management' aspect, which is something that it is virtually impossible to reduce to a set of precise criteria, on the basis of which expenditure can be authorized or stopped.

3.12. Furthermore, it is physically impossible for the Financial Controller, when giving his approval, to assess whether each transaction involving Community funds offers value for money, since there are several hundred thousand a year. He therefore endeavours to analyse the management systems and detect any areas of risk, concentrating his inspections on those areas.

3.13. However, this method entails a risk as regards the Authorizing Officer. It is possible that the existence of the present system of approval, which is applied to all transactions and apparently protects the Authorizing Officer from any danger of a mistake, has sometimes encouraged him to rely unduly on the Financial Controller's approval, instead of fully assuming his own responsibilities. This last observation also applies to the legality and regularity aspects and also holds true for the Accounting Officer. The tendency for the Financial Controller to give an opinion on all decisions prior to commitment in the accounts increases the danger of the Authorizing Officers being distanced from their responsibilities.

3.14. The trend described in paragraphs 3.9 and 3.13 clearly entails a risk as regards the quality of the Financial Controller's work: that of having to criticize decisions to which he had previously given his approval. This in effect means that the outcome of his technical checks is compromised.

3.15. For obvious practical reasons, the Financial Controller has delegated, or allowed his section heads to

delegate, authority to grant approval to staff in very subordinate positions who are not, however, officially recognized as assistant Financial Controllers within the meaning of Article 6 of the Regulation laying down detailed rules for the implementation of the Financial Regulation. These persons have not received a formal delegation of responsibility for the approvals they grant. Legal responsibility therefore remains with the Financial Controller. However, when a member of staff to whom the granting of approval has been delegated feels unable to give approval, the matter is referred to each level in the hierarchy and, if necessary, to the Financial Controller himself, who has not delegated the power to withhold approval to anyone.

3.16. The significance of withholding approval is therefore great, that of granting it small. As far as the system is concerned, which is the most important thing, it is clear that the Financial Controller has not given the members of staff working in his department sufficiently comprehensive instructions on what to check before granting approval and has not made their inspections subject to any quality control procedure, as the Court has observed cases where approval was given even though it should have been withheld because the supporting documents were missing or the rules had been infringed (see in particular paragraphs 2.29 to 2.35 of this annual report). This lack of precaution leaves the system of delegation even more open to criticism.

Transactions not subject to approval

3.17. Disbursements, recording completed operations in the budget accounts, drawing up and rendering the revenue and expenditure accounts and the balance sheet, non-budgetary operations and the identification of unrecovered debts are all essential elements of financial and accounting management which are not subject to prior approval. Of course, the intervention of the Financial Controller is provided for in some cases. For example, he receives the annual statement of accounts, the annual revenue and expenditure account is simply 'submitted' to him and he is required to inform his institution if a document giving rise to a claim has not been drawn up or a claim has not been recovered.

3.18. In practice, such intervention has long been non-existent. The Financial Controller has recently begun to check certain operations which take place after a payment has been authorized, that is, the disbursements themselves, the actual rates of exchange, and the value dates used by the banks. However, he still does not examine anything connected with the way the bank accounts are kept and the cash situation in general. Similarly, with other rare exceptions, other balance sheet items also escape his control, e.g. sums owed to and by the institution and the assessment and recording of the

Communities' assets. He does not examine lending and borrowing transactions (see paragraphs 13.9 to 13.20). The reports he makes to his institution on non-established or unrecovered claims do not always take account of the biggest such claim, namely sums to be recovered as a result of frauds or irregularities in peripheral management (own resources and the EAGGF Guarantee Section). Examinations of the revenue and expenditure accounts and the financial balance sheet are confined to general cross-checking, with a few plausibility checks and a small number of more detailed inspections. They rarely give rise to corrections in due time and never result in any internal approval of the accounts, although they are supposed to be 'submitted' to the Financial Controller.

The Financial Controller's role as an internal auditor

3.19. Apart from the duty of carrying out *ex ante* controls, the Financial Controller also has the power to carry out *ex post* audits, to the extent that Article 11 of the Regulation laying down detailed rules for the implementation of the Financial Regulation provides that the Financial Controller may present reports to the institution at any time and on any subject having financial implications, especially — and therefore not exclusively — where sound financial management is concerned. He has also started to develop working methods which should enable him significantly to extend his knowledge of the weaknesses of the Community's systems. In addition to the experience he acquires by examining the vast number of transactions subject to his approval, the Financial Controller acquires knowledge of certain management procedures and systems through selective inspections, which are carried out on specific subjects, either autonomously or in conjunction with the managing departments.

3.20. However, although the Financial Controller has over the last twelve years sent the Authorizing Officers in question reports on the implementation of measures for which they are responsible, he has, on the other hand, sent the Commission just five reports under the abovementioned Article 11. The most recent was in 1984. These reports were not all the result of selective inspections and they did not really deal with subjects that reflected the concerns of internal auditing, thus obliging the institution itself to find remedies for the failings or deficiencies in the quality of its management. This is not in itself surprising since, in the present system, the Financial Controller cannot easily draw attention at a later date to management errors which he endorsed when granting prior approval.

Relations between the Financial Controller and the Court of Auditors

3.21. The external auditor needs to have a precise idea of the reliability of the system of internal control. This presupposes in particular sound information on the performance of the Financial Controller, both when he carries out the *ex ante* checks on each expenditure transaction (prior approval procedure) and when he is acting as an internal auditor (*a posteriori* reports on the weaknesses of the system).

3.22. However, citing his duty of loyalty towards his institution, the Financial Controller is reluctant to disclose the contents of his files and makes only some of his audit reports available. He does not provide notification when he withholds his approval since he considers such acts as preparatory and not final. He considers that he is only obliged to notify cases where his decision to withhold approval has been overruled. This is a particularly regrettable attitude, given that the granting of approval is a key element in the internal control provisions of the present system. In the absence of the most obvious proof that the mechanism is working properly, i.e. the withholding of approval, it is difficult for the Court to satisfy itself as to the reliability of this part of the internal control system, let alone carry out its own inspections on the basis of its results. The Court is all the more entitled to insist on being kept adequately informed on these matters since, like all other Community departments, that of the Financial Controller is subject to the obligations laid down in the Financial Regulation and must therefore disclose to the Court all such information as the latter may consider necessary for the execution of its task.

THE AUTHORIZING OFFICER

3.23. The role of the Authorizing Officer is an important one in the internal control structure, in so far as he bears prime responsibility for the financial operations he initiates. He is responsible for the quality of the area of financial management entrusted to him, and in particular for the quality of the procedures upon which he bases his decisions. In broad terms, the Authorizing Officer is responsible for the sound management of the Community funds which he manages and, under current 'budgetary discipline', for ensuring that the decisions taken ultimately enable budgetary limits to be respected. Where financial operations are carried out jointly with Member State agencies, similar responsibilities devolve upon Member State officials. In cases of shared management the Community's Authorizing Officer and his national counterparts are expected to cooperate to ensure that there are adequate arrangements for the proper, consistent management of Community resources.

3.24. The Authorizing Officer would be more aware of his responsibilities, particularly as regards sound finan-

cial management, if the Financial Controller's prior approval of his acts of management did not cover the area of sound financial management⁽²⁾ and if, conversely, when carrying out his *ex post* audits, the Financial Controller were obliged to draw the institution's attention to all the cases he had discovered in which funds had been badly utilized and in so doing provided an analysis of them and suggestions for possible improvements to the management systems, so that a repetition of any mistakes could be prevented.

THE ACCOUNTING OFFICER

3.25. As far as central management is concerned, the conditions for implementing the responsibilities allocated to Accounting Officers and to the administrators of imprest accounts are inadequate. The guarantees they provide are far from complete. The Accounting Officer, who both handles funds and keeps the accounts, has financial responsibility in some fields where the Financial Controller has virtually no influence, e.g. the safeguarding of cash resources, the collection of debts and revenue and the regularity of the payment of funds to those entitled to them. For operations subject to the Financial Controller's approval, the Accounting Officer is obliged to carry out final checks to ensure their legality and regularity (e.g. detection of substantive errors, validity of the discharge and observance of the procedures laid down in the Financial Regulation).

3.26. The Accounting Officer's financial responsibility comes into play when his institution refuses him discharge, but discharge is not the culmination of any specific control procedure. It may even be given in cases where the Court of Auditors has already discovered an irregularity. This liability is usually covered by an insurance policy, paid for by the institution, which exonerates the Accounting Officer from any personal financial liability. The Accounting Officer's guarantee account, which is funded from the allowances the institution pays him, is to be used only if the insurance company will not accept the claim, for example on the grounds that the Accounting Officer has intentionally made a mistake or shown serious negligence. Drawing on the guarantee account presupposes, in accordance with the Financial Regulation, the instituting of disciplinary proceedings. The financial liability of the Accounting Officer is therefore mainly theoretical and is insufficient to safeguard from irregularities those areas not inspected, or inadequately inspected, by the Financial Controller.

STRENGTHENING THE STRUCTURE OF INTERNAL CONTROL

3.27. Apart from the duties assigned in this field to the Financial Controller, responsibility for the legal, regular management of Community funds and the observance of the principles of sound financial management lies primarily with the Authorizing Officer. In addition, concerning payments, should the Authorizing Officer fail in his duties, the Accounting Officer can provide an additional, even stronger safety net in respect of the formal matters mentioned in paragraph 3.25 since he is clearly and effectively responsible for handling funds and keeping the accounts. This system is based on the idea that the persons concerned act within a framework of clearly defined responsibilities.

3.28. It is important that the exercise of these responsibilities should be carried into effect. To this end, the Court proposed a number of amendments to the Financial Regulation in its Opinion No 1/89. Broadly speaking, these proposals aim to discharge the Financial Controller of his responsibilities concerning the *ex ante* control of sound financial management and to put him in a position to carry out all the duties of an internal auditor, in particular by encouraging him to draw the attention of his institution, or of its hierarchy, to each case where shortcomings on the part of the Authorizing Officer or the Accounting Officer are revealed and to any structural weaknesses. Rather than allowing the present trend to continue, where the Financial Controller is being encouraged to extend his influence to the level of the preparatory acts for the most important decisions, it is essential that the work of the Financial Controller should be gradually reorientated. His work should be concentrated primarily on the systems of financial management and organization, i.e. on the environment in which the managers work.

3.29. The approval system should be just one of the means of expression open to the modern Financial Controller. It should signify that the Financial Controller is informed of all the financial transactions and that he is able, using methods of selective checking, to testify, with a high degree of reliability, to their legality and regularity.

3.30. On the other hand, it is absolutely essential for the internal audit work of the Financial Controller to be extended to cover all the financial transactions of his institution. He should regularly carry out a detailed examination of the recording of revenue and the commitment and payment of expenditure, the cash situation, the items making up the balance sheet and the drawing-up of the accounts. He should also increase his selective inspections of all transactions, such as those relating to each of the structural Funds or the common organization of the markets, in order to carry out a permanent assessment of their quality and efficiency. He should also pay particular attention to auditing the work of the Accounting Officers, on the one hand by certifying

⁽²⁾ See paragraph 4.2 of Opinion No 1/89 (OJ C 72, 20.3.1989).

the accuracy of the accounts and balance sheet of the institution and, on the other, by providing the institution with an opinion on whether or not to give discharge to the Accounting Officer.

3.31. At least once a year, more often in matters of urgency, he should report to his institution on the manner in which Community funds are managed, drawing attention, where necessary, to any management errors committed by a particular Authorizing Officer or Accounting Officer and suggesting how they may be avoided in future. He would thus provide his institution with the assurance that the whole internal control structure is functioning properly, as he would be in a position to prevent, detect and correct any weaknesses.

3.32. The liabilities of the Accounting Officer should be enforced more effectively. Any loss should, in the first instance, automatically be refunded from his guarantee account. For losses exceeding the amount available, and also for any of which the Accounting Officer should be exonerated because he had made no mistake and committed no act of negligence, *ad hoc* procedures should make it possible to make good the loss suffered by the institution. In any event, each Community institution should save on existing insurance costs by acting as its own insurer, as happens in the Member States. The period in which an institution is required to take a decision on the discharge to be given to Accounting Officers should be shortened to six months from the date when the revenue and expenditure accounts are submitted. This would leave sufficient time for the Financial Controller to give his opinion. The Budgetary Authority would then also be in possession of information essential for taking its decision on whether or not to give discharge.

CHAPTER 4

Revenue

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INTRODUCTION

4.1. This chapter concerns revenue from VAT own resources and traditional own resources (customs duties and agricultural levies other than sugar levies) which are made available to the Communities in accordance with Council Decision 88/376/EEC, Euratom of 24 June 1988 ⁽¹⁾. The chapter is divided into two main parts: VAT own resources and traditional own resources. Each of these parts includes a section on management. In addition, in the latter part the Court reports on its examination of a major customs regime — the Community inward processing relief arrangements.

4.2. The Communities' own resources deriving from VAT are the most important element of the Com-

munities' revenue. In 1988 VAT own resources amounted to 24 311 Mio ECU or 58 % of the total revenue. Traditional own resources other than sugar levies amounted to 10 664 Mio ECU or 25 % of total revenue.

4.3. The audits referred to in this Chapter concerned periods which were governed by Council Regulations Nos 2891/77 ⁽²⁾ and 2892/77 ⁽³⁾. They have been replaced by Council Regulations Nos 1552/89 ⁽⁴⁾ and 1553/89 ⁽⁵⁾ respectively. Nonetheless, the lessons to be learned from past experience are relevant to the future management of revenue, particularly in the light of the strengthened powers of the Commission.

⁽¹⁾ OJ L 185, 15.7.1988, p. 24.

⁽²⁾ OJ L 336, 27.12.1977, p. 1.

⁽³⁾ OJ L 336, 27.12.1977, p. 8.

⁽⁴⁾ OJ L 155, 7.6.1989, p. 1.

⁽⁵⁾ OJ L 155, 7.6.1989, p. 9.

VAT OWN RESOURCES

Commission controls on implementation of the sixth VAT Directive

The link between VAT own resources and the VAT legislation in the Member States

4.4. According to Council Decision 88/376/EEC, Euratom of 24 June 1988 regarding the Communities' system of own resources, VAT own resources are calculated by the application of a call-up rate to a VAT base determined in a uniform manner for each Member State. The correct application of the VAT law is a prerequisite to the proper calculation of VAT own resources. Article 2 of Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 provides that 'the VAT own resources basis shall be determined from the taxable transactions referred to in Article 2 of the sixth VAT Directive 77/388/EEC ⁽⁶⁾ of the Council' — hereafter called the Directive.

4.5. In order to ensure that own resources' VAT revenue is properly determined it is necessary, in the first instance, that the legislative framework in the Member States in regard to the Directive conforms with Community law. The Court therefore examined the Commission's systems for ensuring conformity between national law and Community law.

The basis of Commission control

4.6. Under Article 155 of the EEC Treaty the Commission, in order to ensure the proper functioning and development of the common market, shall ensure that the provisions of the Treaty and the measures taken by the institutions pursuant thereto are applied. The Member States under Article 5 of the Treaty shall take all appropriate measures and 'facilitate the achievement of the Community's tasks'. If a Member State fails to fulfil an obligation under the Treaty, the Commission is empowered under Article 169 to bring the matter before the Court of Justice.

4.7. In regard to directives Article 189 of the Treaty states that they 'shall be binding, as to the result to be achieved, upon each Member State to which it is addressed but shall leave to the national authorities the choice of form and methods'. With regard to the translation of the Directive into national law the Commission adopts the approach that, in order to enable it to fulfil its Treaty obligations the Member States should provide it with details of all relevant legislative, statutory or administrative provisions.

4.8. The Commission's system for assessing whether national measures conform with Community directives provides for an initial testing of national legislation coupled with continuous systematic surveillance of all amending national provisions and interpretations and recording thereof. Furthermore, in this context, as far back as 1979, a *déclaration de concordance* was foreseen for internal control purposes. If national provisions are not considered in conformity corrective procedures should be initiated. As will be seen from the following paragraphs the conformity examination procedures are largely inoperative in so far as the sixth VAT Directive is concerned.

The implementation of Commission control and the protection of VAT own resources

4.9. A comparative examination of national provisions is an important tool for ensuring the uniform application of the Directive in Member States. Unless the Commission has on file all national provisions relating to the implementation of the Directive — basic laws, regulations, statutory instruments and administrative instructions — it obviously cannot carry out conformity checks or make an adequate comparative examination of national provisions. In this regard the Court found that:

- (a) after the expiry of the time limit for the transmission of relevant national provisions immediately following the adoption of the Directive in 1977 no fixed procedure was instituted for the transmission, on an ongoing basis, of all relevant national provisions by Member States to the Commission. The Court already drew attention to this type of problem in its 1986 annual report ⁽⁷⁾. There is still no systematic despatch to the Commission of all national provisions relevant to the implementation of the Directive;

⁽⁶⁾ OJ L 145, 13.6.1977, p. 2.

⁽⁷⁾ Annual report 1986, paragraph 4.9 and the Commission's replies.

- (b) the absence of uniformly applied procedures is reflected in the uneven availability in the Commission services of documentation on national legislation. Records of the basic national legislation exist there in respect of all Member States but in regard to amendments thereof it was found that in the case of Greece, Ireland, Italy and the United Kingdom these are only made available when detected by the Commission services and requested;
- (c) apart from documentation on basic national laws and some supplied amendments, documentation on related national provisions was not available in a complete and systematic form in the Commission services. Much of the information which is available is largely due to the personal initiative and interest of some Commission officials rather than to a system which would permit the Commission to know if, or to what degree, the national legal documentation it has is complete;
- (d) even though the Commission undertook, in its replies to the Court's remarks in the 1986 annual report, to carry out systematic horizontal checks, it has so far only collected and initiated examination of the basic legal texts of some Member States.

4.10. The Commission's report on the functioning of the Community VAT system⁽⁸⁾ according to Article 34 of the Directive, reflects the difficulties related to the conformity checks and the consequences of the lack of a systematic approach. Indeed, in spite of long delays in establishing the report it primarily consists of specific cases and situations. It highlights certain difficulties but it does not cover the functioning of the Community VAT system as such. The Commission's report to the European Parliament on the application of Community law⁽⁹⁾, makes no reference to the conformity of national VAT legislation with Community provisions. The Court would consider it desirable that the report should cover this matter.

4.11. Due to uncertainties and lack of clear procedures in relation to the assessment of the national provisions and their conformity with the Directive, there is no systematic assessment of conformity by the services of the

Commission. In March 1989 no assessment of conformity had yet been made in respect of Spain, which is paying VAT own resources since January 1986, and in respect of Greece which is paying VAT own resources since January 1987. Portugal pays VAT own resources since January 1989. The assessments for the other Member States relate only to the introduction of the Directive, between 1979 and 1980, and have not been updated since.

4.12. Furthermore, the Commission tends to regard existing provisions as conforming with Community legislation unless breaches are noted. Provisions which have previously been assessed are not subject to further checks. Such a situation obviously gives no assurance regarding the conformity of national provisions.

Conclusions

4.13. The disparities in the availability of national legal documents at Commission level and the lack of detailed internal rules which would define the control methods and procedures necessary for assessing the level of consistency of national legislation with the Directive conspire against the establishment of the degree of conformity of national VAT legislation *vis-à-vis* the Directive. This is a serious matter as the correct establishment of the VAT own-resources base clearly depends on the conformity of national VAT provisions with the Directive (see also paragraph 3.7).

4.14. The Court recalls that in its 1986 annual report it underlined the obligation on the Commission 'to monitor national legislation to make sure that it is consistent with the Council's sixth VAT Directive.' The Commission replied at the time: 'the problems raised by the Court are now being settled.' It also said: 'since 1 July 1987 the national legislation of all the Member States without exception has been subject to review and systematic monitoring.' The Court's examination of developments since 1986, however, indicates that the Commission's declarations have yet to be translated into effective action.

4.15. The Court considers that the monitoring system as applied by the Commission does not give the assurance that all national law is in conformity with Community legislation or that the application of the Directive leads to comparable results in all the Member States.

⁽⁸⁾ Doc. COM(88) 799 final.

⁽⁹⁾ Doc. COM(88) 425 final.

*VAT own-resources management***Introduction**

4.16. VAT own resources are transferred to the Communities on a provisional basis in the first instance. The amounts made available each month are one twelfth of the budget for the year. Before the first of July each year, however, the Member States must submit an annual statement of the actual VAT own resources due in respect of the preceding budget year. The balance between the figures which emerges from the statements and the provisional amounts, whether negative or positive, is entered in the accounts on the first working day of the following August.

4.17. Within the framework of Regulation (EEC, Euratom, ECSC) No 2892/77 the Commission is empowered to check the annual statements it receives and Article 10(b) of this Regulation as amended by Regulation (EEC, Euratom, ECSC) No 3625/83⁽¹⁰⁾ sets out the basis for amending the statements, where necessary. Under this article amendments can be made by mutual agreement between the Commission and the Member States. They can be made retroactively for a maximum of three years only where the Commission or the Member State has formally entered a 'reserve'. A 'reserve' arises where there is no agreement regarding an amendment. Even in this case, the Commission is empowered, under Article 10(b), after a 'new examination' of the facts to take the measures it considers necessary to ensure that the Communities' VAT own resources are protected.

4.18. 108 Mio ECU were made available as a result of amendments to the annual statements from 1986 to 1988.

4.19. Article 23 of the Financial Regulation⁽¹¹⁾ provides that 'all measures which may give rise to or modify a debt due to the Communities must be preceded by a proposal from the competent authorizing officer'. Such a proposal to establish the debt accompanied by a recovery order for the related amount must be forwarded to the Financial Controller for his approval. However, Article 15 of the implementing regulation⁽¹²⁾ for the Financial Regulation provides that even where the amount of the debt is not known a proposal should be prepared for the Financial Controller's approval and as far as possible an estimate of the amount and the expected date of payment should be indicated. When the Commission proceeds to recover a VAT own-resources debt, it asks the Member

State to calculate the amount due and to make it available within three months.

Weaknesses in current procedures

4.20. Although the Commission follows procedures described in its second report⁽¹³⁾ on the application of Regulation (EEC, Euratom, ECSC) No 2892/77 as amended, the Court has noted that there are no formal instructions within the competent Commission services which define the steps to be taken when, under Article 10(b) of Regulation 2892/77 as amended by Regulation (EEC, Euratom, ECSC) No 3625/83, the Commission considers it necessary to take measures in the absence of agreement with a Member State. In many instances of disagreement between a Member State and the Commission involving a 'reserve' by one or the other party, examination of the disagreements has been postponed until the next ordinary on-the-spot check on the annual statement in the Member State in question.

4.21. These on-the-spot checks occur only once a year and 'reserves' can and do continue for several years. There should be urgent and automatic follow-up of reserves on the basis of a defined time table and Member States should be asked to furnish forthwith all information and documentation considered necessary by the Commission to determine the existence and the amount of own resources in question. At the end of 1988 the Court noted 24 reserves pending, which were established for the first time as follows: one in 1981 (UK), two in 1985 (L + D), two in 1986 (F + UK), four in 1987 (F + UK) and the balance in 1988.

4.22. The Court discovered that reserves are not recorded in the accounts of the Commission. There is a need to have an accounting record of all reserves so as to ensure proper and efficient follow-up.

Consequences for own resources of breaches in VAT law

4.23. Breaches of the Communities' VAT law within the Member States can have consequences for VAT own resources. Consequently close coordination between all the Commission services respectively responsible for these areas is essential. The Court noted, however, that the quarterly coordination meetings between all concerned services initiated in 1983 have fallen into disuse.

⁽¹⁰⁾ OJ L 360, 23.12.1983, p. 3.

⁽¹¹⁾ OJ L 356, 31.12.1977, p. 10.

⁽¹²⁾ OJ L 360, 19.12.1986, p. 3.

⁽¹³⁾ Doc. COM(88) 99 final.

One of the results is that if own resources are involved there can be an unnecessary delay in establishing and recovering the relevant amounts.

4.24. The Court noted that, in the case of two assumed breaches of the VAT law which were known to the Commission services since December 1987 and March 1988 respectively, the Commission had not entered a reserve on the relevant annual VAT own-resources statements. Even where the Commission has undertaken legal action under Article 169 of the Treaty it has not entered a reserve on the related VAT own resource statements. The Court noted one such case (D) dating back to January 1988. It has also noted three cases (GR, D, E) from 1987 and 1988 where the infringement procedure pursuant to Article 169 of the EEC Treaty was initiated but no demand was issued for the relevant own-resources amounts by the Commission, contrary to its own internal coordination procedures. In one case (D) this demand was issued with a delay of more than one year with the effect that no interest could be applied for this period. It should hardly be necessary to stress that the Commission should always check if there are consequences for the Communities' revenue when breaches of the VAT law are suspected. In any event, as a precaution, where there is doubt, the Commission should automatically enter a reserve on the relevant annual statement and fix a deadline for the establishment of the debt.

Verification of adjustments

4.25. Particular attention should be paid to checking the amounts paid by Member States following adjustments to the annual statements. In practice, transfers are not accompanied by supporting documents which would allow the Commission to check that a payment covered the total amount due. The Court found that in five cases of adjustments the amounts first paid covered only 0,1 %, 18 %, 44 %, 57 % and 95 %, respectively, of the amounts which were finally agreed between the Commission and the Member States concerned.

Interest on late payments

4.26. Article 11 of Council Regulation (EEC, Euratom, ECSC) No 2891/77 provides for the imposition of interest after 'any delay in making the entry in the account referred to in Article 9 (1)'. Where there is disagreement between the Commission and a Member State over the amount of VAT own resources due and a reserve has been entered by one of them, interest will only be imposed from

the date fixed by the Commission in its eventual demand for payment. The issue of such a demand from the date the reserve was first entered could take years. Any delay in the payment of own resources should result in the imposition of interest. In the view of the Court that is the purpose of Article 11.

Partial payment of amounts due

4.27. Even where the imposition of interest has been foreseen the Court has noted that after only a partial payment of the principal amount due the interest on the balance is abandoned.

4.28. In a United Kingdom case, due to lack of precision regarding deadlines on the part of the Commission in its demand for payment, interest was charged on amounts due for only part of the period concerned. The Court notes with satisfaction, however, that the Commission has now amended its standard form of demand for payment to avoid such a situation occurring again.

Delayed payment of interest

4.29. The Court has observed that even when the deadline for the payment of the principal has passed without the payment being made a recovery order for the payment of interest then due is not always issued by the authorizing officer. In the opinion of the Court this contravenes Article 23 of the Financial Regulation.

4.30. In practice what happens is that if payment of own resources due is not effected within the time stipulated a new demand for payment is issued to cover interest due and a deadline is fixed for the payment of the interest. This can have the effect of unnecessarily delaying the interest payments. Both the principal and the interest should be paid simultaneously at the earliest possible date. In the Court's view payments received should firstly be imputed against any interest due, with any balance being imputed against the principal. Indeed, Article 9 of the Commission's own internal procedures concerning the recovery of debts so requires. At the very least, if interest is paid later than the principal, that late interest should be subject to additional interest.

Conclusions

4.31. The correct application of the Financial Regulation implies that the procedures foreseen in Article 23 should be initiated as soon as the services of the Commission become aware of any facts which may give rise to a debt. In the Court's view the control over the debts relating to VAT own resources established by the Commission's services in various ways and from various sources is not sufficiently rigorous. The Financial Regulation aims to recover, without exception, all debts due to the Community by providing for an immediate entry into the accounts and the establishment of recovery orders even where the amount of the debt is unknown. The way in which this regulation is implemented by the Commission influences the timely and correct establishment of amounts due, and also the possibility of recovering debts in full because of the provisions of Article 10 (b) of Regulation (EEC, Euratom, ECSC) No 2892/77 as amended by Regulation (EEC, Euratom, ECSC) No 3625/83 regarding retroactivity. The fixing of deadlines for payments can be adversely affected as also the possibilities for imposing interest. Of the 108 Mio ECU referred to in paragraph 4.18, 75 % was paid without interest because of the absence of a payment deadline. The Court recommends that, in order to ensure strict respect of the Financial Regulation, the Commission undertakes a thorough review of its procedures concerning the recovery of amounts due (see also paragraphs 3.17 — 3.18 and 3.29 — 3.31).

TRADITIONAL OWN RESOURCES

Traditional own-resources management

4.32. The Court has looked at some aspects of the management and control of traditional own resources: the availability of proper financial and management information, the impact of Commission inspections, the evaluation of Member States' systems, and the adequacy of the legal framework.

Financial information

4.33. The monthly statement of account of own resources sent by Member States to the Commission is the basic source of information regarding traditional own resources. The accepted practice is to forward this information first by telex and without supporting

documentation, as a consequence of which only limited checks by the Commission at that stage can be carried out. This telex is, *de facto*, the basis for the recovery order which is issued by the authorizing officer.

4.34. Accounting information in the monthly statements is, in any event, not sufficiently detailed and no standardized nomenclature is respected in spite of previous attempts by the Commission to introduce such nomenclature. Only gross figures per budget item are provided, adjustments can rarely be identified and information on remissions and repayments is incomplete. Some detail on agricultural levies is provided but the data varies considerably according to Member State thereby permitting no real evaluation of the amounts stated. There is a clear need for a more adequate budgetary nomenclature and a fixed and detailed accounting presentation using common terminology which the Member States would be obliged to respect (see also paragraphs 4.51 — 4.53 and 4.58).

Management information

4.35. Apart from the monthly statements there are other ways for the Commission to inform itself regarding the establishment and making available of own resources. Of particular importance are the annual summary accounts and the six-monthly reports which the Member States must forward to the Commission under Council Regulation (EEC, Euratom, ECSC) No 2891/77 of 19 December 1977. To be useful the information should be presented in good time. The Court noted, however, that delays between the end of the observed period and the moment of transmission vary between four months and over one year. At the beginning of 1989 one Member State for instance — Italy — had not yet sent in the information for 1987.

4.36. The content of the reports varied considerably. The Court noted only very limited harmonization in the information furnished and a lack of significant elements such as results of inspections and levels of control.

Impact of Commission inspections

4.37. An important control tool for the Commission is the option provided for in Article 18 of Council Regulation (EEC, Euratom, ECSC) No 2891/77 to associate itself with Member States' inspection measures.

However, the Commission's use of this tool is limited in its effectiveness because its audits are not based on a coherent strategy which incorporates a clear description of objectives and a programme for the achievement of these objectives. The number of inspection visits (one or two per Member State per year) is not determined by the amount of the own resources involved or the complexity of the systems in the Member States. Neither does it systematically incorporate a verification of the accounts. The financial results of inspections are rarely taken into account because there is no systematic follow-up in the Community accounting system. As an illustration of this the Court noted cases involving the United Kingdom, which applied *force majeure* in 21 instances of non-recovery of own resources for a total amount of 842 832 ECU and even though the Commission did not agree, the relevant own resources were still not made available (see also paragraph 6.155).

Evaluation of Commission's supervision

4.38. The Court considers that the supervision by the Commission of the Member States' systems for establishing and accounting for own resources would be improved if its approach were more methodical, comprehensive and better documented. Although information is available in the Commission's services it is not complete, not easily accessible and very often not systematically documented. The Commission, therefore, is not in a position to assess the effectiveness of these systems. National internal controls, if properly coordinated with the Commission's controls, could improve the general level of confidence in the Community own-resources system.

Legal framework

4.39. The situation described above is partly attributable to the inadequate and incomplete regulatory framework. The two regulations governing the management and control of own resources — the Financial Regulation and the basic implementation regulation for own resources, Council Regulation (EEC, Euratom, ECSC) No 2891/77 — do not provide explicitly for an obligatory and systematic procedure of verification of the correctness of Member States' monthly payments of traditional own resources.

4.40. As monthly payments are made at a time when the Commission is not in possession of all information necessary to verify their accuracy they should be treated as provisional payments only. However, there is a need for a time limit within which Member States must furnish the Commission with details of established own resources, of collected own resources and of any adjustment

made to figures previously supplied, including any amendments to monthly statements already furnished to the Commission. On the expiration of the time limit the Commission should have a reasonable assurance that all sums due have been paid and it should thus be possible for it to definitively close the accounts. In this respect the Court notes that Article 2 of Regulation (EEC) No 1697/79 of 24 July 1979⁽¹⁴⁾ on the post-clearance recovery of customs duties provides that no action to recover the duties not collected may be taken after the expiry of a period of three years from the date of entry in the accounts.

Consequences for own resources

4.41. Due not only to the inadequacy of the Community provisions but also to the way in which these provisions are implemented by the Commission the Court is of the opinion that the Commission is not in a position to ensure that the traditional own resources made available to the Communities correspond to the amounts which are due. The Commission's approach to the control of Community revenue has allowed the situation to develop whereby a majority of Member States, contrary to the provisions of Regulation (EEC, Euratom, ECSC) No 2891/77, only make available the revenue collected and not the amounts established. Furthermore, excessive delays have been noted in the establishment of own resources, for instance where incomplete declarations are involved (see also paragraphs 3.4, 3.7, 3.17 — 3.18, 4.71 — 4.72).

Conclusion

4.42. In view of the foregoing it is clear that the Commission's administration and control over own resources needs to be considerably strengthened so that the budgetary authority can have reasonable assurance that the Communities' own resources are properly established, collected and accounted for. However, the Court is firmly of the view that to do this properly the Commission should have adequate powers of audit over the Member States' accounts, accompanied by clearly defined control procedures. The VAT regime, while imperfect, benefits from an implementing regulation which has, at least, the merit of foreseeing rules to be followed when debts due to the Communities are disputed. There is a deficiency in this respect in the traditional own-resources regime which needs to be remedied. Commission control, moreover, would be strengthened if the revenue accounting procedures were

⁽¹⁴⁾ OJ L 197, 3.8.1979, p. 1.

brought into line with the expenditure procedures, and if the budgetary and accounting nomenclature for Community revenue were more complete.

4.43. The Court has given its view on these matters in the opinions which it has delivered successively on the proposal for a Council Regulation implementing the Decision of 24 June 1988 in respect of the Communities' own resources system (Opinion No 8/88 of 17 November 1988) ⁽¹⁵⁾ and on the proposal for a Financial Regulation applicable to the general budget of the Communities (Opinion No 1/89 of 9 February 1989) ⁽¹⁶⁾.

4.44. It is essential that the Commission's supervisory role should become more dynamic. It should exploit every possibility in order to properly assess the amount of own resources to be made available to it and to stipulate any corrections necessary. This presupposes a higher quality of accounting and financial information than is available at present and a more thorough knowledge and assessment of national internal control (see also paragraphs 3.29 — 3.31).

4.45. Member States are not entitled to relieve themselves of obligations imposed upon them by Community Regulation. In the Court's view, the Commission's failure to insist upon payment of all established own resources due, whether collected by Member States or not, constituted a waiver by the Commission of revenue properly due to the Community.

Repayment or remission of import or export duties

Introduction

4.46. The entry of goods into free circulation and the related establishment of customs duties are, in principle, irreversible. However, repayment or remission of import or export duties is provided for in certain circumstances by Council Regulation (EEC) No 1430/79 of 2 July 1979 as modified ⁽¹⁷⁾, hereinafter called the Regulation. Repayment is defined in the Regulation as the total or partial refund of import or export duties which have been paid whereas remission means the complete or partial

waiving of import or export duties which have been entered in the Member States' accounts, but which have not yet been paid.

4.47. All categories of traditional own resources can be affected by repayments or remissions which form an important aspect of the financial management of the Community budget. The corresponding financial effect cannot be determined as the amounts involved are not mentioned separately in the monthly statement of account of own resources by all the Member States. The amount involved was 92 Mio ECU for 1987 and 66 Mio ECU for 1988 in respect of the four Member States (Belgium, Denmark, Ireland and the United Kingdom) which do provide particulars (see paragraph 4.51). The monthly statements of all Member States should furnish details of all own-resources adjustments. It is unsatisfactory that although the Court over a period of nine years has drawn attention in four previous annual reports ⁽¹⁸⁾ to the lack of adequate financial and management information in monthly statements, remedial action has not yet been taken by all Member States.

4.48. The Court has examined the relevant Community provisions and their application. For this purpose on-the-spot missions were carried out in the FR of Germany, Greece, the Netherlands and Spain and discussions were held with the Commission.

Description of the system

4.49. The Community scheme for repayments and remissions is a complex system due to the existence of numerous detailed rules and frequent derogations. It can be summarized as follows:

- (a) the duties established may be remitted or, where they have been paid, repaid, in certain specified and limited cases;
- (b) in respect of the above cases formal and substantive conditions for granting repayment or remission are laid down in the implementing regulations, e.g. in relation to the application and the status of the goods. Failure in complying with these conditions nevertheless does not automatically lead to a formal refusal of

⁽¹⁵⁾ OJ C 331, 8.12.1988, p. 31.

⁽¹⁶⁾ OJ C 72, 20.3.1989, p. 1.

⁽¹⁷⁾ OJ L 175, 12.7.1979, p.1.

⁽¹⁸⁾ Annual report 1979, paragraph 3.22; Annual report 1983, paragraph 1.17; Annual report 1984, paragraph 3.8; Annual report 1986, paragraphs 4.14 — 4.17.

repayment provided that no obvious negligence or deception can be attributed to the person concerned ;

- (c) the actual granting of repayment or remission is furthermore dependent on the following steps in the authorization procedure being respected : submission of application, checks by customs on compliance with the stipulated conditions, decision by customs and implementation of the decision (e.g. re-exportation). However, the possibility of changing the sequence of these steps is foreseen, for instance, where goods are re-exported before the application has been decided upon.

4.50. The system also contains certain internal contradictions, for instance where re-exportation of the goods under supervision constitutes a condition for repayment but legal provisions simultaneously allow for re-exportation without supervision. There are numerous rules providing frequent exceptions which allow a wide margin of interpretation. In addition, the decision-making process has been largely decentralized by a gradual transfer to Member States of the Commission's power of decision.

Observations relating to the accounting aspects

4.51. In respect of the availability of accounting data concerning repayments and remissions significant differences exist between the Member States. At Community level, one Member State (Belgium) mentions both repayments and remissions in the monthly statement of account of own resources. Three others mention repayments only (Denmark, Ireland, the United Kingdom). The remaining Member States give no information regarding repayments and remissions.

4.52. In the Member States visited, the data is available at central level in the Netherlands and Greece but not in Spain and the FR of Germany. In the latter case the relevant accounting information was not even available at local level. In France and Spain the amounts of remissions are simply subtracted from the own resources established at local level in the same accounting period. In Spain it was found that repayments had not been deducted from the amount of own resources made available, as provided for by Regulation (EEC) No 1430/79 (Article 24) and corrective action was taken only after the Court's mission.

4.53. The separate identification in the monthly statement of account of own resources of amounts repaid and remitted and their identification in the accounts for own

resources kept by the Treasury of each Member State would, as previously stated, considerably improve the management and control of the Communities' own resources by the Commission.

Observations relating to the application of the regulations and controls by Member States

4.54. The system to protect own resources provided for in the Regulation tends not to be sufficiently respected in the face of trade and commercial pressures. It appears from examination of the dossiers in respect of applications for repayment or remission and from interviews with the customs officials involved that decisions taken were based to a large extent on assumptions that the formal and substantive conditions required by the Regulations had been met. The following paragraphs illustrate this.

Administrative procedures

4.55. A lack of uniformity and shortcomings were found in the Member States' procedural rules and practices:

- (a) incomplete information is given in the applications, e.g. imprecise details of the office where the duties were first entered in the accounts and no mention of the exact location of the goods ;
- (b) special application forms exist in the FR of Germany and Spain but not in Greece and the Netherlands ;
- (c) the decision-making authority, the control authority and the implementing authority are not clearly defined in national instructions in Member States ;
- (d) adequate records of applications are not kept by the decision-making authority. These should give a complete view of the applications received and of the amounts of duties involved. In Greece, only regional records of applications for repayment of all duties were kept and these did not identify separately own resources. In Spain, only repayments were recorded at the main customs house and there was no record of remissions. In the FR of Germany, no official registration at all is made upon receipt of applications at the main customs house.

Substantive and formal conditions

4.56. Several instances were noted where substantive and formal conditions were not properly respected:

- (a) decisions were taken in the absence of necessary evidence of the goods being defective, upon evidence of which repayment or remission is conditional (Article 5(1) of the Regulation) in Greece and the Netherlands;
- (b) import duties were remitted before the goods had been re-exported contrary to Article 9 of Regulation (EEC) No 1574/80 ⁽¹⁹⁾ in Spain;
- (c) applications for repayment or remission did not bear the date of receipt by the decision-making authority, thereby preventing a proper check in respect of deadlines in the FR of Germany;
- (d) lack of information in records kept by the decision-making authority did not permit an external verification of the decisions in the Netherlands.

Conclusions

4.57. The system for repayments or remission of import duties as laid down in the regulations is characterized by highly complex rules which are rendered even more complex by provisions for derogations. Greater clarity in and simplification of the rules governing the granting of repayments and remissions is called for.

4.58. The lack of appropriate accounting data in respect of both repayments and remissions at Community level and in Member States is considered a significant loophole in the system. The effective management of the system and the protection of the Communities' own resources are thereby hampered.

4.59. In respect of the actual implementation of Community provisions in the Member States the Court observed several instances where administrative procedures and customs controls on formal and substantive conditions were insufficient.

⁽¹⁹⁾ OJ L 161, 26.6.1980, p. 3.

*Incomplete customs declarations***Introduction**

4.60. Council Directive 79/695/EEC of 24 July 1979 ⁽²⁰⁾ on the harmonization of procedures for the release of goods for free circulation provides for common rules to ensure the correct application of customs duties, agricultural levies and similar charges. Consequently, this directive has a direct impact on the establishment of the Communities' own resources.

4.61. Article 6(2) of the above directive permits a customs authority to accept a customs declaration which lacks certain particulars or a declaration to which one or more of the prescribed documents are not attached. In either situation it is not possible to determine the final duty liability. The customs authority may require the provision of security upon release of the goods for free circulation. A time limit, normally one month, for the communication of the particulars missing from the declaration or the production of the missing documents must be set.

4.62. Commission Directive 82/57/EEC of 17 December 1981 ⁽²¹⁾, hereinafter called the Directive, aims to harmonize and streamline Member States' practices in respect of the entry in the accounts and the making available to the Communities of entitlements where incomplete declarations exist.

4.63. The Court has examined the provisions of the Directive and its implementation in Member States. For this purpose on-the-spot missions were carried out in the FR of Germany, Greece, Italy, the Netherlands and Spain and discussions were held with the Commission.

Description of the system

4.64. The main Community provisions relating to the establishment as own resources of import duties, pending final determination of their liability require:

- (a) the lodging of a security adequate to cover the difference between the amount of duties calculated on the basis of the information given in the declaration

⁽²⁰⁾ OJ L 205, 13.8.1979, p. 19.

⁽²¹⁾ OJ L 28, 5.2.1982, p. 38.

and the higher amount to which the goods might ultimately be liable;

- (b) the immediate entry in the accounts of the amount of import duties calculated in the first case under (a);
- (c) the fixing of a one-month time limit for the communication of outstanding particulars or the production of documents not supplied at the time the declaration was accepted, which can be extended to four months at the declarant's request under certain conditions.

4.65. At the expiry of the relevant period, if the declarant has not supplied the details necessary for the final determination of the duty liability, the customs authority must forthwith enter in the accounts as import duties the amount of the security provided.

Observations relating to the application of the Directive in Member States

Implementation of the Directive in national customs law

4.66. In Spain the Directive was not yet translated into national customs law at the time of the audit and in Greece, while the Directive was covered in an administrative circular, Greek national customs law still contained provisions different from those mentioned in the Directive. The Court points out that the two Member States have acted in breach of Article 26 of the Directive where a delay of half a year only was foreseen for bringing into force the measures necessary to comply with this Directive.

Registration of incomplete declarations

4.67. With the exception of Italy, incomplete declarations were not registered separately from complete declarations in the Member States visited. Furthermore, in none of the Member States visited was an account kept which would show at any time the amount of import duties for which duty liability was pending and which was secured by guarantees. It was therefore not possible to get, at the customs houses visited, an indication of the importance of incomplete declarations either in terms of their number or in terms of the duties involved.

Acceptance of incomplete declarations and provision of a security

4.68. In Italy and Spain the acceptance of an incomplete declaration has to be authorized by the customs authority upon a written request by the declarant whereas in the FR of Germany, Greece and the Netherlands an authorization to present certain particulars or documentation a posteriori is given implicitly by the acceptance of the declarations by customs. The first practice, in combination with an adequate registration of incomplete declarations, gives more assurance for an adequate monitoring system.

4.69. Because the relevant Community provisions in respect of the lodging of a security are not sufficiently precise different practices were observed in the Member States. The security lodged in Italy was specifically related to the amount of duties potentially due in addition to those already established whereas in the other Member States they were considered to be covered by a comprehensive guarantee. In Italy, however, certain importers were exempted from the obligation to provide a security for payment of import duties on the basis of national customs legislation which is incompatible with Article 13 of Directive 79/695/EEC and Article 2 of Directive 78/453/EEC (22).

4.70. The Commission should specify the form of the security to be lodged under the provisions of the Directive and also take the necessary action to secure a correction of the situation in Italy mentioned in the preceding paragraph.

Existence of excessive delays

4.71. In the FR of Germany, Greece and Spain the absence of explanatory provisions at national level and of guidelines at local level militate against an adequate monitoring of the system. Several instances were found where the time period laid down in the Directive was not respected and the import duties in question were not punctually entered in the accounts. The delays involved varied from 3 to 15 months and were most marked in the case of Greece with an average delay at the time of the audit of nine months.

4.72. The impact on own resources of the delays at the customs offices visited was not possible to quantify because no appropriate records were kept. However, the poor records, the inadequate monitoring system and the delays could lead to losses of own resources.

(22) OJ L 146, 2.6.1978, p. 19.

Observations relating to the Commission's supervisory role

4.73. The Commission has an essential supervisory role to play in ensuring the effective and uniform application of the Directive. Pursuant to Article 26 of the Directive Member States 'shall bring into force the measures necessary to comply with the Directive not later than 1 July 1982' and 'shall forthwith inform the Commission thereof' which 'shall communicate this information to the other Member States'. In the course of its audit the Court noted that:

- (a) although Spain and Portugal had not yet informed the Commission of the measures brought into force to comply with the Directive no reminders have been issued by the Commission;
- (b) there was no evidence, in the form of records, memoranda or reports, that the information received from Member States had been reviewed in a systematic way and had been evaluated as being adequate in accomplishing the objectives of the Directive.

4.74. The Court noted an unsatisfactory situation in respect of the time period for the production a posteriori of necessary information and documents with a view to determining the value for customs purposes. According to the provisions of the Directive (Article 7) and of Regulation (EEC) No 1224/80 of 28 May 1980⁽²³⁾ on the customs valuation of goods (Article 10), the corresponding delays are fixed at the discretion of Member States' customs authorities. The consequences are not only that divergent practices between Member States are permitted for presentation of the necessary information and documents, but also that significant delays can arise in the establishment of additional own resources where no deadline has been specified by the customs services, as noted by the Court during its audit. In the Court's view this situation militates against the effective monitoring and control of incomplete declarations.

Conclusion

4.75. The Court has found that in three of the five Member States examined monitoring systems and related control procedures are not adequate to ensure the proper application of the Directive on the one hand and that the Commission, on the other, has not been effective in its supervision of the system. This illustrates, once again, the extent to which own resources are put at risk and there is therefore an urgent need to improve the management of the Communities' own resources.

⁽²³⁾ OJ L 134, 31.5.1980, p. 1.

The Community inward processing relief arrangements

Introduction

4.76. The Inward processing relief (IPR) is a facility, set up by Council Regulation (EEC) No 1999/85 of 16 July 1985⁽²⁴⁾, allowing Community exporters/processors to import, on a temporary basis, goods intended for processing and subsequent exportation from the Community, normally in the form of manufactured products, without payment of duties or levies. Thus, Community processors are granted use of duty-free materials or components on the same basis as other trading blocs and the Community's export industries are placed on an equal footing with its competitors. The key economic condition for the granting of an import authorization for use of the IPR system is that the essential interests of Community manufacturers are not harmed by permitting favourable conditions for the use of competing materials. Therefore, certain economic conditions relating *inter alia* to the non-availability of similar home-produced goods (Article 6(1) of Council Regulation (EEC) No 1999/85) must be observed before IPR is authorized for the goods in question. Relief from import charges is granted by either:

- (a) suspending the duties on the goods on importation when they are placed under IPR arrangements (i.e. the 'suspension system'); or
- (b) by levying the duties on importation and refunding them later if and when the corresponding manufactured products are exported (i.e. the 'drawback-system').

4.77. The IPR arrangements were last examined by the Court in 1981/82 and the findings were published in a special report⁽²⁵⁾. The report related to the operation of the system under the provisions of Council Directive 69/73/EEC⁽²⁶⁾. The directive was superseded by Council Regulation (EEC) No 1999/85 with effect from 1 January 1987. Implementing provisions were adopted in Council Regulation No 3677/86⁽²⁷⁾ also with effect from 1 January 1987. Taken together, these Regulations provide a far more comprehensive and

⁽²⁴⁾ OJ L 188, 20.7.1985, p. 1.

⁽²⁵⁾ OJ C 286, 4.11.1982, p. 4.

⁽²⁶⁾ OJ L 58, 8.3.1969, p. 1.

⁽²⁷⁾ OJ L 351, 12.12.1986, p. 1.

clearly defined legal framework for operating the IPR system than the directive's rules. The Court has made an examination of these arrangements and the impact of the new Regulations.

Observations relating to procedures and controls

4.78. The audit concentrated particularly on the control procedures in four Member States, the FR of Germany, Italy, the Netherlands and the United Kingdom. Taken together these Member States account for approximately 65 % of the total value of goods imported under the IPR arrangements. Special attention was given to those aspects bearing most directly on the security and proper collection of own resources.

Authorization procedure

4.79. Access to the IPR arrangements is conditional on the issue of an authorization which is accordingly the most important single aspect of the IPR system. The regulations are specific as to what may be authorized.

4.80. Authorization is based on the fulfilment of certain economic conditions. Article 6 of Regulation (EEC) No 1999/85 states the specific situations when those conditions are considered to have been fulfilled. A formal application to avail of the IPR arrangements must be submitted and when applying an importer/processor must specify which condition applies.

4.81. Local customs officers are in a position to consider and approve the more standard general condition applications (Article 6(2), (3) and (4)), for example, job processing, repairs to goods, simple handling, etc. However, when wider Community information is needed in order to consider an application, it must be dealt with by a central national authority or in some cases by the Commission itself as, for example, where it is claimed that the goods are not produced in the Community.

4.82. In the Netherlands the Court found that consideration of all the economic conditions, including those of Article 6(1), was being decided at local district customs offices. It would be almost impossible for staff at this level to be in a position to make a proper assessment of the economic conditions involved.

4.83. The regulations provide for considerable simplification of the authorization procedures, enabling the customs import declaration supported by evidence to constitute the application. The United Kingdom makes the maximum use of this simplification under a system of General Authorizations (GA) covering all Article 6(2)-(4) situations. The applicant is only required by the United Kingdom authorities to quote the relevant GA number on the import entry. Acceptance of the entry constitutes the authorization. The Court considers that this procedure is in breach of Article 26(3) of Regulation (EEC) No 3677/86 because the comprehensive declaration required by that article is not demanded.

4.84. The Court also found weaknesses in the subsequent United Kingdom control system. For example:

- (a) the local control officer receives only a copy of the import entry, and no supporting documents whatsoever;
- (b) even after the initial control visit to the importer/processor, the control officer is under no instruction to confirm in writing any of the terms of the authorization.

Lodging of security in the suspension system

4.85. In 1982, the Court noted wide variations in the extent to which Member States required securities and these variations still existed in 1988. The German authorities require no security whatsoever and consider that security is not needed because a strict customs control is maintained over suspension operations. The Italian authorities operate a discretionary system distinguishing between low- and high-risk importers, (between 20 and 25 % of companies give financial security). The United Kingdom authorities require security only in very exceptional cases. At the time of the Court's audit, there had never been a case where security had been required. The Netherlands, where all traders are required to give security, is at the other end of the spectrum.

Customs controls

4.86. The Court found wide differences in the levels of control in the Member States. In the United Kingdom the basic concept is that the records and documents required to exercise control are held by the processor, and any

verification relies upon the traders' commercial records. Verification levels vary greatly, being a matter for local decision. The Netherlands system is similar, except that basic customs accounts are kept by the control office. There is a low level of verification at traders' premises, in general once every two years. The German system involves a close documentary control coupled with frequent on-the-spot verifications. The Italian system involves both on-the-spot verifications, and a tight documentary control, with the customs authorities granting discharge on the basis of records maintained by the control office.

4.87. The Court considers that the controls as found in the United Kingdom and the Netherlands were not of a standard to satisfy Community requirements, in particular, the control and handling of returns (Bills of discharge). During the Court's audit visits, instances were found where:

- (a) insufficient attention was being given to the use of the control records to make regular checks on late or outstanding returns (the Netherlands and the United Kingdom);
- (b) traders were submitting inadequately completed returns (United Kingdom);
- (c) there was lax customs control over the standard of returns made by traders with insufficient direction being given to them as to what they were required to do (United Kingdom).

Observations relating to the general management of the system

Release of goods for free circulation

4.88. Under the suspension system, an authorization may only be issued on condition that all the products resulting from the processing operation are to be exported. However, the IPR regulations make allowance for the fact that sometimes re-export is not possible. Thus provision is made for goods that have been imported under the suspension system to be released for free circulation, on payment of the appropriate charges

(diversions). The circumstances when this is allowed are strictly limited (Article 46(1) of Regulation (EEC) No 3677/86). These are when:

- (a) changed conditions make the planned exports uneconomical;
- (b) the products are secondary compensating products (by-products);
- (c) the trader is engaged in continuous production for both Community goods and third country markets and has been authorized on a proportional estimate (Article 8(2));
- (d) the processing cannot be carried out for technical or economic reasons.

4.89. The Court found considerable variety in the way the regulations have been interpreted and the way diversions were handled in the Member States. In the FR of Germany, the Court found that authorization on a 'general basis' had been interpreted as allowing the authorities to fix a general percentage rule for diversions. The percentage was set at 10 % and, on request, traders would be given this standard allowance. In the Netherlands the Court also found instances of a similar 10 % general basis allowance being granted. In the United Kingdom the Court found cases where diversions appeared to be unregulated and unrestricted.

4.90. The Court views with concern the misuse of the suspension system in respect of diversions as seen in the FR of Germany, the Netherlands, and the United Kingdom, where practices are not in accordance with the regulations. There is a clear need either to tighten the application of the regulations in force, or, if diversions are to be accommodated as a normal feature of the system, to introduce legislation providing for the imposition of interest where diversions occur.

The drawback system

4.91. Under the drawback system, a trader is using goods that have already been released for free circulation, and only obtains relief through a claim for refund on those products resulting from processing operations that are re-exported outside the Community.

4.92. The drawback system is therefore very useful for traders with mixed export/Community trade in varying

proportions, and those who have only occasional exports. It is the system that, in the first instance, provides the greater security of own resources. The existence of the drawback option should minimize the use of the suspension system involving diversions to the Community market.

4.93. In the FR of Germany the Court found that the drawback system was rarely used and an administrative procedure exists which effectively discourages traders from using it. The Court considers that the two systems, suspension and drawback, are complimentary parts of the IPR system as a whole. By not making the drawback system fully available, misuse of the suspension system has been encouraged.

Special situations

4.94. When the processing operations involve repairs to goods the regulations allow a simplified import procedure (Article 26, Regulation (EEC) No 3677/86). In all Member States visited the Court noted an important volume of importations of goods for repair or restoring.

4.95. The Court considers that not all the United Kingdom procedures for the handling of repair goods are in accordance with the regulations. For example it found that no declaration document accompanied the simplified entry authorization (Article 26 (3)) and the requirement for a Bill of Discharge (Return) was waived.

4.96. One of the ways whereby an IPR trader can discharge his liability is to transfer either import goods or compensating goods to another trader. In the FR of Germany, the Netherlands and Italy the Court found that customs control over transfers within these countries involved a documentary procedure with advices and receipts between customs offices. This was not the case in the UK where there was no prior authorization or authentication of transfer. Control and documentation was almost totally reliant on 'self-policing' by traders using a special transfer form. Cases were seen of transfers being received from an IPR supplier for diversion to the Community market or being effected without any documentation.

4.97. The Court examined the IPR control of goods subject to common agricultural policy levies in Italy where there is a high volume of durum wheat imported under the IPR system (360 000 tonnes in 1988) and, in particular, the control systems regarding durum wheat imported for manufacture into couscous for export. The public intervention stocks of durum wheat in Italy at the end of 1988 amounted to more than 2 million tonnes. The Court considers that the Commission should investigate the situation. Meanwhile the Italian authorities should examine very carefully all requests before granting authorizations for use of the IPR arrangements (see also paragraphs 6.8 to 6.22).

Administrative cooperation

4.98. For the Commission to be able to play its proper role in ensuring that the IPR arrangements have a reasonably uniform application within the Community, and to be able to monitor the impact of the arrangements, it was considered necessary that the Member States and the Commission exchange statistical information. Article 29 of Regulation (EEC) No 1999/85 so provides. These statistics cover both imports and exports under the suspension and drawback systems respectively together with details of quantities diverted to free circulation.

4.99. In 1988 the Court found that despite these obligations, the information available was still inadequate. Although Regulation (EEC) No 1999/85 came into force on 1 January 1987, the necessary statistical procedures regulation (Regulation (EEC) No 3678/87) ⁽²⁸⁾ was not adopted until 9 December 1987 and did not come into force until 1 January 1988. However, as late as mid-1989 there were still Member States which failed to comply fully with their obligations, in particular with regard to the statistics concerning suspension goods subsequently diverted to free circulation. The Court considers that the Commission needs to take action to ensure compliance.

Conclusion

4.100. As already mentioned, the Community IPR system changed with effect from 1 January 1987.

⁽²⁸⁾ OJ L 346, 10.12.1987, p. 12.

However, it is not sufficient just to change the legislation; it is also necessary to ensure that it is applied correctly and in a uniform way in the Member States. Having re-examined most of the areas criticized seven years ago in the Court's special report, it is clear that at the time of the audit certain deficiencies remained. However, the Member States involved, in particular the Netherlands and the United Kingdom, have informed the Court that improvements are currently being made both to the implementation rules and their controls.

4.101. The Commission should ensure that the Member States fulfil their obligation to comply with the Com-

munity legislation. As far as diversions are concerned the Court would like to draw attention to its proposal in the special report concerning the charging of compulsory interest at market rates (see paragraph 19 in the special report). Furthermore, the Commission should ensure that the Member States fully comply with the authorization procedures and that the control procedures are improved, especially those relating to transfer traffic. The Commission should also review the regulations concerning the provision of financial security. The Court is of the view that the drawback system should be freely available in all Member States and that the Commission should encourage its use. Finally the Commission should ensure that Member States fulfil their obligations to provide statistical information.

CHAPTER 5

**The European Agricultural Guidance and Guarantee Fund,
Guarantee Section (EAGGF-Guarantee)
Management and budgetary control**

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CLEARANCE OF MEMBER STATES' DECLARATIONS

5.1. In a special report published in 1982 ⁽¹⁾, and in its annual reports since 1984, in particular in 1986 ⁽²⁾, the Court has commented on weaknesses in the methods adopted by the Commission to check the reliability of the Member States' annual declarations of agricultural expenditure, a procedure called the clearance of the accounts. The purpose of clearance work is to establish the amount of each Member State's expenditure which can be recognized as a charge to the guarantee section of the agricultural budget for the year in question.

5.2. The Court has examined, with particular emphasis on export refunds and milk products, the clearance work done in 1988, when the Commission took its decision on

the clearing of expenditure declared in 1986 ⁽³⁾ and completed most of its audits for that declared in 1987. This enquiry was aimed at establishing what progress the Commission had made since the Court's comments in its annual report on the 1986 year.

5.3. Clearance decisions are taken annually by the Commission for each Member State for each financial year. The work on which the decision is based is carried out by the clearance department of the Directorate-General for Agriculture (DG VI). This department allocates the audit work to teams which each specialize in particular markets, or in measures such as export refunds. The clearance decision for a Member State for a given financial year represents, therefore, the tying together of the results of audit work accomplished by different teams at different times. Hence the importance of a uniform

⁽¹⁾ OJ C 313, 29.11.1982.

⁽²⁾ OJ C 336, 15.12.1987.

⁽³⁾ Commission Decision (EEC) No 630/88 of 29.11.1988, OJ L 353, 21.12.1988.

implementation of the audit work in order to avoid any inconsistency or inequality between Member States and between markets.

Definition of objectives and working methods

5.4. A review of the audit manual prepared in 1986 and the documents supporting the 1987 work plan indicate that the Commission has accepted that the objective of clearance work should be to obtain reasonable assurance on the accuracy and propriety of the amounts declared to the Commission by the Member States. This objective was recommended by the Court in its 1986 report ⁽⁴⁾.

5.5. The audit manual is a reasonably comprehensive document which defines objectives, sets standards and procedures for planning, fieldwork, documentation, audit conclusions, and supervision of the audit. A useful improvement would be to prescribe with more clarity that all audit work in each Member State should be performed to comparable standards, given that the Commission takes a clearance decision covering the whole of each Member State's declaration. At present, different levels of assurance and materiality are set for each market or measure audited, so no statistically valid conclusion can be drawn on the reliability of a Member State's declaration as a whole.

5.6. The audit manual has not been formally adopted by the Commission, nor translated from English. It was nevertheless used as a basis for planning the audit of the 1987 declarations. Its practical application was severely constrained by the insufficiency of staff resources, as is made clear in paragraphs 5.9 — 5.11 below.

Staffing needs

5.7. In March 1989, the clearance department had 31 authorized posts, an increase of 23 % since 1986, but because of vacancies only one more auditor, a 4 % increase, was available. Meanwhile, the amount of expenditure to be cleared has risen by 34 %, from 19 726 Mio ECU in 1985 to 26 389 Mio ECU in 1988. No specialist computer system auditor has yet been recruited.

5.8. Despite the fact that the audit work required to attain the objective set in the audit manual has been identified, and that the work was subsequently reduced in the light of the available staff resources, there has been no independent or indeed internal appraisal of the staffing resources actually required to fully meet the audit objective.

The 1987 clearance planning process

5.9. The Commission's clearance department began by identifying the audit work required to attain the objectives specified in the audit manual. It took into account the volume of expenditure for each product and measure in each Member State, and its assessment of the audit risks in each field, to determine where a full audit should be applied. For the 1987 clearance exercise the proportion of total expenditure so identified amounted to 91 % of the total. This however was recognized as an ideal target which could not be reached given the staff resources available. The department then identified the audit work actually feasible. The resulting plan was to subject 40 % of expenditure to a systems-based audit and 12 % to the previous, unstructured audit approach. Thus only 52 % of declared expenditure was planned to be subjected to a detailed audit, the remaining declared expenditure being merely reconciled in total to the Member States' books of accounts. The percentage of expenditure planned to be subjected to a detailed audit in each Member State for 1987 was:

<i>B</i>	<i>DK</i>	<i>D</i>	<i>GR</i>	<i>E</i>	<i>F</i>	<i>IRL</i>	<i>I</i>	<i>L</i>	<i>NL</i>	<i>P</i>	<i>UK</i>	<i>EUR 12</i>
64	55	45	73	67	47	46	56	52	53	20	45	52

5.10. In *Table 5.1*, the audit coverage planned by the Commission for 1987 is compared with that planned for 1986. These figures show that the Commission has been slow in extending its systems-based audit (4 % more expenditure is covered for 1987 than for 1986). The Commission subjected a smaller proportion of EAGGF expenditure to a detailed audit coverage for 1987 (52 %) than it did for 1986 (55 %). Thus out of the 91 % of declared EAGGF expenditure which the clearance department, when defining its 'ideal' target, recognized as requiring detailed audit, there remains 39 % which will not be audited.

5.11. The above analysis shows that, whilst the Commission has defined the objectives of its work, it

⁽⁴⁾ OJ C 336, 15.12.1987, paragraph 5.26.

Table 5.1 — Commission's planned audit coverage of EAGGF expenditure in 1987 and 1986

	1987 %	1986 %
1. Ideal target:		
Systems-based audit	91	86
Summary checks (1)	9	14
Total expenditure	100	100
Work plan actually adopted:		
2. Systems-based audit	40	36
3. Unstructured audit	12	19
2+3 Detailed audit coverage	52	55
4. Summary checks (1)	48	45
Total expenditure	100	100

(1) Reconciliation of the declared expenditure to the Member States' books of account.

accepts in the planning process that in practice these cannot be achieved within the staff resources at present available.

Clearance work relating to export refunds and milk products

5.12. The clearance work relating to export refunds paid in 1987 by nine Member States (B, DK, D, F, NL, UK, GR, E, IRL) was examined by the Court through a review of the Commission's current and permanent working files. The audit work done was compared to the standards laid down in the audit manual. The standards were not met in these audits in the first six Member States. On none of the working files could a compliance test programme be found, nor any assessment of whether the controls documented during previous audit visits were still operating: the Commission had determined the extent of its substantive testing by working on the unproven hypothesis that the system description and evaluation made in previous years were still applicable. For the audit of each measure and market in each Member State, the number of samples taken from the several thousand claims varied from 10 to 40, with no justifying statistical basis. The number taken had depended simply on the time available, an approach which differed little from the previous, unstructured working method.

5.13. Documentation of the audit work on export refunds was haphazard. In only one Member State was a

systems description documented during the 1987 audit in the manner specified in the audit manual. In the majority of files, the working papers did not clearly record what audit work was performed, or by whom. The audit work programmes recommended by the audit manual were not used and the documentation did not reveal whether the work had been reviewed by senior staff.

5.14. Most of the working files relating to the 1987 clearance work on payments in the milk products market, other than refunds, were also examined by the Court. These files showed that there had been a better application of the systems-based approach to this audit. The systems were often well documented and described by flow-charts, and the key controls identified and compliance tested. There was however no link between the evaluation of the system and the extent of substantive testing. The sample size taken from the population of files was not determined using statistical techniques, and was often small, ranging from 15 to 30 items.

Impact of recent legislation

5.15. The most significant legislation produced during 1988 which affected the clearance procedures was Commission Regulation (EEC) No 295/88 of 1 February 1988, which requires the Member States to provide by 31 March 1988 information on their national controls over EAGGF expenditure. It amended article 5 (d) of Regulation 1723/72 by specifying in much more detail the type of information required; some Member States had not complied with this legislation and those that did provided very sparse information. The information now required under Regulation (EEC) No 295/88 is much more detailed and includes: the number and qualifications of staff employed on controls, details of systems audits performed, of controls before and after payment, of audits of bookkeeping and of declarations to EAGGF, and the results of these audits.

5.16. A detailed analysis of the response by the Member States to Regulation 295/88 shows that:

(a) not all reports have been received (Ireland and the Netherlands provided none);

(b) not all the information required was provided:

- (i) Belgium, France and Italy do not provide details for all paying agencies whilst Greece only provides details of the work carried out under Directive 77/435;
- (ii) Italy did not give information on the work of the national audit body;
- (iii) Denmark and Italy did not give information on the number of audit staff and their qualifications;
- (iv) Spain, France, Italy and Luxembourg did not give information on any systems audits performed;
- (v) Denmark, Italy and Portugal gave no information on any verifications of the EAGGF payment declarations;
- (vi) Belgium, Denmark and Spain did not provide any results of the audits performed and where, for the remaining Member States, results were provided the information was not in sufficient detail;

(c) in March 1989 the Commission had not yet evaluated these reports or made efforts to ensure their completeness even though the reports should have been taken into account when planning the 1988 clearance exercise (at beginning of 1989).

5.17. Compliance with the regulation by the Member States would enable the Commission to allocate its resources in the light of the audits already performed within each Member State, to better assess the reliance it can place on national control systems, and to avoid duplication of work.

Preventive role of the Commission

5.18. The Member States' declarations may contain errors caused by an incorrect interpretation or application of Community legislation, or caused by systems deficiencies which allowed errors, clerical or otherwise, to remain uncorrected. A significant example is the collection of the superlevy on milk production (paragraphs 5.33 — 5.38 below). The Court examined the measures taken

by the Commission's clearance department to forestall such errors, or to limit their financial effect:

- (a) review of Community legislation.
The clearance department reviews draft Community legislation and proposes improvements to the definition of the controls to be undertaken by the Member States, and improvements to any unclear wording. The clearance department was not always consulted in time for their proposals to be incorporated in the draft regulations submitted to the management committees;
- (b) review of national legislation.
National legislation proposed for the implementation of Community regulations is not reviewed by the Commission before its adoption by a Member State, but only during the clearance audits. Thus the costs of an incorrect application of Community legislation may be incurred for a considerable period before the error is detected;
- (c) requests for interpretation.
The clearance department's register of enquiries from Member States was examined and a selection of files reviewed. This showed that it acts promptly to answer queries from the Member States, within approximately two to four weeks, although delays may occur in other links in the chain, as the market divisions or the legal branch of DG VI are usually also consulted. In 1988, nine interpretations requested by one or other Member State were distributed to all Member States.

Timeliness of audit observations

5.19. Errors caused by an incorrect interpretation of legislation, or by deficiencies in national control procedures, may continue uncorrected until reported to the Member States by DG VI after an audit visit or, if this report is contested, until the clearance decision is taken and all reserves lifted.

Delays in the audit work

5.20. Regulation (EEC) No 729/70 requires the clearance decision to be reached within 12 months of the close

of a financial year. This timetable would allow the Parliament's discharge decision to be based on the final figures for guarantee expenditure. The Commission considers that the 12-month limit imposed by the Regulation is impossible to meet and has proposed to modify the Financial Regulation so that the time-limit would be extended to 21 months, i.e. 15 September of the year $n + 2$, however, the 1986 clearance deadline would not have been respected even within this proposed limit. The clearance decision for 1986, due by 31 December 1987, was reached with a number of reserves some 11 months late on 29 November 1988. This was three months more than the time taken to reach the 1985 decision, taken on 18 August 1987.

Delays in resolving reserves in the decision

5.21. In 1986 there were three different categories of reserves:

- (a) expenditure not included in the clearance decision because of insufficient information on which to make a judgment. In 1986 this amounted to 139 Mio ECU, having steadily increased from 1984 when it was 13 Mio ECU and 1985 when it was 95 Mio ECU;
- (b) the super levy on milk, which should have been collected by Belgium, Denmark, France, the FR of Germany, Italy and the Netherlands, for which the legal basis was under review, estimated by the Court to be of the order of 520 Mio ECU including the amount relating to 1985;
- (c) disallowances (of some 14 Mio ECU) in cases which the Commission was prepared to re-examine, provided the Member State submitted further evidence by 30 November 1988.

5.22. There is a relationship between the time taken to reach a decision and the presence of reserves. Reserves are likely to be higher the earlier a decision is made because the Commission will not have had time to examine all the necessary evidence. The alternative is to wait until all the evidence has been received and examined before the decision is taken. In practice the Commission adopts a compromise, publishing an initial decision with reserves followed by an amending and final decision. The amending decision for 1985 was reached on 21 October 1987 and that for 1986 on 26 June 1989.

5.23. The time taken to reach a final clearance decision is increasing. The initial decision for 1986 took longer to be adopted than that for 1985, and the amending decision eight months longer. The 1986 reserves, excluding the super levy dispute common to both 1985 and 1986 (on which see paragraphs 5.33 — 5.38 below) show a sixfold increase over 1984 and a 30 % increase over 1985. This extended period of uncertainty undermines the Commission's preventive role.

5.24. Not all delays can be fully attributed to the Commission, as Member States fail to respect the 31 March deadline laid down in the regulation for submitting their annual declaration. The Commission even has a 'gentlemen's agreement' with the Member States that the date for submitting claims be extended to 30 June. For the 1986 clearance this later date was not respected by Belgium, France, Ireland, Portugal and Luxembourg, and, although the United Kingdom respected that date, it subsequently sent amending details 12 times, the latest being in June of 1988, 14 months later than stipulated.

Role played by the Financial Controller (DG XX) in the clearance of accounts

5.25. The Financial Regulation formally limits the Financial Controller's *a priori* checks on guarantee expenditure to the ensuring that appropriations are available for the provisional commitments proposed when paying the monthly 'advances' to Member States, and to arithmetical checks on the Member States' monthly declarations. In practice staff of DG XX also participate, or are consulted, when Community decisions on regulations and management measures are being drafted.

5.26. As regards ex-post checks, the competent departments of DG XX monitor all stages of the clearance audit. They are informed at the planning stage, often giving their comments informally, and join as observers in a selection of DG VI audit visits to Member States. They participate in the discussions between DG VI and Member States on the audit reports and replies, and in the EAGGF committee meetings in which the draft clearance decision and any amendments or addenda are discussed. The resources devoted by DG XX to the clearance audit are significant, but because of DG XX's independent status they do not diminish the load on DG VI.

5.27. The Financial Controller's comments and recommendations arising from the clearance audit accompany the proposed decision submitted to the Commission and the Financial Controller is present when the Commission discusses the proposed decision.

5.28. Thus DG XX has adopted the approach of observing and commenting upon a selection of work performed by DG VI, with few independent audits being undertaken, and with limited reviews of the clearance department's working files.

Conclusions and recommendations

5.29. The Commission has not yet made sufficient progress to be able to arrive at a positive judgment about the reliability of Member States' declarations, as recommended by the Court in its 1986 annual report, and its preventive role remains weak. In particular, the Commission's intention ⁽⁵⁾ to introduce systems-based audits by stages results in material areas of expenditure remaining uncovered by a structured audit.

5.30. In order to make the clearance process effective in checking the expenditure declared and preventing the recurrence of errors the Court considers that the Commission should allocate staff to the clearance department according to a thorough appraisal of the staff resources required. The Court is firmly of the opinion that the Commission should not adopt the stop-gap methods of reducing the scope of the audit and of extending the clearance timetable. If necessary the Commission should explore alternative ways of fulfilling its responsibilities. One possibility is the contracting of certain technical tasks such as systems descriptions, to private-sector auditors.

5.31. The timetable of clearance work would be accelerated and the Commission's ability to detect irregularities at an early stage would be greatly enhanced if the Commission were to perform part of the audit work on the Member State declarations during the EAGGF year concerned, rather than waiting up to twelve months after the end of the year, as at present.

5.32. The Commission should review the organization of tasks between its departments for the clearance of

accounts. Of the total staff resources potentially available for auditing guarantee funds approximately two-thirds (31 authorized posts) are contributed by the clearance department within DG VI, the directorate responsible for initiating and regulating the expenditure to be checked. The other third (16 staff) comes from DG XX, whose objectives are separate from those of DG VI (see paragraphs 5.25 — 5.28 above). That the Financial Controller should wish to satisfy himself about the adequacy of the work done by the clearance department is understandable, but the resources devoted to this work by DG XX greatly exceed the minimum which should be necessary for this purpose. If the Financial Controller's audit role is increased, as proposed in Chapter 3 of this report, it would be more efficient to give him full operational responsibility for the clearance audit work. This would permit a more economical use of the staff concerned and would ensure a more independent audit, performed by a directorate-general with the technical vocation for audit work. The Commission, in its capacity as authorizing officer for agricultural guarantee expenditure, would then have a sounder basis of advice for the final decision on clearance.

ADDITIONAL LEVY, MILK SECTOR

5.33. In the Court's special report on the quotas/additional levy system in the milk sector ⁽⁶⁾ a number of cases of incorrect application of the Community regulations by various Member States were reported. These were:

- (a) France: reduction in levy liability of 21,7 Mio ECU for 1985/86 by changing the period from twelve calendar months (1 April 1985 to 31 March 1986) to one of 52 weeks, thus dropping one day's deliveries estimated by the French authorities at about 78 000 tonnes, without a corresponding reduction in the guaranteed national quantity;
- (b) Belgium, FR of Germany, the Netherlands: allocation of quotas to individual producers in excess of their guaranteed national quantities, in contravention of Article 5 c (3) of Council Regulation (EEC) No 804/68, as amended, and Article 5 of Council Regulation (EEC) No 857/84;
- (c) Denmark: establishment in June 1984, with retroactive effect to 1 April 1984, of an organization to act as

⁽⁵⁾ OJ C 316, 12.12.1988, paragraph 4.85.

⁽⁶⁾ Special report No 2/87 of the Court of Auditors on the quota/additional levy system in the milk sector, OJ C 266, 5.10.1987.

single purchaser for all milk deliveries in Denmark, as a device to obtain maximum flexibility under the regulations; this organization, however, corresponded neither to the normal concept of a purchaser, nor to the definition set out in Article 12 of Council Regulation (EEC) No 857/84;

(d) Italy: non-implementation of the quota regulations.

5.34. In all six cases the Commission opened Article 169 infringement proceedings against the Member States concerned. In only one case, however, that concerning Italy, did the full Article 169 procedure run its course, with the Court of Justice finding for the Commission (7). In the other five cases the Commission decided not to pursue the actions, following strong representations from the Member States concerned. In the cases of the FR of Germany and the Netherlands, the Court of Auditors observed in the special report that the undertaking given by the two Member States in return for the ending of the actions against them enabled them to maintain allocations of quota above the national quantities and so the grounds for originally starting the proceedings remained valid (8). The overallocation of quota in the FR of Germany has continued into the 1989/90 quota year.

5.35. As part of the 1986 clearance of accounts work, the Member States were informed that significant corrections were under consideration, amounting to approximately 520 Mio ECU in total. This reflected the budgetary impact as evaluated by the Commission in respect of 1984/85 and 1985/86 quota years of the above incorrect applications of the quota regulations. In October 1988, the Commission decided to dissociate the additional levy in the milk sector for the clearance decision on the 1986 accounts (9).

5.36. The Council and the Commission took decisions (10) modifying the quota regulations with retroactive effect so that almost all the outstanding levy liabilities for the first two years of application of the additional levy

previously assessed by the Commission services as resulting from incorrect application of the rules were removed. In each case the regulations referred to problems in applying the additional levy scheme when it was first implemented, and that 'the difficulties experienced by the Member States should be taken into account' (11) when determining the amount of levy to be paid.

5.37. The above gives rise to the following observations:

- (a) the Commission considered that it was not able to pursue the case against France because the original text of Council Regulation (EEC) No 857/84 did not provide explicitly that if a 52-week period was chosen for deliveries, then the overall guaranteed quantity should be adjusted accordingly; as a result of this unsatisfactory drafting of the regulation, therefore, the Community budget suffered a loss of 21,7 Mio ECU in respect of the 1985/86 period of application;
- (b) in the absence of specific guidance from the Regulation, it is for the Commission to evaluate any financial consequences for the budget of overallocation of quota in the context of the clearance accounts: for 1984/85 and 1985/86, the Commission decided to resolve the problem by a retroactive amendment to the Council regulation. At the April 1989 Council meeting, however, it resisted the proposal that the amendment should be extended to the third and fourth years of application. It will, therefore, be for the Commission to develop an acceptable methodology to evaluate the financial consequences of overallocation for 1986/87 and subsequent years;
- (c) these modifications to the regulations mean that producers and purchasers in the various Member States are not receiving equal treatment: different bases for the calculation of the quantities on which levy should be paid are being applied, and producers and purchasers in those Member States which have applied the regulations correctly are penalized by comparison with those in Member States which did not;
- (d) there remains for the FR of Germany an outstanding levy liability in respect of 1985/86 of about 6,4 Mio ECU concerning about 27 000 tonnes of milk deliveries above the overall guaranteed quantity for which there is no specific individual producer liability because of the overallocation of quota (12): this levy amount has been outstanding for more than two years;

(7) Judgment of the Court of 17 June 1987, Case 394/85.

(8) Special report No 2/87 of the Court of Auditors, paragraph 4.12.

(9) Commission Decision of 26.10.1988; COM(88) PV 937.

(10) Commission Regulation (EEC) No 3086/88 of 5 October 1988, OJ L 275, 7.10.1988; Council Regulation (EEC) No 764/89 of 20.3.1989, OJ L 84, 29.3.1989, Article 1.2.

(11) Eighth recital, Council Regulation (EEC) No 764/89, of 20.3.1989; OJ L 84, 29.3.1989.

(12) Special report No 2/87 of the Court of Auditors, paragraph 4.11.

(e) one cause of the difficulties referred to in justifying the changes to the regulations is differing interpretations in the Member States of what the regulations permitted by way of compensating under- and over-deliveries under the terms of Article 4a of Council Regulation (EEC) No 857/84. This confirms the criticisms made by the Court in its special report ⁽¹³⁾ of the inadequate supervision by the Commission of implementation of the regulations, and the lack of evaluation of the impact on levy liability of major changes in the regulations; on such a key modification of the quota regime the Commission should have ensured that a common interpretation of the regulation was understood in and applied by all Member States, and that the method to be used in applying quota offsetting and calculating levy liability was explained unambiguously;

(f) none of the documents produced during the decision process leading to the two amendments to the

⁽¹³⁾ Special report No 2/87 of the Court of Auditors, paragraphs 5.6 — 5.8 and 5.15.

regulations presented an evaluation of the budgetary impact as assessed by the Commission despite a request in October 1988 by two Member States' delegations: it is not, therefore, clear that the decisions were taken on the basis of complete information.

5.38. In conclusion, the Court emphasizes that, where Community regulations are applied incorrectly, whether because of administrative difficulty or for other reasons, with financial consequences for the Community budget and unequal treatment of producers and purchasers, effective action should be taken by the Commission to correct the situation. As the special report of the Court notes ⁽¹⁴⁾, the Commission can, and should, do this by means of the Article 169 infringements procedure and/or by the clearance of accounts procedure. If no such effective action is taken, other Member States may seek to resolve their difficulties in the same way, undermining the successful implementation of the policy.

⁽¹⁴⁾ Special report No 2/87 of the Court of Auditors, paragraph 5.4.

CHAPTER 6

**The European Agricultural Guidance and Guarantee Fund,
Guarantee Section (EAGGF — Guarantee)
Organization and management of markets**

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AID SCHEMES

6.1. The regulations governing market organizations provide a great variety of grants, subsidies and other measures designed to regulate the market, which are administered by the Member States through a variety of intervention agencies and a complex network of central and local authorities. Hence, each measure has its own specific criteria and control requirements. During the year the Court examined:

- (a) the organization of the markets in fresh and processed fruit and vegetables, for which the Court adopted a special report on 30 March 1989 ⁽¹⁾; the results of this audit are summarized in paragraphs 6.3 to 6.7 below;
- (b) subsidies in the cereals sector paid in order to facilitate the use of Community starch based on cereals and potatoes and to support the income of growers of durum wheat in certain regions of the Community;
- (c) aid for skimmed-milk powder (SMP) incorporated into compound feedingstuffs;

- (d) the ewe premium in the sheepmeat sector.

Common observations

6.2. Each of the audited aid schemes has different characteristics, and requires specific observations. In addition, however, the Court's examinations revealed several weaknesses, both at central Commission level and at national level, which are common to the measures audited. These are:

- (a) with the exception of the skimmed-milk powder scheme, the measures suffered from a lack of sufficiently precise definition of controls in the Community regulations: it is most unsatisfactory that the regulations leave the establishment of control systems almost entirely to the discretion of the Member States, with the result that there are different levels of coverage, depth and stringency of controls, with consequently unequal treatment of beneficiaries and in some cases unjustified benefits for some of them. The Court considers that there are no satisfactory reasons why the Commission did not undertake the same effort for the other measures as it did for the skimmed-milk powder scheme;

⁽¹⁾ See OJ C 128, 24.5.89.

- (b) again, except for the skimmed-milk powder scheme, the Court noted that documentary controls are given more importance than physical controls: this means that Member States' controls concentrate on formalities rather than on proving the correctness of the physical items justifying the aid amounts claimed;
- (c) in general the regulations do not provide for any deterrent to fraud in the form of administrative penalties; at most, if a claimant attempts fraud, he may lose the aid payment, but even this is not applied consistently, and given the limited extent of controls the risk involved is low;
- (d) with the exception of the skimmed-milk powder scheme, the Court has noted that control requirements have tended to be weakened rather than strengthened by changes in the regulations in recent years; thus, with regard to durum wheat, the switch from a production-based aid calculation to one based on area cultivated, has not resolved control problems; in the aid scheme for starch the switch to aid for end-use of starch rather than for production of starch has multiplied the number of controls and the problems associated with them; finally, for the ewe premium scheme, there are elements which are simply not controllable;
- (e) two of the schemes, (fruit and vegetables, durum wheat), have not succeeded in adapting production sufficiently to demand, and indeed have failed to channel high-quality produce to human consumption rather than to withdraw it from the market by destruction or intervention;
- (f) generally, the Community regulations do not provide explicitly that any registers or other records, which beneficiaries are required to maintain, should be reconciled by the controllers to the beneficiaries' own accounts, although such checks form a basic part of good audit practice; in Italy, agricultural inspectors responsible for checking such measures as the production aid for starch and aid for skimmed-milk powder in animal feed are prevented for reasons of fiscal and professional confidentiality from carrying out such reconciliations, which limits the effectiveness of their checks; the Italian authorities should ensure either that the services which are empowered to examine the internal accounts of companies participate in the regular control missions, or that the agricultural inspection services be granted access to these accounts; this latter course of action would entail providing these services with appropriately trained personnel.

Withdrawals and processing of fruit and vegetables

6.3. The Court's special report deals with the results of an examination of financial compensation for withdrawal of fresh produce from the market and of subsidies for the processing of fruit and vegetables of all kinds. The audit covered the control systems applied in France, Italy, Greece and the Netherlands. Budgetary expenditure between 1982 and 1987 averaged 1 125 Mio ECU per annum. 38 % of this concerns tomatoes, followed by citrus fruit with 25 %. 61 % of total expenditure is incurred in Italy.

Withdrawal of fresh produce

6.4. The special report set out the following main findings:

- (a) produce withdrawn can be disposed of in various ways, but for some produce, for instance citrus fruits, most of it (up to 80 %) is destroyed; the responsible authorities are not making full use of the possibilities for end-use of withdrawn produce in order to avoid destruction. Furthermore, in some cases it was discovered that withdrawal and consequent destruction was a more attractive option for citrus fruit producers than sales to the processing industry;
- (b) in general destruction is not reported as such to the Commission, but rather as 'non-food use', which is not satisfactory; in addition, destruction operations are inadequately supervised in the Netherlands;
- (c) there is no control over the cash proceeds of sales of withdrawn produce;
- (d) the Community regulations are not being followed in Italy and Greece, where producer organizations are claiming and receiving from intervention agencies 'reimbursement' for payments to their members before they have been made;
- (e) producer organizations operating in southern Italy do not meet the requirements of the basic regulations, thus casting serious doubts on the procedures for initial recognition and monitoring of these organizations; in fact, early in 1988, since the Court's enquiry began, the Commission's own auditors analysed, as part of the clearance of accounts procedure for 1986,

the operation of another four producer organizations; as a result the Commission has disallowed 35,6 Mio ECU in respect of three of them.

Processed fruit

6.5. In relation to the subsidies paid to the processing industry, the special report sets out the following main findings:

- (a) the level of support fixed by the Commission for processed fruit is not always justified. In the case of lemon juice, the method of calculation does not strictly follow the rules laid down in the Community regulations;
- (b) input of raw materials and output of processed products are not submitted to satisfactory physical controls;
- (c) excessive threshold guarantees for currants has locked the Community into a situation where overproduction has to be disposed of annually at a considerable loss.

Conclusions

6.6. The Court concluded that the present system has proved unable to cope with serious imbalances between production and demand, that better quality production is channelled for animal feed and for destruction, while a lower quality is reserved for processing, and neither the Commission nor the national intervention agencies adequately control producer organizations and processors.

6.7. In addition the Court points out that the basic regulation, by making no explicit reference to destruction of fresh produce, fails to take account adequately of the current reality of market management operations. Destruction cannot be considered a 'use': if it is the intention of the Council and Commission that fruit and vegetables which are withdrawn and destroyed should receive market support, then the regulation should state this clearly, and have expenditure recorded separately from that of genuine non-food use, in order to assure the legality and the regularity of payments for destroyed produce.

Production aid for durum wheat

6.8. Production aid for durum wheat was introduced on 16 December 1976 by Council Regulation (EEC) No 3103/76 ⁽²⁾. As shown in *Table 6.1*, annual expenditure grew by 31 % from 210,8 Mio ECU to 275,1 Mio ECU between 1986 and 1988. Greece, France, Italy and Spain are the Member States benefiting from the regime, with Italy accounting for 80 % of total aid paid on average for the period 1986-88. The increase in expenditure over the period is explained by the 60 % increase in aid payments in Italy. As lower aid rates apply in Spain during the period of transition, the accession of Spain had not by 1988 led to a large increase in expenditure. According to the latest available production figures ⁽³⁾, production of durum wheat in 1987 was 7,4 Mio tonnes for the whole Community, representing 4,8 % of total cereals production. The increase in durum wheat production between 1985 and 1987 was more than 25 %. The Court's audit covered the main regions of production in the four Member States concerned.

National controls

Identification and measurement of surfaces

6.9. The amount of aid payable was initially calculated on the basis of tonnes produced. Since Commission Regulation (EEC) No 2835/77 of 19 December 1977 ⁽⁴⁾ it is now calculated by multiplying the per hectare rate of aid fixed at Community level by the surface in hectares sown with durum wheat and declared in the aid claims. Thus the verification of declared surfaces is a key control in the system. A number of weaknesses in Member States' systems were identified:

- (a) land registers and similar documents used to support aid claims are of limited value as proof of surfaces sown: frequently only part of the surface given in the register is sown with durum wheat and the registers are often out of date;

⁽²⁾ OJ L 351, 21.12.1976.

⁽³⁾ Doc. COM(88) 796 final of 18 January 1989: The situation of the Agricultural Markets, report 1988.

⁽⁴⁾ OJ L 327 of 20.12.1977.

Table 6.1 — Expenditure for production aid for durum wheat, 1986-88

Member State	<i>(Mio ECU)</i>		
	1986	1987 ⁽¹⁾	1988
Greece	47,2	39,2	21,4
Spain	—	0,8	2,3
France	13,0	13,0	9,6
Italy	150,6	203,2	241,8
Total	210,8	256,2	275,1

⁽¹⁾ The 1987 financial year for EAGGF was 10 months, January to October.

- (b) although Member States comply formally with Community Regulations which stipulate a minimum level of 5 % on-the-spot checks, methods of verifying areas which are often irregular in shape are unreliable: national controllers use such methods as pacing around the plot;
- (c) the rudimentary nature of these on-the-spot checks notwithstanding, Member States regularly revised downwards surfaces declared on the basis of the findings: for the 1987 harvest, 13 % of all claims checked on the spot in one region of France were adjusted, and in Italy, in one province, 21 % of claims, involving 27 % of the sown area, were corrected; despite these high proportions of corrections, the control programmes were not extended;
- (d) for Italy when the surfaces sown with durum wheat according to Eurostat statistics were compared by the Court with figures provided by the Italian paying agency (AIMA) in relation to claims, the surfaces claimed for aid purposes were 5,6 to 12,5 % higher than the statistical areas for the years 1984 to 1987;
- (e) in Italy, in one province flat-rate reductions for all surfaces claimed were observed, a procedure for which there is no parallel in other provinces in Italy or in other Member States; unequal treatment of claimants was also observed within Italy and in comparison with other Member States by the application of various tolerance margins, ranging from 15 % depending on the province, before the adjustments resulting from on-the-spot control visits are taken into account.

On the basis of the above, it is not possible to have any confidence that the number of hectares on which aid is paid corresponds to the number of hectares actually sown with durum wheat.

Identification of varieties eligible for aid

6.10. Aid is paid only for varieties of durum wheat with particular characteristics which are included in a national catalogue of approved varieties. The control of varieties is carried out on the basis of seeds used.

6.11. The Court's audit revealed that these controls are unsatisfactory. They are limited generally to a verification of invoices for the seeds paid for by the grower, or to an inspection of the empty sacks in which the seeds were kept. Where seeds used were part of the grower's previous year's harvest, no invoices or suitably labelled sacks exist and there are therefore no controls over the varieties. A control based on the analysis of samples of seeds used or of durum wheat harvested normally does not take place.

6.12. The Court identified one case where the variety was directly controlled. In Spain, for the campaign 1986/87, 53 samples of seeds used in Zaragoza had been taken and analysed. Only 5 of the 53 satisfied the standard qualities fixed by the Council for durum wheat that at least 80 % of the grains analysed must be of vitreous translucent appearance, and that the portion of common wheat grains must not be higher than 4 % ⁽⁵⁾.

Internal control

6.13. The number of regions qualifying for the durum wheat aid scheme was reduced by Council Regulation (EEC) No 1455/82 of 18 May 1982 ⁽⁶⁾ in order to limit the aid scheme to specified areas of the Community where durum wheat production constitutes a traditional and important part of agricultural production. Nevertheless, the number of claims and growers remains high and there is a real risk that aid is paid more than once for the same plot. In none of the Member States are there internal controls designed to detect duplicate claims.

⁽⁵⁾ Council Regulation (EEC) No 2731/75 of 29 October 1975; OJ L 281, 1.11.1975.

⁽⁶⁾ OJ L 164, 14.6.1982.

The Commission's supervisory and management role

6.14. The Community regulations do not, as a deterrent to fraud, provide for the imposition by the administration of penalties on growers introducing false declarations. The only risk run by a fraudulent claimant is that his claim may be simply corrected or rejected. In the latter case he can easily present the claim a second time.

6.15. In France, Greece and Spain no frauds or irregularities have been notified to the Commission under Regulation (EEC) No 283/72 of 2 February 1972 (7). In Italy, a total of 17 fraud cases adding up to 77 200 ECU (107 Mio LIT) have been notified, but only one third of this sum has been recovered to date.

6.16. In June 1987, because of unease about the areas on which aid was being paid, the Commission asked the Italian authorities in accordance with Regulation (EEC) No 283/72 to carry out a special investigation on surfaces cultivated. The results of this enquiry showed that an estimated 7 to 8 % of declarations were incorrect. The Commission's own estimates point to a higher level of irregularity.

6.17. In its decision on the 1985 clearance of accounts, the Commission introduced on 29 November 1987 a general reserve for the accounts of Italy, covering expenditure related to the application of the aid scheme from the 1985/86 campaign onwards. This reserve has not yet been lifted.

Relative level of intervention prices and direct aid

6.18. In recent years policy has been directed towards reducing the attractiveness of durum wheat production by narrowing the gap between the intervention prices for durum and common wheat. Between 1985/86 and 1988/89 the intervention price for durum wheat fell by 11,4 %, while that for common wheat remained unchanged. But the impact of this policy was largely negated because the production aid was increased by 35 % over the same period.

6.19. In considering the impact of these price reductions and increases in aid in ECU terms it is necessary to take

into account the effect of the workings of the agrimonetary system. Green rate devaluations have meant that in national currencies the price reductions in ECUs have been more than offset, and the increases in aid in ECUs have been greater when expressed in national currency. Thus, the intended effect on production of a restrictive target-price policy has been undermined. In 1987 the production of durum wheat reached record levels, with a level of self-sufficiency in the Community of 140 %, the area cultivated continued to increase and per hectare yields also grew (8). Public stocks also increased from 1,9 Mio tonnes at the end of November 1986 to 2,3 Mio tonnes in October 1988.

Selection of varieties

6.20. The durum wheat varieties eligible for aid are written into national catalogues, from which the Commission compiles the EEC catalogue. The Court, however, did not identify any controls carried out by the Commission to ensure that varieties included in Member State lists satisfy the technical criteria laid down. As this is an important element in improving the quality of durum wheat produced in the Community, it is necessary that the Commission ensures that all varieties in the catalogue — currently a large number — are of the appropriate technical characteristics.

Concluding remarks

6.21. On the basis of its audit findings, the Court considers that a thorough review of the whole durum wheat aid scheme is necessary:

- (a) recent policy on prices and aid rates, coupled with the effects of green rate devaluations, has not been successful in bringing about a reduction of durum wheat production in line with demand;
- (b) similarly, the reduction in the number of eligible regions did not reduce production; on the contrary, an increase in production of durum wheat in regions not covered by the aid scheme was even observed;
- (c) the change from production-quantity-based aid to a surface-based one has not resolved control problems,

(7) OJ L 36, 10.2.1972.

(8) Doc. COM(88) 796 final of 18 January 1989: The situation of the Agricultural Markets, report 1988.

as the exact verification of cultivated areas is very difficult;

- (d) the regulations, by failing to include adequate control provisions, are quite unsatisfactory;
- (e) as currently operated, there is a lack of effective quality control over the seeds sown.

6.22. The combination of intervention purchases at relatively high prices, increasing production aid per hectare cultivated and inadequate quality control, has resulted in a substantial growth of public stocks in durum wheat of mediocre quality. At the same time, because of the need to meet quality standards for the export of processed products (see paragraph 4.97), high quality durum wheat is imported from outside the Community. This, together with the fact that the aid is paid indiscriminately to a large number of producers, and that there are serious problems in controlling the basic parameters on which the amounts of aid are based, leads the Court to the conclusion that this measure provides neither an economic, efficient or effective means of providing farmers in disadvantaged regions with income support.

Refunds for production and use of starch

6.23. Based on Article 11 of Council Regulation (EEC) No 2727/75 of 29 October 1975⁽⁹⁾, production refunds are paid for amylaceous⁽¹⁰⁾ products produced in the Community which are derived from cereals in free circulation. The refunds are calculated to enable Community manufacturers to compete on the world market with external manufacturers having practically free access to the Community market and to lower-priced raw materials. Production refunds are also paid for the production and use of potato starch in order to create conditions of equal competition.

6.24. From 1978 until 1986 the production refunds were payable to the starch manufacturers for raw materials placed under official supervision, on condition that a minimum of 96 % of the raw materials were processed into basic starch. The manufacturers were required to furnish a security which was released when proof of processing had been presented. From 1 July 1986 the scheme was modified from a producer to a user scheme,

except for modified starch. The old scheme was allowed to continue as a transitional measure, for a three-year period, but the level of the refunds was progressively reduced⁽¹¹⁾. The user scheme provides for refunds which are payable on starch used for the manufacture of specifically approved products, mainly industrial ones. The underlying reason for the change was to limit the refunds to products which were deemed to be inadequately protected under the General Agreement on Tariffs and Trade, while food products with a starch content were deemed, for the most part, to be sufficiently protected by the common agricultural policy. The overall objectives of the user scheme are to encourage the utilization of Community-produced raw materials in starch-based industrial products and thus encourage the relevant industries to remain located within the Community.

6.25. Annual budgetary expenditure has averaged 259 Mio ECU for the period 1986-88 inclusive — the period covered by the Court's audit. In 1988 expenditure on the measures totalled 393,3 Mio ECU, representing approximately 10 % of total Community expenditure on the cereals market. **Table 6.2** shows expenditure and its distribution over Member States for the last three years.

Table 6.2 — Expenditure for production and use of starch

Member State	<i>(Mio ECU)</i>		
	1986	1987 ⁽¹⁾	1988
Belgium	12,3	11,7	14,9
Denmark	4,1	4,0	12,4
Germany	34,1	63,5	100,3
Greece	0,7	0,7	0,6
Spain	4,1	8,8	17,5
France	37,3	44,3	90,5
Ireland	1,6	1,3	2,1
Italy	11,8	15,6	28,5
Luxembourg	—	—	—
Netherlands	48,4	57,0	84,8
Portugal	—	—	—
United Kingdom	23,3	28,7	41,7
Total	177,7	235,6	393,3

⁽¹⁾ The 1987 financial year for EAGGF was 10 months, January to October.

⁽⁹⁾ OJ L 281, 1.11.1975.

⁽¹⁰⁾ Products containing starch.

⁽¹¹⁾ Council Regulation (EEC) No 1009/86 of 25 March 1986; OJ L 94, 9.4.1986.

6.26. The Court examined the budgetary and control procedures operated by the Commission and the Member States and covered both the producer and the user schemes. The audit was carried out in Belgium, the FR of Germany, France, Italy, the Netherlands and the United Kingdom.

National controls

Physical examination of raw materials

6.27. Under the producer scheme, production refunds were paid on the quantity of raw materials (maize, wheat, rice, potatoes or specific derived products) used to manufacture starch. Therefore one of the basic control requirements was to place raw materials under official supervision in order to ensure their actual use for starch production. The Court's audit revealed that this key control is often no more than an administrative formality:

- (a) on-the-spot visits to check quantities placed under supervision are generally rare, particularly in the United Kingdom where the frequency of such visits was as low as once every eight months even for important beneficiary firms;
- (b) in all Member States visited it was found that the quantities placed under supervision included raw materials which were subsequently rejected in the quality control procedure and sold as animal feedingstuffs;
- (c) in the Netherlands it was found that one firm had been allowed to declare cereals not yet delivered as 'materials placed under official supervision'.

Examination of stock and production records

6.28. As raw materials are transformed during the processing, controls executed afterwards have to be based on stock and production records. The Court noted that this type of control is for the most part not done. This is a serious weakness in the control procedures for both schemes, especially in the case of the largest beneficiary firms. Such firms are, in most cases, both manufacturers of basic starches (eligible for aid under the producer scheme) and processors of those starches into an extensive

range of intermediate and end-products, only some of which are eligible for aid under the user scheme. In such circumstances, any effective control of the refund claims should involve a detailed examination of the production and stock records of the firms. In some instances, the limited time available to the auditors on the spot precludes the possibility of such checks. At one such firm visited in France, it was noted that the auditors visit the administrative headquarters of the firm, where production records are usually not available, except in summary form. Thus it is impossible to conduct a detailed examination of such records.

6.29. Controls are generally based on records or registers of raw materials (producer scheme) or starch and derivatives (user scheme) used, especially established for the national auditors. Even if it has to be admitted that such records facilitate the bulk of the audit work to be done, the Court was not able to obtain evidence that these records were reconciled with the firms' own accounts and records or substantiated by physical stock checks. Furthermore, in Italy, it was noted that one beneficiary firm visited refused to open its detailed production records to auditors on the grounds of the professional secrecy of its products. This attitude on the part of the beneficiary firms is unacceptable, especially for the new scheme which has to rely heavily on documentary control.

Implementation of Community regulations

6.30. The Court considers there is excessive flexibility on the part of certain Member States in implementing the provisions of the governing regulations:

- (a) in Belgium a processor of broken rice was allowed a tolerance of 1,5 % in the reconciliation of quantities placed under official supervision with sales invoices; Community regulations make no provision for such a tolerance;
- (b) in the Netherlands, it was found that applications containing preliminary estimates are initially accepted; these estimates are allowed to be modified later. On occasion, figures recorded for quantities finally accepted under official supervision differed from the quantities unloaded and quantities actually processed; thus controls are rendered difficult, if not impossible; in addition it was found that there was no

detailed surveillance of securities required for the producer scheme, when raw materials are put under official supervision;

- (c) in the FR of Germany, at one beneficiary firm visited during the audit, the arrangements for placing raw materials under official supervision for the producer scheme were found to be unsatisfactory in that they allowed for the procedure to be applied after processing; moreover, the requirement of furnishing a security was dispensed with, contrary to the governing regulation provisions; at the same firm it was found, for the user scheme, that the firm was allowed simultaneously to request a refund certificate (a pre-condition for eligibility for the refund) and to demand payment of the aid after processing had taken place; such a procedure allows no possibility for adequate control and offers the firm undue flexibility in determining the rate of aid payable and the period for which the security is retained.

Independence of auditors

6.31. In Italy, claims for refunds under the user scheme are not controlled by State officials in many instances, but by employees of the local Chambers of Commerce. In the FR of Germany key elements for both schemes are verified by *Steuerhilfspersonen* — persons designated by the customs service but employed by the firms which they control; in both of the abovementioned situations an adequate level of independent surveillance would be required to ensure that controls are correctly carried out. In neither case was there any evidence of such independent surveillance.

Modified starches

6.32. Modified starches, esterified and etherified, benefit directly under the user scheme because they are deemed to be inadequately protected against imports from third countries. However, in this instance the beneficiaries are not the end-users but the manufacturers of the products. Because such products can be re-converted to basic starches without undue difficulty or expense, the refunds are granted subject to the provision of a security equal to 105 % of the aid. The security is released when the producer furnishes proof that the

product attracting the refund has been incorporated in a product which is not eligible for refund. For sales of those products within the Member State, the required proof is not specified in the regulation. In the case of intra-Community trade, the control copy T5 of the transit documents is required in order to prove end use. This control copy is subjected to independent customs controls in the Member State of departure and the Member State of destination.

6.33. The Court's audit revealed that the type of proof accepted by the national authorities is frequently inadequate for sales within the Member States. In certain Member States, notably France, copies of invoices are all that is required. In others it was found that a global statement by the purchasers to the effect that they intended to use the products for incorporation in products not eligible for refunds was accepted. Declarations of such a global nature, frequently signalling an intention rather than a verifiable fact, are of little value for control purposes. In this respect the Court considers as inappropriate a recent modification to the governing regulations ⁽¹²⁾ which allows such general declarations of intent to be accepted for the release of securities in the place of declarations of actual use.

6.34. As far as the use of T5 documents for intra-Community trade is concerned, the Court considers a recent modification to the governing regulation ⁽¹³⁾ to be inappropriate. Acute delays have arisen in the release of securities due to the inability of the responsible control services in the Member States to verify the end-use of the products and return the T5. The regulation has been modified to provide that the T5 may be replaced by other unspecified documents where the control copy of T5 is not returned to the originating competent authority within 150 days of its initial delivery. This new provision will make it even more difficult to obtain the return of control copy T5 documents. It would have been preferable:

- (a) either to have taken steps to improve the procedures for verifying end use and returning T5 documents, as it is a problem affecting a large number of measures as well as this one;
- (b) or, if it is considered that the T5 procedure can be dispensed with, to replace it with a new procedure and a specific control document.

⁽¹²⁾ Commission Regulation (EEC) No 165/89 of 24 January 1989; OJ L 20, 25.1.1989.

⁽¹³⁾ See Article 1 of the Regulation mentioned above.

6.35. In summary, the Court is concerned that the controls on end use of modified starches are being relaxed because of practical difficulties in carrying them out, with the result that they are of little or no value. This is a most unsatisfactory situation.

The Commission's supervisory and management role

6.36. The Court found that the Commission services responsible for the surveillance of the production refunds were ill-equipped to do so:

- (a) the responsible market division at the Commission does not have even general descriptions of the systems in force and the personnel have little opportunity to visit the Member States to gain first-hand experience of the procedures;
- (b) although the governing regulations provide that statistics of quantities of cereals corresponding to subsidized starch production or use should be sent to the Commission on a quarterly basis, until recently there were major gaps in this data; this lack of statistics places the Commission in the position of not being able to determine, with any degree of accuracy, to what extent the production refunds are succeeding in achieving their basic objectives — increasing the use of starch products; despite recent improvements in the situation the Commission still does not have data for all Member States.

6.37. Both schemes suffer from an over-reliance on administrative documentary control. To a large extent this can be attributed to the very general control provisions of the governing regulations, that claims for production refunds 'will normally be achieved using administrative controls but should be supported by physical controls where these are considered necessary' (14). In the opinion of the Court this provision gives undue emphasis to administrative controls to the detriment of essential physical controls.

Concluding remarks

6.38. The Court's audit revealed that controls over expenditure on these production refunds, for both the old

and the new schemes, were inadequate in many respects. The principal weaknesses can be summarized as follows:

- (a) the Member States' control systems unduly rely on administrative checks with very little emphasis on physical controls because of vague provisions in the governing regulations (see paragraph 6.39);
- (b) even to the extent that on-the-spot visits take place, it was observed that there is a general tendency to limit controls to verifying that claims for the refunds correspond to the entries in the official registers prescribed: also there is insufficient emphasis on examining the accounting records of the beneficiary firms to determine the reality of the refund claims;
- (c) the control authorities in some Member States implement the basic provisions of the governing regulations in so flexible a manner, in order to accommodate the beneficiary firms, that effective control is no longer possible;
- (d) in certain instances it was found that there was no evidence of an adequate level of official surveillance where refund claims are controlled by persons who are not independent of the beneficiary firms.

6.39. Many of the weaknesses highlighted above arise as a result of inadequacies in the control provisions of the governing regulations. These deficiencies in the control provisions can be attributed, in large measure, to a lack of follow-up, on the part of the Commission, of the administrative arrangements in force in the Member States.

6.40. Finally, production refunds in the cereals sector provide an example of subsidies in one sector (cereals) leading to subsidies in other sectors (industrial starch users). Because the support mechanism results in high-priced cereals, it has become necessary to subsidize industrial users of starch from cereals to assure their competitiveness against importers of similar industrial products, or to prevent starch users from moving outside the Community. At the same time the increase in expenditure and the increased complexity of the measure have resulted in a proliferation of control problems which are not being addressed adequately.

(14) Commission Regulation (EEC) No 2169/86 of 10 July 1986; Article 8(2); OJ L 189, 11.7.1986.

Aid for skimmed-milk powder incorporated into compound feedingstuffs for calves

6.41. Skimmed-milk powder (SMP) which represents the protein content of the milk, is essentially a by-product of butter production. Only a small proportion (9 % on average between 1985 and 1988) is disposed of at market prices, primarily for human foodstuffs. This is because in the past the intervention price policy of the Community — for example between 1981 and 1985 the intervention price rose by 31 % — meant that SMP was at the same time in chronic surplus and a high-cost source of protein. It could not compete without subsidy against alternative proteins imported with no or very low import duties. Despite the restrictive price policy of recent years, SMP remains a relatively high-cost protein.

6.42. The considerable change in the market situation in 1987 and 1988, a result of the impact of the dairy quota regime, led to a reduction in SMP production of 25 % and 19 % respectively. Intervention stocks virtually disappeared. It remains, however, necessary to subsidize sales of skimmed milk in the market to prevent sales of SMP into intervention.

6.43. By far the most important subsidized outlet is SMP for compound feedingstuffs⁽¹⁵⁾. In 1988 28 % of total skimmed-milk production was disposed of under this measure. At 970 000 tonnes it accounted for the disposal of 75 % of total production of skimmed-milk powder.

6.44. **Table 6.3** sets out budgetary expenditure for 1986-88 by Member State on this measure. The FR of Germany, France and the Netherlands account for 94 % of the total. In terms of processing SMP into compound feedingstuffs, Italy is also important, but it imports all its SMP, mainly from the FR of Germany and France, and the aid is paid in the countries of origin under Commission Regulation (EEC) No 1624/76⁽¹⁶⁾ (see paragraphs 6.54 — 6.61 below). Of the 970 000 tonnes of SMP incorporated into feedingstuffs in 1988, 93,6 % was processed in these four Member States, with France alone accounting for 43,6 %. The calculated percentage of SMP

in the feedingstuffs, taking into account the milk replacers without SMP, has remained fairly steady, fluctuating between 52 % and 58 % between 1973 and 1988⁽¹⁷⁾.

6.45. Commission Regulation (EEC) No 1725/79 provides for aid to be paid to firms incorporating SMP into compound feedingstuffs⁽¹⁸⁾. After having been at 80 ECU/100 kg of SMP incorporated for three years, representing a subsidy of about 45 % on the market price, the level of aid was reduced twice in 1988 as the supply situation tightened to 65 ECU/100 kg from 1 October. By the end of the year the subsidy represented about 32 % of the market price.

6.46. During 1988 the obligation, in order to qualify for the aid, to incorporate a minimum of 60 % SMP into the compound feedingstuffs which had been introduced in April 1976 '... to maintain and increase the amount of SMP used in feedingstuffs'⁽¹⁹⁾ was first reduced to 45 %, and then from October was abolished.

Table 6.3 — Budgetary expenditure on aid for SMP for compound feedingstuffs⁽¹⁾, 1986-88 by Member State

Member State	(Mio ECU)		
	1986	1987 ⁽²⁾	1988
Belgium	21,0	12,7	12,7
Denmark	9,5	8,0	6,6
Germany	246,7	227,5	253,0
Greece	0,0	0,0	0,0
Spain	0,0	0,0	0,0
France	448,6	361,2	342,4
Ireland	28,2	19,2	14,6
Italy	4,4	3,7	4,4
Luxembourg	0,7	0,5	0,6
Netherlands	224,9	204,9	203,0
Portugal	0,0	0,0	0,0
United Kingdom	17,2	12,9	13,1
EUR 12	1 001,3	850,6	850,5

(1) Includes both SMP for denaturing and for incorporation in compound feedingstuffs.

(2) The 1987 financial year for the EAGGF was 10 months, January to October.

(17) The percentage incorporation of SMP varies considerably from one feedingstuff to another. When minimum incorporation limits were introduced in 1976, the SMP in products containing less than the minimum was not eligible for the aid.

(18) As denaturing is an insignificant part of the measure, reference is made to incorporation only, which was the subject of the Court's enquiry.

(19) 2nd recital, Commission Regulation (EEC) No 804/76 of 7 April 1976; OJ L 93, 8.4.1976.

(15) Commission Regulation (EEC) No 1725/79 of 26 July 1979; OJ L 199, 7.8.1979.

(16) Commission Regulation (EEC) No 1624/76 of 2 July 1976; OJ L 180, 6.7.1976.

6.47. Commission Regulation (EEC) No 1725/79 contains detailed provisions for physical and administrative controls to be carried out by Member State authorities to ensure that the subsidy is only paid on SMP effectively incorporated. These provisions cover:

- (a) the authorization of firms which may benefit from the subsidy (Article 8.1 and 8.2);
- (b) prenotification of production schedules to the control body (Article 10.2 (c));
- (c) detailed provisions concerning frequent and unannounced physical and documentary checks of the production process (Article 10.2 (a), (b), (c), (g));
- (d) detailed provisions concerning in-depth audits of the commercial documents and stock accounts required by the regulation, as complements to the frequent and unannounced checks (Article 10.2 (c));
- (e) minimum quality requirements for raw materials (Article 1) and finished products (Article 4.1), minimum accounting requirements (Article 8.3, 8.4, 8.5), required chemical analyses (Annexes I, II, III), controls on bulk delivery of feedingstuffs (Article 6) and labelling provisions (Article 4.2).

6.48. The Court's audit concerned the implementation systems in the FR of Germany, France, Italy and the Netherlands; and the economic management by the Commission, its role in central supervision of Member States' implementation.

National controls

Overall findings

6.49. In three of the Member States visited (FR of Germany, France, and the Netherlands), the control

arrangements were in general functioning satisfactorily⁽²⁰⁾. This is largely a consequence of:

- (a) the detailed and specific control framework provided by Commission Regulation (EEC) No 1725/79: the provisions of this Regulation have been amended on a number of occasions to improve the control provisions, and generally they are well adapted to the requirements of the measure, are unambiguous, and well understood by the control organizations in the Member States;
- (b) the high priority given to auditing the measure by the clearance of accounts departments at the Commission: weaknesses identified in Member States' procedures have been remedied⁽²¹⁾, and in 1988 the first systems audit carried out by the department in the milk sector was directed at this measure in several Member States: the Commission, therefore, has a good idea of the systems applied by the Member States and the Member States are aware of what they are expected to do by the Commission;
- (c) the long experience of the Member States in implementing the measure.

6.50. In Italy, however, there were a number of weaknesses concerning the control arrangements:

- (a) there were no detailed instructions for the auditors, to supplement the ministerial decree which puts the Community regulations into Italian law;
- (b) one auditor carries out all the checks at a firm and, in the absence of a programme of moving auditors, frequently audits the same firm for many years: this weakness is compounded by the lack of evidence of supervision of the auditors' work by a superior official;
- (c) the provincial control bodies which have been given the task of checking the measure do not have the authority under Italian law to examine the accounts of the compound feedingstuffs manufacturers;
- (d) there was insufficient evidence of the documentary and physical checks carried out.

⁽²⁰⁾ Some problems of detail in the functioning of the control systems were identified, and have been notified to the Member State authorities concerned.

⁽²¹⁾ See for example the problem of frequency and the unannounced nature of checks in the Netherlands, summary report 1980 and 1981, paragraph 3.3.1.1.2.

6.51. Of particular interest is the fact that, in accordance with the regulations, Member States' control organizations check on beneficiary firms by a mixture of physical checks — on-the-spot visits and chemical analyses — and administrative controls on the documentation supporting claims for the subsidy. Experience has shown that it is only by a combination of these checks that implementation can be satisfactorily controlled. For example, the chemical analysis of samples of compound feedingstuffs to check, amongst other things, on the percentage of SMP incorporated in the product does not provide sufficient evidence of the actual percentage incorporation: it must be complemented by thorough documentary and physical checks of material inputs, the production process, and outputs. Reconciling book and physical stocks forms a key part of this.

6.52. The decision to abolish the minimum incorporation limit of 60 % presents a potential control problem. The Court found that the discipline of frequent sampling and analysis and the risk of loss of aid if incorporation fell below 60 % ⁽²²⁾ contributed to a high degree of control consciousness amongst the firms concerned. Below 50 % incorporation, however, the available analysis methods are unreliable and the Commission has agreed that for recipes incorporating less than 50 % SMP the analyses are not obligatory ⁽²³⁾. For such products, the chemical analysis part of a series of complementary controls no longer exists: for such products reliance must now be placed entirely on bookkeeping and stock-control checks. It is essential that the Commission and Member States ensure that these checks are tightened to compensate for the loss of the analysis control in these cases.

6.53. Of the four Member States visited, three (FR of Germany, Italy, the Netherlands) carried out their controls according to the frequency provided for in the regulation, namely, a 28-day period for the frequent, unannounced checks, followed by quarterly in-depth audits, while the fourth (France) followed the alternative rhythm of frequent, unannounced checks within each 14-day period, followed by in-depth audits every 12 months. The Court considers that the 28 day/three-monthly frequency is more effective: the bookkeeping checks form such an important part of the controls and the quarterly frequency makes for better monitoring of the firm's activities.

⁽²²⁾ From 59 % to just below 60 % incorporation the aid was reduced by 10 %, below 59 % incorporation the full aid was lost.

⁽²³⁾ Commission Regulation (EEC) No 3368/88 of 28 October 1988 (OJ L 296, 29.10.1988), modifying Commission Regulation (EEC) No 1725/79.

Commission Regulation (EEC) No 1624/76

6.54. Where the SMP is incorporated by a compound feedingstuff manufacturer from another Member State, the subsidy is paid directly by the paying agency of the exporting Member State to the exporting firm on the receipt of evidence (in the form of a T5 document (see paragraph 6.32 above) duly completed by the importing Member State Customs) that the SMP has been taken into customs control in the importing Member State. The importing firm, which purchases the SMP net of the subsidy, is required to lodge a guarantee for 110 % of the value of the subsidy with customs, which guarantee is only released on satisfactory completion of essentially the same checks provided for in Commission Regulation (EEC) No 1725/79. Until 1988 these provisions were only applied in the case of Italy. In 1988, Spain began to apply them, and, as domestic supplies of SMP became more limited, France also took steps to import SMP using the provisions of Regulation (EEC) No 1624/76.

6.55. The Court has considerable doubts about the justification for Regulation (EEC) No 1624/76, both in respect of the implications for control of the measure, and in respect of inequalities that result in relation to Regulation (EEC) No 1725/79.

Control arrangements

6.56. Firstly, there is a major problem in that the controls which have to be implemented are split between the control bodies of two Member States: one is responsible for checking that the SMP exported is of the right quality, that the quantities, etc. stated on the export documentation are correct, and that the T5 is returned so that the subsidy can be paid, while the second checks that the SMP is properly incorporated so that the guarantee can be released. The Court found that, in the case of the FR of Germany and Italy, there is very little knowledge in either Member State's control agencies of what controls are carried out by the other, and communication between the two was very limited.

6.57. Secondly, transactions under Regulation (EEC) No 1624/76 effectively escape Directive 77/435 ⁽²⁴⁾ scrutiny checks. In the FR of Germany such checks are only carried out in respect of transactions which occur within the Federal Republic, and in Italy no scrutiny checks under the directive are carried out on the grounds that no EAGGF aid is paid in Italy. Article 7 of the

⁽²⁴⁾ Directive 77/435 concerns the scrutiny of commercial documents of undertakings receiving or making payments from or to the EAGGF, Guarantee Section. Council Directive 77/435/EEC of 27 June 1977; OJ L 172, 12.7.1977.

directive provides specifically for cooperation between Member States implementing the directive, yet this is simply not happening in relation to this measure. In 1987, the value of the subsidies paid on German exports of SMP to Italy under Regulation (EEC) No 1624/76 was 142,9 Mio ECU. No effective scrutiny checks were carried out in relation to this expenditure. The Court recommends that the Commission should take steps to ensure that the Member States' control bodies responsible for the directive checks work together to carry out effective checks on both importing and exporting firms benefiting from the Community subsidy.

Inequalities between Regulation (EEC) No 1624/76 and Regulation (EEC) No 1725/79

6.58. Although the only purpose of Commission Regulation (EEC) No 1624/76 is to provide alternative arrangements for the payment of the subsidy when the SMP is incorporated into compound feedingstuffs in a Member State other than that in which the SMP is produced, the Court has found that, when combined with the workings of the agrimonetary system, the effective subsidy to Italian companies under Regulation (EEC) No 1624/76 — and since 1988 to French firms as well — is greater than that under Regulation (EEC) No 1725/79. This results from several factors, notably the fact that:

- (a) French and Italian firms benefit from the subsidy being paid at the German green rate, which is higher than the French and Italian ones; and
- (b) the detailed manner in which the monetary compensatory amount is calculated for subsidized SMP under Regulation (EEC) No 1624/76 increases the effective subsidy.

6.59. In 1988 the average benefit to Italian producers was about 2,5 % of the market price for SMP. The higher level of subsidy meant higher budgetary expenditure, estimated by the Court at 4,9 Mio ECU for 1988, in respect of the 167 717 tonnes of SMP exported from the FR of Germany to Italy than would have been incurred if the subsidy had been paid directly in lira under Regulation (EEC) No 1725/79. It is not surprising that French producers in 1988 wished to apply Regulation (EEC) No 1624/76 when a shortage of powder arose in France. Although it took a while to organize, so that very little SMP was actually exported from the FR of

Germany to France under this Regulation in 1988, substantial flows of SMP purchased in 1988 occurred during the first months of 1989.

6.60. An additional inequality resulting from Regulation (EEC) No 1624/76 is that the aid is advanced, with a six-month period allowed for processing. Under Regulation (EEC) No 1725/79 the benefit of the aid is obtained in the month following processing. Taking into account the value of the subsidy (paragraph 6.45), beneficiaries under Regulation (EEC) No 1624/76 obtain from the EC budget a substantial financial advantage. Firms in Italy and France used this advantage to help finance large acquisitions of SMP from intervention in 1988.

6.61. The Court considers that there are no compelling administrative reasons why compound feedingstuffs firms importing SMP should not pay the full market price for the SMP and claim the subsidy from their paying agency in the normal way prescribed in Regulation (EEC) No 1725/79. The Court recommends, therefore, that the Commission should immediately review and report on the need for Regulation (EEC) No 1624/76.

Fraud and irregularities

6.62. The risk of frauds and irregularities concerning this measure is relatively high, and there have been a number of notable cases. Typical examples of frauds include diversion of subsidized SMP to unauthorized uses, or blending cheaper components (e.g. whey powder) into the SMP. The aid has a high value, and an essential weakness of the regime is that both SMP for animal feed and the feedingstuff itself are such high-quality products that technically and nutritionally they can be used in human food products. The Court found that:

- (a) there is a disturbing lack of communication and effective cooperation between Member States' authorities where fraud concerns transactions across a Community border;
- (b) the Commission has been unable to act effectively in combating fraud in this area: it suffers from lack of precise information on individual fraud cases, and the often exceedingly long national legal procedures for prosecuting fraud limit its scope for action;

- (c) nonetheless, there is a need for greater coordination between Commission services, notably between the clearance of accounts and fraud and irregularities departments, and the market division, so that, in particular, the fraud and irregularities staff have more detailed knowledge of the control systems in the Member States under the specific regulations.

The Commission's management

Fixing the rate of subsidy

6.63. Although Article 2a(1) of Council Regulation (EEC) No 986/68 ⁽²⁵⁾ sets out various market factors which should be taken into account when fixing the rate of subsidy, the Court found little or no specific evidence to justify the particular levels of subsidy fixed. No specific analyses are carried out, for example, to determine the optimum level of subsidy which will achieve a target level of disposals at minimum cost to the budget. The reductions in the aid in 1988 were not accompanied by evaluations justifying the particular new levels chosen.

6.64. In this situation, there is a danger that the level of the subsidy may be fixed unnecessarily high. For this measure, the budgetary implications could be significant, as a variation of 5 ECU/100 kg in the aid level for 1987 would have had an impact on the budget of 62,1 Mio ECU.

6.65. Further, in the changed market situation, with reduced supplies of SMP, if subsidy rates are set too high, demand for the subsidized product will prevent those prepared to pay the market price from obtaining supplies, and market prices will rise. In the medium term, subsidies should be adjusted so that market demand is satisfied at a price equal to, but not higher than, the intervention price.

6.66. In these circumstances, although the Court is aware that there are difficulties in introducing a tendering procedure for the subsidy, notably because it might tend to exclude small operators from the scheme, it considers that such a procedure would provide greater guarantees that the subsidy level is fixed at the optimum level.

⁽²⁵⁾ Council Regulation (EEC) No 986/68 of 15 July 1968; OJ L 169, 18.7.1968.

Management of intervention stocks in 1988

6.67. Although the measure is intended for the disposal of market supplies of SMP, it is possible to buy SMP out of intervention at the intervention price and claim the subsidy for incorporation into compound feedingstuffs as if the powder were normal market powder. As market supplies of SMP became tight in 1988, this became an increasingly important source of SMP for this measure.

6.68. At the end of April 1988 there was a sudden upsurge in speculative activity, when in one day 180 000 tonnes of SMP — 75 % of the available public stocks — were bought from intervention at the intervention price. This resulted in an immediate increase of 12 % in market SMP prices, followed by further increases from August onwards as market supplies continued to tighten. By November 1988, when they were at their peak, market prices were 19 % above the intervention price level ⁽²⁶⁾.

6.69. As a result of this activity, traders in effect took over an important part of the market management role of the Commission. They were able to control a large proportion of the available stocks, encourage the upward movement in the market price and obtain speculative profits.

6.70. The Court considers that, in the light of the tightening supply position in the SMP market at the end of 1987, sales from intervention at the intervention price should have been suspended and a tender system for sales from intervention introduced. This would have:

- (a) ensured that the Community budget benefited from the short-term upward trend in prices: if one assumes that a tender system would have enabled the Commission to sell the 180 000 tonnes of intervention powder at above the intervention price, for each 1 % increase in price over that actually obtained the benefit to the budget would have been 3,2 mio ECU less any additional public storage expenses incurred by virtue of storing the powder a little longer;
- (b) enabled the subsidy level to be adjusted so that, in the medium term, market prices returned to around the intervention price level, thus avoiding the instability that affected the SMP market during the second half of 1988.

⁽²⁶⁾ Data for FR of Germany, which is representative of the situation.

Concluding remarks

6.71. The Court wishes to highlight the positive management and control aspects concerning the measure for aid for SMP incorporated into compound feedingstuffs as follows:

- (a) the Community regulation provides a detailed framework for management and control which is in general well adapted to the characteristics of the activity in question;
- (b) the Commission has checked in some detail its implementation, with beneficial effects on the controls performed by the Member States;
- (c) the Member States are aware of what control requirements are made of them, and, at least in three of the Member States visited, have established good systems and procedures for managing and controlling the regime.

6.72. As such, there are lessons to be applied in regard to other measures where these three elements do not yet exist.

6.73. As far as economic management is concerned, the Court considers that in the changed market situation, with reduced supplies of SMP on the market and market prices above the intervention price level, greater attention should be focused on optimizing the rate of aid. The introduction of a tender system, such as operates in relation to subsidized butter for bakeries, ice-cream, etc., would help to achieve this.

The ewe premium in the sheepmeat sector

6.74. The principal measure in the common organization of the sheepmeat market is the ewe premium⁽²⁷⁾. This premium, which is paid directly to more than 500 000 sheep- (and goat-) farmers in the Community, is calculated so as to bridge the gap between market prices and 'reference prices', which are determined separately for different regions of the Community. It is a revenue aid to sheepmeat producers.

⁽²⁷⁾ Council Regulation (EEC) No 1837/80 of 27 June 1980, (OJ L 183, 16 July 1980) and Commission Regulation (EEC) No 3007/84 of 26 October 1984, (OJ L 283, 27.10.1984).

6.75. The Court's enquiry in 1988 was concerned with the administration of and controls on the ewe premium scheme. Visits were made to the three principal beneficiary Member States, Spain, France and the United Kingdom, as well as to the Commission.

Budgetary expenditure

6.76. Since its inception in 1980, the budgetary cost of the sheepmeat regime in total has increased at a very rapid rate. In its special report of 1984 on the operation of the common organization of the market in sheepmeat⁽²⁸⁾ the Court expressed concern that the effective regulation of the sheepmeat market was no longer within Community control and that available evidence suggested that the charge to the budget of supporting the system would continue to increase. Since 1982 budgetary expenditure on the ewe premium has increased from 61,7 Mio ECU to 1 125,9 Mio ECU in 1988, and it is forecast to continue to rise in 1989. A stabilizer mechanism was introduced in March 1988 fixing a maximum guaranteed Community flock of 62 million head. This however was not sufficient to contain budgetary expenditure up to the end of 1988.

6.77. **Table 6.4** sets out budgetary expenditure on the ewe premium by Member State for the years 1986 to 1988. At 1 125,9 Mio ECU in 1988, expenditure on the premium accounted for 87 % of total expenditure in the sector. The most important beneficiary Member States are Spain (29,4 % of ewe premium payments in 1988), France (16,9 %), United Kingdom (16,3 %) and Greece (14,4 %). The increase of 2,3 times in total expenditure on the ewe premium between 1987 and 1988 is partly explained by the large increase in the new Member State Spain, but also reflects significant increases in most other Member States.

Main administrative features

6.78. The farmer submits his claim for the premium at the beginning of the campaign year, which coincides with

⁽²⁸⁾ Special report of the Court of Auditors on the operation of the common organization of the market in sheepmeat, (OJ C 234, 4.9.1984).

Table 6.4 — Budgetary expenditure on the ewe premium 1986-88, by Member State

(Mio ECU)			
Member State	1986	1987 (1)	1988
Belgium	0,7	1,0	1,6
Denmark	0,5	0,9	1,8
Germany	11,8	18,9	34,7
Greece	20,7	99,5	161,5
Spain	n.a. (2)	105,7	331,4
France	140,8	57,9	190,3
Ireland	62,0	61,9	81,3
Italy	21,7	23,7	69,9
Luxembourg	0,1	0,0	0,1
Netherlands	4,0	0,1	28,5
Portugal	n.a. (2)	10,9	41,1
United Kingdom (3)	193,6	96,5	183,4
EUR 12	456,7	476,8	1 125,9

(1) The 1987 financial year for the EAGGF was 10 months, January to October.

(2) n.a. = not applicable. Spain and Portugal did not join the EC until 1.1.1986.

(3) Excluding the variable slaughter premium.

the calendar year. In his claim he declares the number of ewes eligible for the premium (29). The farmer undertakes to keep the number of eligible ewes declared on his holding for 100 days from the last day of the introduction period for claims: this is intended to ensure that the same ewe does not benefit from the premium on more than one holding.

6.79. Commission Regulation (EEC) No 3007/84 provides for administrative controls supplemented by a sample of on-the-spot physical inspections during the 100-day retention period. These inspections lead to a proportional reduction of the premium if the number of ewes found during the inspection is lower than that declared. If the lower number of ewes is not due to natural circumstances or *force majeure*, then the entire premium claimed is refused.

(29) Eligible ewes are defined as female sheep which have been put to the ram for the first time (i.e. ewe lambs less than one year old) and are visibly in lamb, or which have lambed at least once, excluding cull ewes. Cull ewes are ewes which are no longer reproductive and are normally destined for sale for slaughter.

National controls

Controllability of regulatory provisions

6.80. The Court found that a number of key provisions in the regulations are neither adapted to the realities of sheepbreeding, nor to the need to control them in practice.

Definition of 'eligible ewe'

6.81. Ewe lambs 'visibly in lamb' (30) — eligible for the premium — and cull ewes (31) — not eligible for the premium — are impossible to check, even by experienced inspectors: as these categories can account for up to 15 % of a flock, this problem is not negligible.

Checking 'natural circumstances' (32)

6.82. Assessing whether a reduction in the number of eligible ewes is due to natural circumstances or other reasons is left to the appreciation of the inspector. Unlike in cases of *force majeure* (33), the farmer is not required to produce documentary proof of reductions due to natural circumstances, nor would this be feasible: in many cases, the farmer himself does not know the cause of the loss — death or disappearance — of a ewe. Natural losses are a normal situation for a flock, and may affect 6 — 8 %, or in certain areas even 10 %, of the flock.

6.83. Because farmers tend to explain all reductions — other than certified cases of *force majeure* in the number of ewes identified by the inspector in terms of natural losses, and because the inspector has difficulty in contesting this explanation, in practice, special investigations are only carried out into natural losses if the proportion so claimed by the farmer is above an indicative percentage considered to represent normal natural losses (e.g. 10 % in Spain).

(30) Article 5, Commission Regulation (EEC) No 3007/84.

(31) Article 1(2), Council Regulation (EEC) No 872/84 of 31 March 1984; OJ L 90, 1.4.1984.

(32) Article 7, Commission Regulation (EEC) No 3007/84.

(33) Cases of *force majeure* are the subject of case-by-case examination taking into account the specific circumstances given in justification, and the supporting documentation provided (Article 7.1, Commission Regulation (EEC) No 3007/84).

Flocks not inspected

6.84. Because the regulation only provides for the premium to be reduced proportionally where natural losses are identified as a result of a control — farmers are not required to declare systematically such losses — excessive premiums are likely to be paid to the sheep-farmers not inspected.

6.85. From information currently available, in any given year approximately 85 % of flocks are not inspected. If it is assumed, firstly, that the size distribution of inspected and non-inspected flocks are similar, and secondly, that natural losses of up to 10 % affect all flocks, it may be estimated that excessive premiums are being paid on up to 10 % of the ewes in the non-inspected flocks. This implies that up to 8,5 % of annual expenditure (96 Mio ECU in 1988) could be at risk in this way.

6.86. In 1988, some Member States (e.g. Spain and the United Kingdom) introduced their own systems requiring farmers to declare natural losses whether they were inspected or not. The Community regulation should be amended without delay to require farmers in all Member States to declare their natural losses systematically.

Disproportionality of penalties

6.87. The full loss of the premium is required by the regulation if a reduction in the number of eligible ewes — even by one ewe — cannot be attributed to either natural loss or *force majeure*; this means that farmers either try to manipulate the natural loss provisions, or, at the other extreme, they systematically underclaim for the premiums to which the regulation entitles them. Neither situation is satisfactory. The feasibility of introducing a scale for the loss of premium penalty should be examined.

Lambs of (minimum) two months, Greece and Italy

6.88. In Greece and Italy the market price is generally above the EC basic price. Notwithstanding this, sheep-farmers in these two Member States are paid the ewe premium, at the same rate as that fixed for France⁽³⁴⁾. To

qualify for this premium, the farmer undertakes to sell the lambs at a weight at least comparable to those in France, and therefore to keep the lambs until the age of two months: this corresponds to about 12-13 kg as against the usual lamb sold at the age of one month at a weight of 6-8 kg in these two Mediterranean countries.

6.89. The Commission does not have any information concerning controls carried out in Italy and Greece which would confirm that lambs are effectively kept on the holdings for the required two months. It may indeed be questioned whether consumers in Greece and Italy adapt their customs and traditions (for example, the young Easter lamb in Greece) to the provisions of the Community regulations.

Specification of control requirements

6.90. The regulations do not set out clearly — or in some instances at all — the controls that should be carried out by the Member States. As a result, there are important differences in the administration and control of the regime in Member States, the most notable of which are set out in the following paragraphs.

Rate of on-the-spot visits

6.91. The Community regulations do not specify a minimum obligatory rate for on-the-spot inspections. The Commission, through the clearance of accounts procedure, has considered a minimum rate of 5 %⁽³⁵⁾ as acceptable, which implies that, on average, a farmer is inspected once every 20 years. During the Court's enquiry, it was noted that the Commission did not know the real inspection rate in all the Member States, in particular those in Italy and Greece, two of the most important sheepmeat producers. In 1988, the rate of inspection for those Member States, where it was known, varied from 8 % in France to 100 % in Ireland. Given the current regulations, this problem has greater significance in that only the farmers inspected are subject to having the premium reduced because of natural losses.

⁽³⁵⁾ This follows the clearance of accounts work in respect of the 1986 budget year. In France, it was found that in some *départements* the percentage of inspections was less than 5 %, in several *départements* no inspections at all were carried out. This resulted in disallowance of over 500 Mio FF in the 1986 clearance decision.

⁽³⁴⁾ Article 5.5 of Council Regulation (EEC) No 1837/80.

Physical flock count

6.92. Article 5 of Commission Regulation (EEC) No 3007/84 does not state clearly whether a physical flock count is required for each on-the-spot inspection. While the Commission's interpretation is that physical counts are obligatory, this is not fully shared by the authorities in the Member States audited by the Court. Indeed, it is not clear that physical counts are always feasible in areas where sheep graze extensively, especially if the inspection is unannounced. The three Member States visited have, nevertheless, pointed out to the Court that situations where a physical count is not in practice feasible continue to be the exception, and that a physical count should be the general rule.

Permanent flock register

6.93. The Member States which have chosen to maintain a 'movement register' ⁽³⁶⁾ are authorized to spread out their inspections throughout the marketing year, and the farmers can sell the ewes approximately two months earlier because the obligatory retention period of 100 days begins, under this option, the day that the claim for the premium is introduced. The system applied in the Member States does not have to correspond to any basic criteria specified in the regulation, nor is a procedure for authorizing the application of this provision set out.

6.94. Only Denmark and the United Kingdom apply this provision, but neither of them maintain a register showing the full development of the flock. In Denmark there is no register as such, simply individual documents covering births, deaths, sales, and purchases. In the United Kingdom the flock register does not include births and deaths. These two Member States maintain flock documentation which does not go very much beyond what is kept in other Member States which do not apply the provisions concerning the flock register.

6.95. The concept of the flock register should be widened to provide a complete record of flock development, in conjunction with the proposal of the Commission to the Council for a text harmonizing sanitary controls in the sheepmeat market ⁽³⁷⁾. The use of such a flock register in all Member States should be encouraged. For those farmers who do not maintain a register or

satisfactory supporting documentation, the Community regulations should explicitly require a physical count of the ewes, during a retention period which is sufficiently long to enable the appropriate on-the-spot inspections to be carried out.

Marketing timetable

6.96. The timetable for the ewe premium is defined in the Community regulations in a loose and flexible manner ⁽³⁸⁾. This means that, depending on the interpretation placed on it by the Member State, a farmer in one Member State can be paid his premiums 10 to 12 months later than a farmer in another Member State. Thus, in France a farmer who introduces his claim in January 1988, will receive his premium only in April or May 1989 (unless the Member State opts for an advance, in which case the first payment will take place in October 1988). In Spain a farmer introducing his claim on the same date will already receive the full premium in June/July 1988.

6.97. The Court can see no reason for this different treatment, and considers that the regulation should be modified accordingly.

Statistical reconciliations

6.98. In none of the three Member States visited were any attempts made to compare the numbers of claims for the ewe premium with the number of ewes identified in the annual sample surveys and periodic censuses. The Commission also has not given much attention to this, although recently Eurostat has undertaken to try to explain differences.

6.99. Eurostat has established that the number of premium claims can be up to 30 % higher than the number of ewes according to the official statistics. While the population of ewes eligible for the premium is not identical to the population for statistical purposes, they are similar. At the very least, analyses should be carried out by the Member States, in liaison with Eurostat and the Commission, to explain the main reasons for the differences, and if necessary action should be taken to bring definitions more closely into line.

6.100. *Table 6.5* also shows that there are considerable fluctuations from year to year in the number of eligible ewes for which the premium is paid. The reasons for such

⁽³⁶⁾ Article 5.3, Commission Regulation (EEC) No 3007/84.

⁽³⁷⁾ Notably by integrating compulsorily into the permanent register certain commercial and/or veterinary supporting documents.

⁽³⁸⁾ Article 3.2, Commission Regulation (EEC) No 3007/84.

Table 6.5 — Number of eligible ewes on which premium paid, by Member State, 1984-87

(1 000 ewes)

Member State	1984	1985	1986	1987
Greece	4 000	2 214	4 676	5 526
Spain	n.a. ⁽¹⁾	n.a. ⁽¹⁾	—	13 053
France	—	7 848	7 700	7 700
Italy	784	2 224	1 454	1 652
United Kingdom	15 883	14 702	16 702	17 287

Source: Commission, DG VI.

⁽¹⁾ n.a. = not applicable. Spain did not join the EC until 1.1.1986.

large differences should be explained by the Member States. Given the relatively low rate of inspections in Member States, there is a clear danger of premiums being paid on fraudulent claims.

The Commission's supervisory and management role

6.101. The above findings in respect of national controls show that the Commission has not sufficiently carried out its task supervising and managing the implementation of the regime in the Member States. All in all, insufficient attention has been paid by the Commission to the control aspects of the system established. In particular, there has been insufficient liaison between the various Commission departments concerned with the regime, with the result that the problems of implementation and control in the Member States set out above have continued without the necessary action being taken to solve them.

6.102. When the regulations were drawn up, the control departments at the Commission were not consulted. During the examination by the Management Committee, control problems likely to arise were not taken into account. The texts adopted by the Commission are not adequate from the point of view of control requirements. Further, action to amend the regulations to overcome the problems identified by the Commission's control departments had not achieved very much by the end of 1988.

6.103. Nor has the Management Committee been effective as a channel by which control problems come to the surface in the Member States and are dealt with by the Commission. This is not because there was no recognition

of the problems identified above: on the contrary, the Court found that the control services in the Member States visited were aware of them. Liaison within Member States needs to be improved if the Management Committee is to function effectively in respect of the control requirements of the regulation.

6.104. In the above paragraphs on national controls, reference has been made in several places to problems where the Commission should also have been exercising its supervisory role. For example, the Commission should have been trying to reconcile statistical data and premium claims (paragraphs 6.98 — 6.100) and investigating with Member State services the reasons for the differences. It should also have been monitoring more closely whether in reality farmers in Greece and Italy were keeping lambs in their holdings for the minimum two-month period (paragraphs 6.88 — 6.89).

Concluding remarks

6.105. A major weakness affecting the functioning of the ewe premium scheme is the inadequacy of the regulations from a control point of view. They contain definitions and provisions which it is not possible to control and they are too vague in their specification of the controls that should be carried out by the Member State authorities.

6.106. Although the regulations provide for both physical and administrative, or documentary, controls, in many Member States insufficient priority has been given to ensuring a satisfactory rate of random physical inspections that will act as a disincentive to farmers to put in fraudulent claims. Not only should there be an appropriate rate of physical checks — a rate above 5 % of annual claims should be encouraged — but also there should be clear minimum requirements concerning the checks to be carried out, including physical counts, and the documentation that should be maintained by the breeder.

6.107. The inadequacies of the regulations, coupled with the insufficient supervision and monitoring by the Commission, at least until 1987, have meant that significant differences in the application of the regime in the various Member States have developed. A major effort is now needed by all parties, including a complete overhaul of the Community regulations, to establish a regime that not only fits the requirements of the market, but also can be controlled in a satisfactory way across the Community.

COMMON ORGANIZATION OF THE MARKETS IN THE SUGAR SECTOR

Principles and characteristics of the common organization of the markets (COM) in the sugar sector

6.108. The common organization of the markets in sugar is regulated by Council Regulation (EEC) No 1785/81 of 30 June 1981⁽³⁹⁾, which is known as the 'basic' Regulation and has been amended a number of times. Like other aspects of the common agricultural policy, it makes use of the conventional guarantee systems.

6.109. When the system was devised, the particular requirements of the product and the market were taken into consideration. In particular, the system takes account of the fact that sugar production involves a type of processing which accounts for a considerable proportion of its cost and is carried out by an industry which has little more than 200 production units in the whole of the Community, which makes monitoring relatively easy.

6.110. Moreover, although the COM in sugar is similar in some ways to other markets, such as that of cereals, it differs considerably inasmuch as an effort is made to adjust production to market needs and to minimize the burden on the budget by means of:

- (a) restricting the quantities for which Community prices are guaranteed, by means of a quota system;
- (b) a system of sharing financial liability with the operators, who are subject to levies which are intended to cover export refunds and storage allowances.

The special instruments set up to achieve these objectives are:

- (a) the allocation, to each undertaking, of quotas, which are classified as A or B quotas according to the levy rate applied to them (see point (c) below), both for sugar and isoglucose. The remainder of production is called 'C sugar and isoglucose'. The Community price guarantee is restricted to the quantities subject to quota (A and B);
- (b) the obligation for C sugar producers to export it by 1 January following the end of the marketing year or to denature it;

⁽³⁹⁾ Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector (OJ L 177, 1.7.1981).

(c) the use of levies paid by the producers to cover losses caused by the disposal of surplus sugar subject to quota and produced in the Community. The method of calculating losses and levies is described in paragraphs 6.142 — 6.147 of this chapter;

(d) the use of a special levy to cover costs incurred by producers and certain traders in the storage of sugar and particular syrups, excluding isoglucose.

6.111. The effect of the COM in sugar on the budget depends mainly on the difference between total supply minus C sugar and consumption on the internal market. Of the sources of supply listed in **Table 6.6**, the heading 'imports' requires some explanation. In 1975, on the accession of the United Kingdom, the Community undertook to import 1,3 Mio tonnes of cane sugar a year from ACP countries at the Community price without imposing a levy. The same solution was applied in 1986 in the case of Portugal, which was authorized to import about 220 000 tonnes of sugar from ACP countries and other sources, including the open world market, at a very reduced import levy. By increasing the volume of quantities for export, these 'preferential' imports result in the payment of export refunds, the cost of which has to be met entirely from the Community budget.

6.112. **Table 6.6** shows, for the last eight marketing years, the difference between total supply (i.e. the sugar produced and imported) and internal consumption, which results in a balance consisting of C sugar and exports to be financed.

Purpose of the audit carried out by the Court of Auditors

6.113. The Court examined in particular:

- (a) export refund procedures and the ways in which they were implemented, from the points of view of the legality and regularity of the transactions. On average, this item has accounted for 74 % of expenditure on the COM in sugar over the last five years;
- (b) expenditure and revenue accounts and an analysis of the budgetary mechanisms as regards the application of the principle of producers' financial liability, which is sometimes referred to as self-financing or the budgetary status quo.

Table 6.6 — Quantities in Mio tonnes of dry matter

Marketing year	80/81	81/82	82/83	83/84	84/85	85/86	86/87	87/88
Resources								
1. Sugar production A and B quotas	11,0	12,5	11,5	10,0	11,7	11,5	12,7	12,4
2. Isoglucose production	0,2	0,2	0,2	0,2	0,2	0,2	0,3	0,3
3. C sugar production (non-quota)	1,2	2,5	2,4	1,0	0,8	1,2	1,3	0,8
4. Total sugar imports	1,3	1,5	1,5	1,5	1,5	1,5	1,7	1,8
5. Total resources (1 + 2 + 3 + 4)	13,7	16,7	15,6	12,7	14,2	14,4	16,0	15,3
Utilization								
6. Internal consumption	9,7	9,8	9,7	9,5	9,8	9,6	11,2	11,1
7. C sugar	1,2	2,5	2,4	1,0	0,8	1,2	1,3	0,8
8. Exports to be financed	2,8	4,4	3,5	2,2	3,6	3,6	3,5	3,4
9. Total utilization (6 + 7 + 8)	13,7	16,7	15,6	12,7	14,2	14,4	16,0	15,3
10. Resources: consumption ratio (5:6)	141 %	170 %	161 %	134 %	145 %	150 %	143 %	138 %

Source: Internal document — January 1989, Commission of the European Communities, Directorate-General for Agriculture.

Main features of the system for granting and paying export refunds on sugar

6.114. Export refunds on sugar are granted in accordance with either special rules on sugar exports or general rules on the exportation of agricultural products, the application of which to sugar differs to some extent from the norm, as the following observations indicate.

6.115. The granting of export refunds on sugar involves various procedures, as follows:

(a) the weekly award of contracts, the procedure most generally used, including the following:

(i) bids concerning quantities and the refund requested, expressed in the national currency;

(ii) the awarding of contracts via the national body on the basis of the maximum refund rate fixed by the Commission;

(iii) the issuing to the successful tenderers of export licences corresponding to the quantities and refund rates given in their bids;

(b) the 'periodic fixing' procedure, whereby the Commission fixes a refund rate, but can change it at any time. The refund rate granted is that in force on the day of export;

(c) the advance fixing of the refund at the exporter's request. In this case, the level of refund is that in force on the day when the application for the licence is lodged and the date of advance fixing is given on the licence issued.

Procedures (a) and (b) are governed by special rules for the COM in sugar ⁽⁴⁰⁾ and procedure (c) by general rules. The level of the periodically fixed refund (see (b) and (c)) is usually lower than the rate obtained by the tendering procedure. The quantities exported on this basis are therefore relatively small.

6.116. The following points are characteristic of the use of export licences:

(a) the licence may be used for exports from any Member State;

⁽⁴⁰⁾ Regulation (EEC) No 766/68 of the Council of 18 June 1968 laying down general rules for granting export refunds on sugar (OJ English Special Edition 1968, Volume I), (Original reference OJ L 143, 25.6.1968).

- (b) the titular holder of the licence may transfer it to another exporter operating either in the same Member State or in another. No further transfer may be made;
- (c) if a licence bearing a sum to be refunded in a national currency is used in a Member State other than the one in which the licence was issued, the sum is converted into the national currency of the country of exportation on the basis of the agricultural conversion rate for the ECU;
- (d) the exporter is allowed a margin of 5 % above or below the quantity stated in the licence. This rule may have particular implications as regards self-financing in the sugar sector (see paragraph 6.149).

6.117. Exports must be carried out during the period of validity of the licence, which, for sugar, is until the end of the fifth month following that in which the contract was awarded, or, in the case of periodic fixing, until the end of the third month following the date of issue of the licence. This obligation is deemed to have been fulfilled if the goods are deposited in a bonded warehouse within the deadline, although actual exportation may take place after the deadline.

6.118. Payment of the refund is subject to the following general rules:

- (a) The exporter must apply for payment of the refund within 12 months following the date of export, that is, the day on which the customs accept the export declaration, which is made on a Community form known as the 'single document' ⁽⁴¹⁾;
- (b) it is possible to obtain an advance refund before the export is carried out, if the sugar is deposited in a bonded warehouse before the period of validity of the licence expires. If the exporter uses this procedure, on depositing the sugar in the bonded warehouse he has to submit a 'declaration of payment' document to customs, which is equivalent for the purposes of the advance payment of a refund to an export declaration.

6.119. In some Member States, different bodies are responsible for the administration of the tendering

⁽⁴¹⁾ Council Regulation (EEC) No 1900/85 of 8 July 1985 introducing Community export and import declaration forms (OJ L 179, 11.7.1985).

procedure, the issuing of export licences and the payment of refunds. In all Member States, the customs authorities are responsible for controlling export transactions, the depositing of goods in bonded warehouses and the issuing of documents connected with these operations.

6.120. A breakdown by Member State of expenditure on export refunds from 1984 onwards is given in *Table 6.7*.

Scope of the Court's audit

6.121. The Court carried out on-the-spot audits of the administrative procedures used in the payment of export refunds on sugar in the eight Member States most concerned (i.e. Belgium, Denmark, the FR of Germany, Spain, France, Italy, the Netherlands and the United Kingdom). The examination confirmed certain weaknesses, due to Community legislation or to differences in national administrative procedures, which the Court pointed out in its annual report concerning the financial year 1987 and which could affect the soundness and efficiency of the management of expenditure.

Findings and recommendations of the Court

Checks on the authenticity of licences

6.122. Since the licence issued when a contract is awarded bears a refund rate in the national currency corresponding to the successful tenderer's bid, particular checks are required. Only the agency which issued the licence is able to certify the accuracy of the rate indicated, because individual declarations are not published for each contract awarded. Since, in several Member States, the agency which pays the refund is different from the one which issues the licence and some licences are transferred and then used in a Member State other than the one in which they were issued, an appropriate transfer of the information held by the paying agency and the issuing agency is necessary for the authenticity of the licence to be checked, so that the wrongful payment of refunds resulting from the doctoring of licences can be prevented. The Community rules are deficient in this respect as they do not provide for an exchange of information to ensure the correct payment of refunds.

Table 6.7 — Sugar — Expenditure on export refunds by Member State ⁽¹⁾ (1984-88)

													(Mio ECU)
	Belgium	Denmark	Germany	Greece	Spain	France	Ireland	Italy	Luxembourg	Netherlands	Portugal	United Kingdom	EEC
1984	256,9	40,4	192,5	4,2	—	535,1	8,6	11,3	0,0	53,8	—	87,1	1 189,9
1985	246,0	49,9	222,1	0,1	—	613,6	6,9	0,3	0,0	123,8	—	90,1	1 352,9
1986	284,6	66,3	198,4	0,0	0,5	534,8	0,0	0,0	—	93,3	—	60,4	1 238,4
1987	139,0	85,4	318,0	0,0	87,4	606,5	5,1	14,8	—	222,3	—	37,3	1 515,8
1988	54,9	46,9	274,2	0,0	78,8	479,8	9,1	50,7	—	501,1	—	70,6	1 566,1
Total	981,4	288,9	1 205,2	4,4 ⁽²⁾	166,7	2 769,8	29,7	77,1	0,0	994,3	—	345,5	6 863,1

													(%)
1984	21,6	3,4	16,2	0,3	—	45,0	0,7	0,9	0,1	4,5	—	7,3	100
1985	18,2	3,7	16,4	—	—	45,4	0,5	0,1	—	9,1	—	6,6	100
1986	23,0	5,3	16,0	—	0,1	43,2	—	—	—	7,5	—	4,9	100
1987	9,2	5,6	21,0	—	5,8	40,0	0,3	1,0	—	14,7	—	2,4	100
1988	3,5	3,0	17,5	—	5,0	30,7	0,6	3,2	—	32,0	—	4,5	100

Source: EAGGF-Guarantee Section financial reports.

⁽¹⁾ In which the refund is paid.

⁽²⁾ The total does not correspond to the sum because the figures have been rounded up or down.

6.123. In contrast, in accordance with certain specific rules on licences and certificates ⁽⁴²⁾, the issuing agency is required to check the use of licences and certificates bearing a refund rate fixed in advance or a rate fixed following the award of a contract. This check, which is based on a notification from the agency paying the refund, is concerned mainly with the quantity exported and the observance of the deadlines of the licence.

6.124. The check referred to in paragraph 6.123 could easily be extended to include the question as to whether the refund has been correctly paid. It would be sufficient to include the refund rate and the date on which the contract was awarded on the form already in use or, where appropriate, just the date of advance fixing (this information is given on the licence used at the time of export and has to match the information contained in the licence issued). If there is any discrepancy between the notification it has received and the licence it issued, the issuing agency should immediately inform the paying agency. These additions to the existing procedure would

create very little extra administrative work and would make it possible to discover any mistakes or falsifications concerning the refund paid.

Checks on the origin of the sugar

6.125. Only sugar produced from beet or cane harvested in the Community or imported under the terms of special agreements with ACP countries is eligible for export refunds. Under Community rules, the exporter must declare which of these two conditions applies to the sugar. This declaration must be checked in the same way as the other items on the export declaration ⁽⁴³⁾.

6.126. The situation varies in this respect from State to State:

(a) in Italy, the export declaration, which contains the declaration of the origin of the sugar and states the

⁽⁴²⁾ Articles 31 and 34 of Commission Regulation (EEC) No 3719/88 of 16.11.1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products (OJ L 331, 2.12.1988) and instructions sent by the Commission to the Member States.

⁽⁴³⁾ Article 10 of Commission Regulation (EEC) No 3665/87 of 27.11.1987 laying down common detailed rules for the application of the system of export refunds on agricultural products (OJ L 351, 14.12.1987).

place of production, is countersigned by the staff of a tax administration office, one of which is located in each factory. This office also issues a special transport document which is submitted to customs together with the export declaration. Customs are thus able to check the declaration of the origin of the sugar;

- (b) in the Federal Republic of Germany, the declaration in question consists of a preprinted form based on the application for payment ('the goods originate in the Community');
- (c) in the other Member States visited, the entry concerning the country of origin on the export declaration (section 16 of the single document) is considered sufficient.

6.127. Declarations of a general nature, without supporting documents, cannot be checked at the time of export. Community rules should, at least, require that the name be given of the sugar refinery which produced the sugar and that documents be submitted concerning the storage, where applicable, and transport of the sugar prior to export.

Customs controls of goods at the time of export and control records

6.128. In paragraph 4.33 of its annual report concerning the financial year 1987, the Court drew attention to shortcomings in the customs controls of beef and veal export refunds. As far as sugar exports are concerned, apart from the appreciable differences between individual Member States regarding the scope and frequency of physical controls of the goods, it was found that the inspections were recorded differently, or hardly recorded at all, in the documents supporting the payment of the refund. These documents are therefore of varying value as proof of the correct payment of the refund. In some cases, the external controller thus has to look for some of the elements of proof in documents other than those submitted by the paying agency.

6.129. The following situations were discovered:

- (a) in the FR of Germany, a customs inspection of sugar for export, often including a laboratory analysis, is systematically carried out and the results are given in detail on the customs document used for the payment of the refund;
- (b) in Italy, the tax authorities carry out a physical inspection of the sugar when it leaves the factory and seal the containers used to transport the sugar to the port of embarkation. The customs authorities usually do no more than check that the seals have not been broken and record this check on the export declaration;
- (c) in the other Member States, physical customs controls are sporadic and, in certain cases (France

and the Netherlands) the performance of an inspection, if there is one, is not mentioned on the copy of the declaration submitted to the paying agency, but only in the documents which remain with the customs authorities.

Customs controls when sugar is deposited in bonded warehouses

6.130. The depositing of goods in bonded warehouses offers the exporter a number of advantages. First, he has the possibility of obtaining an advance refund in return for depositing a security. In addition, he is allowed a period of six months for actually carrying out the export. As regards the payment of the refund, the acceptance of the payment declaration, which is the first step in the procedure for depositing goods in a bonded warehouse, has the same value as the acceptance of the export declaration in the case of an immediate export. The need for a control is therefore the same for both types of declaration.

6.131. It appears from the Court's findings in the Member States that the customs procedures do not all provide the same guarantees that the rules have been correctly applied and that equivalent charges are not imposed on all the warehouse-keepers. In Italy, for instance, the exporter has to apply for authorization to deposit sugar in a bonded warehouse and the payment declaration is accepted only after the goods have been physically examined by customs, who then draw up a special report. In Germany, a physical examination is always carried out, but not necessarily before the payment declaration has been accepted. In France, the whole procedure may be carried out by the depositors by means of a computerized system for the acceptance of the payment declaration, without customs carrying out a physical examination.

Relations between the paying agencies and the customs authorities: nature of documents and their submission

6.132. In some Member States, the exporter has to submit supporting documents to the paying agency, proving his entitlement to the refund (basically this means the export declaration countersigned by customs). In other Member States, these documents are forwarded direct to the paying agency by the customs authorities.

6.133. Where supporting documents are submitted by the applicant himself, a system for verifying the authenticity of the documents is required. However, as the Court pointed out in paragraph 4.43 of its annual

report concerning the financial year 1987, existing verification systems are seriously deficient. In present circumstances, the forwarding by the administration of supporting documents for export refunds is a more reliable system than submission by the applicant himself. In addition, a procedure involving direct contact between customs and the paying agency increases the accountability of the public authorities and heightens the need for efficiency on their part, since it is the prompt forwarding of complete, accurate supporting documents that enables the exporter to receive his refund without delay.

6.134. There is also a difference concerning how the export declaration is made. In the FR of Germany, the document that is used for the purposes of the payment of export refunds is not the 'single document' but control copy T5⁽⁴⁴⁾, which is used for any consignment leaving Germany, even if the sugar does not cross the territory of another Member State before leaving the Community's customs territory. The control document is sent direct to the paying agency by the customs post through which the sugar leaves Community territory. The use of control copy T5 is a procedure aimed specifically at checking the destination of the products and therefore provides special guarantees.

6.135. The Commission should promote harmonization at Community level, with the aim of introducing procedures most likely to ensure the regularity of refund payments.

Special requirements concerning the submission of supporting documents to the paying agency

6.136. In Italy, even if the main details given on the export licence (number, dates of issue and expiry, rate fixed in advance) are recorded in the export declaration, the exporter must attach a certified photocopy of the licence to his application for payment. This requirement was made following comments by the Commission during the clearance of the accounts for the financial years 1978 and 1979. The Commission was of the opinion that the documents available on the paying agency's premises⁽⁴⁵⁾ were insufficient. However, corresponding requirements have not been imposed in another Member State (the FR

of Germany) where export licences are likewise not forwarded to the paying agency, which uses the data reproduced on the customs document.

6.137. While welcoming the fact that the Commission, when clearing the accounts, called for changes to national procedures in order to improve their reliability, the Court feels that the Commission should endeavour to harmonize national procedures so as to ensure standard levels of efficiency and regularity throughout the Community.

Efficiency of paying agencies

6.138. It was found that the time taken to process applications for the payment of export refunds varied from two weeks to two months, depending on the Member State. This affects the position of exporters awaiting the payment of refunds. Sometimes the difference in the length of time they have to wait is such as to heighten the tendency for trade to be diverted, which is likely to increase Community expenditure.

Conclusions concerning export refunds on sugar

6.139. The results of the audits carried out by the Court show that the rules and provisions on export refunds for sugar are not sufficiently effective, particularly as regards the production and use of supporting documents proving entitlement to a refund. The large number of agencies involved in the procedure for granting and paying export refunds means that specific, adequate guarantees are needed to ensure the authenticity of documents issued by one agency and used by another.

6.140. In addition, the reliability of customs controls should be brought up to a standard level. As the Court's findings concerning the procedure for depositing sugar in bonded warehouses demonstrate, the methods and frequency of controls vary considerably from State to State.

6.141. It should be emphasized that the elimination of any gaps, imprecision or inadequacy in Community rules and the uniform application of those rules by the Member States are matters of particular urgency, given that the practical abolition of all administrative barriers to the movement of goods within the Community, which is due to take place by 1992, could encourage the emergence of

⁽⁴⁴⁾ The use of Control Copy T5 is governed by Commission Regulation (EEC) No 2823/87 of 18.9.1987 on the documents to be used for the purpose of implementing Community measures entailing verification of the use and/or destination of the goods (OJ L 270, 23.9.1987) and, as regards export refunds, by Article 6 of Regulation (EEC) No 3665/87 (see footnote 43).

⁽⁴⁵⁾ Letter from the Director-General for Agriculture, dated 22.9.1981.

artificial export patterns intended to exploit differences in the application of Community rules by the national authorities.

Summary of the system of self-financing

6.142. One of the instruments for the organization of the sugar market referred to in the introduction is the principle of self-financing surplus production by the collection of a production levy from the producers. This principle is developed in the eleventh recital of the preamble to the basic Regulation, where it is stated that 'changes should be made...to provide the Community with the instruments necessary to ensure, in a fair yet efficient way, that the producers themselves meet in full the cost of disposing of the surpluses of Community production over consumption' ⁽⁴⁶⁾.

6.143. Under the Council rules, the production levies are determined on the basis of an assessment of the total loss due to exports. This is calculated by taking account of two factors:

- (a) the exportable surplus of A and B sugar and isoglucose, i.e. Community production within the limit of the quotas granted to each undertaking, minus the quantity put on the market for internal consumption;
- (b) the estimated average loss per tonne of sugar, calculated on the basis of the various types of export commitment and average refund rates per type of commitment.

6.144. These calculations are carried out for the marketing year in question. In addition, a cumulative calculation is carried out, at the same time, of the marketing years prior to the quota system in question and the total loss calculated for the particular marketing year is adjusted if necessary.

6.145. In 1988, the total loss, thus calculated, was covered by a series of levies, in the following order:

- (a) a basic levy on the production of A and B sugar and isoglucose, up to a maximum of 2 % of the intervention price for white sugar;

⁽⁴⁶⁾ Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector (OJ L 177, 1.7.1981).

- (b) a levy on the production of B sugar and isoglucose, up to a maximum of 37,5 % of the intervention price for white sugar; and finally,

- (c) an additional levy covering the balance of the adjusted total loss for the marketing year in question.

6.146. Because the levies collected since the 1981-82 year were insufficient to cover total losses, various Council Regulations ⁽⁴⁷⁾ introduced:

- (a) an elimination levy to cover the shortfall for the marketing years 1981-82 to 1985-86, which amounts to a total of 400 Mio ECU and is to be paid in five annual instalments during the marketing years 1986-87 to 1990-91; and

- (b) a special elimination levy for 1986-87 and 1987-88 to cover the balances not covered by basic levies and B levies.

6.147. Apart from expenditure on storage, which is financed by means of special levies, the rules exempt some other types of expenditure from the principle of self-financing, in particular:

- (a) refunds on the export of quantities of 'preferential' sugar imported from ACP and other countries, which are not covered by levies, since the levies are calculated on the basis of a 'total loss', which is itself determined on the basis of an 'exportable surplus' that does not take into account preferential imports. Consequently, expenditure resulting from exports corresponding to the quantities in question is chargeable to the budget. In the 1988 budget, this item was estimated at 660 Mio ECU;

- (b) production refunds ⁽⁴⁸⁾ for the 60 000 tonnes traditionally used by the chemical industry. In practice this item amounts to no more than 50 Mio ECU.

⁽⁴⁷⁾ Council Regulation (EEC) No 934/86 of 24 March 1986 amending Regulation (EEC) No 1785/81 on the common organization of the markets in the sugar sector (OJ L 87, 2.4.1986); Council Regulation (EEC) No 1914/87 of 2 July 1987 introducing a special elimination levy in the sugar sector for the 1986/87 marketing year (OJ L 183, 3.7.1987); Council Regulation (EEC) No 1108/88 of 25 April 1988 introducing a special elimination levy in the sugar sector for the marketing year 1987/88 (OJ L 110, 29.4.1988); Council Regulation (EEC) No 1107/88 of 25 April 1988 amending Regulation (EEC) No 1785/81 on the common organization of the markets in the sugar sector (OJ L 110, 29.4.1988).

⁽⁴⁸⁾ Council Regulation (EEC) No 1010/86, of 25 March 1986 laying down general rules for the production refund on certain sugar products used in the chemical industry (OJ L 94, 9.4.1986).

Scope of the Court's audit

6.148. The Court carried out controls on the basis of both documentary evidence and enquiries carried out on-the-spot in the relevant Commission departments, with the purpose of:

- (a) checking the quality of the data taken into account in the application of self-financing;
- (b) pinpointing any ambiguities relating to the budget and the accounts;
- (c) assessing the efficiency of the Commission's inspection and supervision of expenditure and revenue concerning sugar in general.

Quality of the data taken into consideration

6.149. The calculation according to the basic Regulation of total refunds does not take into account expenditure actually incurred in the disposal of Community surpluses. It is based instead on the 'total loss', which is calculated by multiplying the average loss by a theoretical exportable surplus, which for its part is calculated by deducting consumption from the quota produced, regardless of stock fluctuations. Furthermore, the average loss is calculated not on the basis of quantities that are actually exported, but on the basis of those for which export licences have been issued, the utilization rate of which can vary by 5 %.

6.150. In addition to this, since the introduction of special elimination levies, an attempt has been made to cover previous deficits by calculating, before the end of each marketing year, an aggregate total deficit for the marketing years from 1986/87 to 1989/90 which precede the marketing year in question. This system enables the Member States to correct the data on production, consumption and export commitments, which, in principle, should be final at the end of each marketing year. Although this provides the opportunity to make corrections, it does not take into account real costs.

6.151. Furthermore, although the procedure was initially intended to provide immediate cover for the deficit of a particular marketing year, the end result is that the levies collected for the marketing year in question in fact cover previous deficits. This undermines the verification of self-financing by marketing year.

*Accounting aspects***Verification of the achievement of self-financing by means of budgetary procedures**

6.152. Since levies are calculated on the basis of figures other than those for actual expenditure, it would be useful, in the interest of an overall assessment of the balance between actual expenditure and revenue, if a system were introduced for checking, through the execution of the budget, the extent to which the objective of self-financing has been achieved. In the absence of a genuine balance sheet and more precise data in the EAGGF revenue and expenditure accounts and financial reports, any assessment based on the available accounting and budgetary data is conjectural. **Table 6.8** shows changes in the levels of revenue and expenditure identified in the accounts since 1981, when the self-financing objective was adopted. The discrepancy between revenue and expenditure as shown in the table has been affected by items involved in the organization of the market, which are identified neither in the revenue and expenditure account nor in the budget (levies, part of production refunds to be taken into consideration, refunds for processed products, etc.), and export refunds for imported sugar are valued in the table only to the extent of the cost of ACP sugar as estimated in the comments attached to the budget. In the absence of a suitable accounting statement of the operations in question, no guarantee can be given regarding the achievement of a balance between expenditure and revenue.

Entry of expenditure and revenue in the accounts

6.153. Like other types of EAGGF guarantee expenditure, sugar expenditure is entered in the accounts simply on the basis of the paying agencies' monthly declarations, which show only one sum for expenditure per budget heading. For sugar, a more detailed explanation is needed to enable closer monitoring of the achievement of self-financing.

6.154. Unlike other traditional resources, various types of revenue are detailed, for sugar, in the budget. The information the Member States send does not consist of the actual figures and, all too often, the Authorizing Officer relies simply on a telephone call to obtain a breakdown of the data by budget heading from the national authorities. Such practices make it possible to disguise delays in the collection of levies and do not provide the basic guarantees necessary to determine correctly to which marketing year the production levies are attributable.

Table 6.8 — Revenue and expenditure concerning the COM in sugar (1) (1981-88)

	1981	1982	1983	1984	1985	1986	1987	1988
<i>(Mio ECU)</i>								
I. Budgetary data								
<i>A. Expenditure (payments chargeable to the financial year)</i>								
1100 Refunds on sugar and isoglucose food aid (refunds)	409,2	742,5	758,1	1 190,0	1 352,8	1 238,4	1 515,8	1 566,2
Denaturing	0,1	—	—	—	—	—	—	—
1112 Chemical industry refunds	2,4	2,3	2,3	3,1	3,5	5,1	33,4	63,0
1110 Reimbursement of storage costs	344,3	489,9	550,5	429,5	438,9	470,2	466,4	429,8
1111 Public storage	—	—	—	0,4	1,2	0,6	2,6	(-) 0,8
Measures for sugar produced in French overseas departments	11,6	5,7	5,2	8,6	8,2	11,3	—	—
1113 Raw sugar disposal aid	—	—	—	—	—	—	15,3	21,0
1119 Other intervention	—	—	—	—	—	—	2,1	2,9
Total	767,6	1 241,9	1 316,1	1 631,6	1 804,6	1 725,6	2 035,6	2 082,1
<i>B. Revenue (sums recovered)</i>								
1100 Sugar production levies	125,2	275,9	465,6	701,5	544,6	540,0	599,3	636,1
1120 Isoglucose production levies	0,7	1,0	2,8	6,6	3,8	3,9	4,0	5,0
1110 Storage levies	356,7	428,9	478,6	468,0	508,9	499,2	547,1	545,7
1130 Charges on non-exported sugar and iso.	—	—	0,1	0,1	0,0	0,1	0,1	0,0
1140 Charges on substituted sugar and iso.	—	—	0,9	0,1	0,1	—	—	—
1150 Elimination levies	—	—	—	—	—	68,3	87,0	83,5
1160 Special elimination levies	—	—	—	—	—	—	234,2	7,5
								114,0
Total	482,6	705,8	948,0	1 176,3	1 057,4	1 111,5	1 471,7	1 391,8
II. Data concerning the self-financing of expenditure on refunds								
1100 Sugar and isoglucose refunds	409,2	742,5	758,1	1 190,0	1 352,8	1 238,4	1 515,8	1 566,2
Sugar refunds/ACP quantities (2)	- 140,0	- 330,0	- 390,0	- 455,0	- 520,0	- 471,0	- 560,0	- 660,0
Difference	269,2	412,5	368,1	735,0	832,8	767,4	955,8	906,2
1100/1120 Sugar and isoglucose production levies	125,9	276,9	468,4	708,1	548,4	543,9	603,3	641,1
1160 Special elimination levies or 1170							234,2	114,0
Total	125,9	276,9	468,4	708,1	548,4	543,9	837,5	755,1
Balance (levies - refunds)	- 143,3	- 135,6	+ 100,3	- 26,9	- 284,4	- 223,5	- 118,3	- 151,1
							+ 7,5	
							(3)	
							- 110,8	

(1) The table was compiled on the basis of the data available (see the reserve expressed in paragraph 6.152; the figures were taken from the revenue and expenditure accounts for the years in question, except that the figures came from the CORE as at 31.12.1987 and from the preparatory document for the eighteenth financial report on the EAGGF, DG VI, 23.1.1989).

(2) Figures from the comments following Chapter 29 of the budget for the years in question.

(3) Special elimination levy 1986/87.

Ex post controls

6.155. Community rules on both EAGGF guarantee expenditure and budget revenue broadly divide responsibility for controls between the Member States and the Commission. The Commission's powers in the Member States are more extensive for verifying expenditure in connection with the clearance of the accounts⁽⁴⁹⁾ than for inspecting revenue⁽⁵⁰⁾, for which it has to either request to take part in national inspection measures or make a reasoned request for the Member States to carry out additional inspections (see paragraph 4.37).

6.156. As regards budgetary revenue and expenditure relating to the sugar market, the Court examined the effectiveness of the Commission's inspection and supervision measures in the Member States:

- (a) in 1988, the Commission adopted its decision on the clearance of the accounts for the financial year 1986. The Court found that the controls on which the Commission based its decision were confined, with a few exceptions, to a selective, restricted inspection consisting of spot-checks comparing the total amounts declared by the Member States. Although certain improvements, notably in the area of systems-based audits, did have an effect in 1988, the controls on which the Commission based its decision to clear the accounts for the financial year 1986 were inadequate for it to judge the reliability of the Member States' accounts concerning expenditure on the sugar market;
- (b) the Commission's inspections of the establishment, centralization and making available of revenue from the sugar market give rise to the following comments:
 - (i) in 1987, there were no controls concerning revenue from the sugar market. In 1988, just two out of the 12 Member States were visited and, together, they represent only 18 % of total revenue collected. Spain and Portugal have never been visited. The Federal Republic of Germany, Greece and the Netherlands, which together account for a third of total revenue (1988) have not been visited for five years;

- (ii) if this state of affairs were the result of a selective method based on an informed assessment of the reliability of the national management and control systems, it would be understandable for efforts to be concentrated on one area rather than another. However, such studies or systems-based audits have never been carried out, despite the fact that departmental instructions refer to them;
- (iii) if staff shortages are the problem, it is surprising that for some years the Member States have no longer been asked to carry out additional inspections in order to go some way towards offsetting the lack of controls by the Commission itself;
- (iv) the reports which the Commission is supposed to draw up periodically, in accordance with Article 18(4) of Council Regulation (EEC, Euratom, ECSC) No 2891/77⁽⁵⁰⁾ for submission to the Parliament and the Council on the functioning of the inspection arrangements have never been submitted;
- (v) the half-yearly and annual reports drawn up by the Member States on traditional own resources in accordance with Council Regulation (EEC, Euratom, ECSC) No 2891/77 are key elements. Because of legal imprecision and the practices applied in this area, reports are submitted late and, moreover, are presented in a variety of forms (see paragraphs 4.34 and 4.35);
- (vi) it is rare for a Member State to indicate in these reports the total revenue it has collected by budget heading. The value of such information is illustrated by the example of one Member State, which gave a full breakdown of its sugar revenue and in this way indicated that quantities of C sugar had not left its territory within the prescribed deadlines. However, the Commission did not enter in the accounts any revenue from penalties collected by the country in question.

Effects on the budget of trade diversions concerning sugar exports

6.157. Since the Commission does not take account of actual expenditure in its calculation of the total loss and does not verify whether self-financing has been achieved, the Court feels it should emphasize in particular the effects on the budget of the diversion of trade concerning sugar exports. In fact, it found that in the space of five years, the refunds paid by the Netherlands rose ten-fold (see **Table 6.7**). This means that the Netherlands currently export one third of all Community surpluses on which

⁽⁴⁹⁾ Regulation (EEC) No 1723/72 of the Commission of 27 July 1972, on making up accounts for the European Agricultural Guidance and Guarantee Fund, Guarantee Section (OJ English Special Edition, 2nd series, Volume III, p. 105) (original reference OJ L 186, 16.8.1972).

⁽⁵⁰⁾ Council Regulation (EEC, Euratom, ECSC) No 2891/77, 19 December 1987, implementing the Decision of 21 April 1970 on the replacement of financial contributions from the Member States by the Communities' own resources. (OJ L 336, 27.12.1977).

refunds are paid, which corresponds to about 1 080 000 tonnes, even though their own production of sugar in excess of the quota actually amounts to only 320 000 tonnes. As the Court has already pointed out in its special report on the agri-monetary system ⁽⁵¹⁾, the diversion is due in particular to differences in the exchange rates, from

which mainly French and Belgian exporters profit. In the absence of more precise data on tonnages and their origins, it is difficult to assess the effect on the budget of this trade diversion, which is not covered by production levies. However, on the basis of the general data available, the effect can be estimated (as **Table 6.9** shows in detail) at least 10 Mio ECU.

⁽⁵¹⁾ Special report No 1/89 on the agrimonetary system; OJ C 128, 24.5.1989.

Table 6.9 — Cost of diverting sugar exports via Vlissingen (The Netherlands) in 1988
Exportation of sugar produced in Belgium and France, calculation of the additional cost borne by the Community budget (in budgetary ECU) resulting from the difference, depending on the State, between the green rates converted into budgetary ECU

1. Basic data used in calculation:

— average sugar refund rates 1987-88:
 447,63 ECU per tonne

— green rates:	Belgium 48,0658 BFR	France 7,47587 FF	The Netherlands 2,67387 HFL 2,64704 HFL
— budgetary ECU rate:	43,3864 BFR	7,02483 FF	2,33221 HFL
— corrective coefficient:	—	1,035	—
— monetary compensatory amount:	—	151,2 FF 1st half year 150,9 FF 2nd half year	—

— tonnage: estimate based on exportable quantities and quantities exported by the country

2. Calculation of additional expenditure caused by trade diversions

Green ECU rate	Calculation of the refund per tonne					Community expenditure	
	Principal refund in national currency	Corrective coefficient	Corrected refund	Compensatory amount	Final amount	Budgetary ECU rate	EC expenditure
(1)	= $\frac{(2)}{x(1)}$ = 447,63 ECU	(3)	= $(2) \times (3)$	(5)	= $\frac{(6)}{(4)/(5)}$	(7)	= $\frac{(8)}{(6)/(7)}$
	French sugar					ECU	
7,47587 FF	A. Exports from France 3 346,42	1,035	3 463,54	- 151,05	3 312,49	7,02483	471,54
2,67387 HFL 2,64704	B. Exports from the Netherlands 1 190,90	—	—	—	1 190,90	2,33221	510,63
FF	Negative MCAs paid on leaving France			- 151,05		7,02483	<u>-21,50</u> 489,13
Total	C. Additional expenditure under B compared with A						17,59 or 3,73 %
	Belgian sugar					ECU	
48,0658 BFR	A. Exports from Belgium 21 515,69	—	—	—	21 515,69	43,3864	495,91
2,67387 HFL	B. Exports from the Netherlands 1 190,90	—	—	—	1 190,90	2,33221	510,63
	C. Additional expenditure under B compared with A						14,72 or 2,97 %

3. Estimated additional expenditure for the Community budget

Total exports from the Netherlands in excess of the national quota: 1 080 000 - 320 000 = 760 000 tonnes, 460 000 of which from France and 300 000 from Belgium (estimate).

Additional expenditure: France 460 000 × 17,59 = 8 091 400.
 Belgium 300 000 × 14,72 = 4 416 000.

Conclusions

6.158. The Court's analysis led to the following conclusions:

- (a) because it is not based on actual figures, in particular as regards expenditure, the method of calculating total loss lacks accuracy;
- (b) the records and supporting documents are inadequate for revenue and expenditure to be taken into account and actually booked according to marketing year. The structure of the budget for the sugar market and the accounts kept by the Commission fail either to provide the necessary information for the loss that has to be covered to be accurately calculated or the extent to which the principle of self-financing has been achieved to be clearly and unequivocally ascertained;
- (c) the Commission's inspections of the operations are flawed by the inadequate quality of the information available, an unsatisfactory systems analysis and the infrequency of the inspections;
- (d) trade diversions are a burden on the Community budget.

6.159. The Court therefore feels it has a duty to call for appropriate steps to be taken to prevent the unnoticed creation of new shortfalls and to ensure that the management of the budget in the sugar sector is transparent and easy to inspect.

The Court's assessment of the Commission's reply

6.160. The Commission's alternative version (p. 295) of Table 6.8 calls for the following observations:

Part A

- (a) In Part A the Commission seems to be trying to show that equilibrium has been achieved. So, in the case of the 1987-88 year, the total of 1 677 834 870 ECU is given, for both revenue (line 10) and expenditure (line 6). However, though the calculation of expenditure is identifiable, the calculation of revenue is based on the addition of two disparate items: on the one hand, levy revenue (676 Mio ECU — line 8) in accordance with

the parameters set out in the basic Regulation (quantities corresponding to the 'exportable surplus' and the average refund) and, on the other, a sum (1 001 Mio ECU — line 9) which has been calculated by multiplying estimated quantities (2 237 255 t) by the value of the average refund (average loss of 447,46 ECU/t — line 7). The starting point of this table is thus a number of quantities. The only piece of financial information included in the table is the average refund figure, which is used for the purpose of calculating all the headings with an effect on the budget;

- (b) of these quantities (3 749 710 t), only those relating to the EEC surplus or the 'exportable surplus' (1 512 455 t) are justified, the others (2 237 255 t) being estimated on the basis of the final balance (total quantities exported less EEC surplus); this composite figure jumbles together exports from:
 - (i) destocking of EEC sugar and imported sugar;
 - (ii) imported sugar subject to the levy at the full or reduced rate and sugar imported levy-free (ACP sugar).

This balance, which results in expenditure of 1 000 Mio ECU, is not broken down in such a way as to show which respective parts are to be charged to the importers and which to the EAGGF;

- (c) this method of calculating on the basis of balances has no probative value as regards the amount of the expenditure because it results from multiplying the same quantities by the same multiplier (447,46 ECU/t). In addition, it cannot be confirmed by the available data, as far as quantities are concerned, largely because of the uncertainty regarding variations in stocks.

Part B

- (d) Part B in the table uses figures which are different from those included in Part A as a result of the use of the budgetary ECU (whereas the data in Part A are calculated in 'green' ECU) and the breakdown into budgetary years (whereas the data in Part A have been established by marketing year). Parts A and B are thus not directly comparable;
- (e) Part B combines:
 - (i) accounting items, i.e. in line 11, Chapter 11 expenditure (1 629 Mio ECU for 1988) and, in line 14, levies collected (755 Mio ECU for 1988);

- (ii) items which have been calculated, i.e. in line 12, the deduction for expenditure chargeable to importers or to the EAGGF (924 Mio ECU);

The unidentified items of expenditure and revenue in the revenue and expenditure account have been valued using a figure taken from Table A, i.e. quantities, relating, moreover, to a marketing year and not a budgetary year. The result is an amalgam of accounting data peculiar to the budgetary year and non-accounting data peculiar to the marketing year. It is thus reasonable to conclude that proof of financial equilibrium has not been given;

- (f) line 15 of the table shows a deficit of 37,3 Mio ECU in 1987 and a surplus of 50,7 Mio ECU in 1988. The

Commission justifies this swing on the grounds of the fact that the marketing year is not coterminous with the budgetary year. This justification seems to indicate that the mechanisms set up to make it possible to calculate budgetary and accounting data by marketing year, the reference period for the self-financing objective, are not adequate;

- (g) in conclusion, the Court observes that there are no reliable quantitative data to cover all the operations involved in the financing systems and that the representation of this financing system in the accounts consequently lacks precision whilst also not reflecting the flows of data per marketing year. The Court must therefore call upon the Commission to continue its efforts to achieve the necessary degree of clarity in the accounts.

CHAPTER 7

Community aid for the development of the Portuguese economy

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INTRODUCTION

7.1. In 1980 the Community granted pre-accession aid for the structural development of the Portuguese economy, followed after accession in 1986 by a specific programme for the development of Portuguese agriculture (Pedap) (implemented by Council Regulation (EEC) No 3828/85 of 20 December 1985 ⁽¹⁾) and in 1988 by a programme for the development of Portuguese industry

(Pedip) adopted by Council Regulation (EEC) No 2053/88 of 24 June 1988 ⁽²⁾.

7.2. The following paragraphs include a brief summary of these three sets of measures and the way in which they were carried out. They also include observations concerning the pre-accession aid and Pedap, the only measures which were the subject of audits by the Court in the

⁽¹⁾ OJ L 372, 31.12.1985, p. 5.

⁽²⁾ OJ L 185, 15.7.1988, p. 21.

Portuguese regions concerned during 1988, as Pedip implementation was still in the initial stages.

THE REGULATIONS AND HOW THEY WERE IMPLEMENTED FINANCIALLY

Pre-accession aid

7.3. The agreement concerning the implementation of pre-accession aid for Portugal ⁽³⁾, which was signed on 3 December 1980, entered into force on 1 January 1981 (Council Regulation (EEC) No 3323/80 of 18 December 1980 ⁽⁴⁾). It provided that up to the date of Portugal's accession to the Community total aid of 275 Mio EUA was to be made available by way of contributions to the financing of measures undertaken by the Portuguese Government in preparation for the country's accession.

7.4. This amount was divided up as follows:

- (a) 150 Mio EUA in the form of EIB loans;
- (b) 125 Mio EUA in the form of grant aid from the Community budget. 25 Mio EUA was to be allocated to interest subsidies on 125 Mio EUA of the EIB loans mentioned above, while 100 Mio EUA was to be used to finance cooperation projects or programmes to which the Community contribution was not to exceed 50 %, as well as technical assistance operations, which could be financed entirely by the Community.

7.5. A second agreement, signed in Brussels on 7 November 1984, entered into force on 1 January 1985 (Council Regulation (EEC) No 3598/84 of 18 December 1984 ⁽⁵⁾). It provided that up to the date of Portugal's accession to the Community 50 Mio ECU was to be made available to Portugal in the form of grants for the financing of projects and programmes in the agricultural and fisheries sectors (500 000 ECU being reserved for the latter), with Community contributions of up to 50 %, or even 65 % in special cases.

⁽³⁾ This followed emergency aid of 150 Mio EUA from 1976 to 1977 and a financial protocol for 230 Mio EUA from 1977 to 1981, which, however, provided only for EIB loans carrying interest subsidies.

⁽⁴⁾ OJ L 349, 23.12.1980, p. 1.

⁽⁵⁾ OJ L 333, 21.12.1984, p. 7.

7.6. By a Decision of 17 December 1985 the Council extended the application of the two agreements to 31 December 1986, to make it possible for the appropriations to be utilized fully.

7.7. On 19 August 1983 and 10 August 1984 the Council and the EIB Board of Governors authorized further EIB loans to Portugal of 75 Mio ECU and 150 Mio ECU for the years 1984 and 1985.

7.8. The loans were fully allocated by the EIB before accession and the 25 Mio EUA of subsidies provided for in the first, 1980, agreement were paid. The files available at the Commission show only the use that was expected to be made of the loans. On the other hand there was no organized monitoring of the use that was actually made of them, or of their effects on the Portuguese economy, even in the case of the loans which had received interest subsidies. In the absence of the relevant documentation the Court was unable to examine the expenditure in respect of these interest subsidies.

7.9. Commission assistance was granted for 73 projects under the two 1980 and 1984 agreements. A financing agreement was concluded between the Commission and the Portuguese Republic for each project, but in some cases the agreements were signed more than a year after the corresponding commitment was shown in the accounts (see paragraph 7.22 below). The total committed was 150 Mio ECU, about 70,5 Mio ECU of which was for the agricultural sector and 67,4 Mio ECU was for infrastructure. Of these commitments, 43,6 Mio ECU was entered in the accounts during the financial year 1986 in accordance with the Council Decision referred to in paragraph 7.6 above. As of 31 December 1988 payments amounted to 102,9 Mio ECU, or approximately 69 % of commitments. Including interest rebates on loans, the total amount of payments by the Commission was 127,8 Mio ECU, or 73 % of the commitments. **Table 7.1** gives a more detailed breakdown of the appropriations paid out.

The specific programme for the development of Portuguese agriculture (Pedap)

7.10. The specific programme for the development of agriculture in Portugal was introduced by Regulation (EEC) No 3828/85, as amended by Council Regulation (EEC) No 3464/87 of 17 November 1987 ⁽⁶⁾ and Council Regulation (EEC) No 2182/88 of 18 July 1988 ⁽⁷⁾. Commission Decision No 87/340/EEC of 26 May 1987 ⁽⁸⁾ laid down provisions relating to applications for reimbursement and advance payments.

⁽⁶⁾ OJ L 329, 20.11.1987, p. 4.

⁽⁷⁾ OJ L 191, 22.7.1988, p. 13.

⁽⁸⁾ OJ L 181, 3.7.1987, p. 1.

Table 7.1 — Use of pre-accession aid for projects and programmes, as of 31.12.1988

Project categories	Number	Commitments (Mio ECU)	Payments (Mio ECU)	% commitments/payments
Agreement of 3.12.1980				
SMU	1	10	10	100
Fisheries	2	1,195	1,131	94,6
Infrastructure	10	67,420	50,395	74,7
VAT	1	0,378	0,358	95
Agriculture	15	21,007	11,593	55,2
Total	29	100	73,477	73
Agreement of 7.11.1984				
Fisheries	1	0,500	0,500	100
Agriculture	43	49,500	28,880	58,3
Total	44	50	29,380	58,8
Total of the two Agreements	73	150	102,857	68,6
Interest subsidies (Agreement of 3.12.1980)		25	25	100
Grand total		175	127,857	73

7.11. These measures are to cover a period of 10 years (1986-95) at a total estimated cost to the EAGGF of 700 Mio ECU. The main areas for action are the provision of agricultural advisory services, training and research, improving the efficiency of agricultural structures, land structures, rural infrastructure and forestry and increasing the market value of agricultural products. The programme comprises 15 different measures, some of which are split into sub-measures. Regulation (EEC) No 3828/85 is to be implemented as part of the specific programmes. The EAGGF contribution, which originally ranged from 50 to 75 % of eligible expenditure, was increased to 75 % on 1 January 1988 for all measures except measures to increase the market value of agricultural products, where it may not exceed 60 %.

7.12. As of the beginning of 1989, 21 programmes had been approved by the Commission. These corresponded to a total estimated financing of 293,2 Mio ECU to be borne by the EAGGF (see *Table 7.2*). As of 31 December 1988 the amounts committed and paid related to 12 programmes and amounted to 73,7 Mio ECU, of which 32,3 Mio ECU was for the financial year 1987 and 41,4 Mio ECU for 1988. The 41,4 Mio ECU represents the amount advanced by the EAGGF for 1988.

The specific programme for the development of Portuguese industry (Pedip)

7.13. Regulation (EEC) No 2053/88 introduced a five-year programme for the modernization of industry in Portugal (Pedip), consisting of a set of measures designed to promote industrial development.

7.14. The Community financial assistance provided for in the programme is provided by means of additional budgetary resources, over and above the normal structural Fund assistance. The total amount of Community finance to the Pedip for the period 1988-92 is estimated at 2 000 Mio ECU, an amount markedly higher than the aid granted hitherto. It is broken down into:

- 400 Mio ECU from ERDF resources;
- 100 Mio ECU from ESF resources;

Table 7.2 — Pedap — Specific programmes approved

Programme (1)	Regions (2)	Duration (years) (3)	Estimated Community financing (Mio ECU) (4)
<i>Phase 1 — 27.11.1986</i>			
1. Improvement of traditional irrigation systems	Mainland excluding Alentejo and Algarve	3	9,59
2. Rural roads	Mainland and Azores	3	28,78
3. Provision of electricity supplies to farms	Mainland	3	9,33
4. Drainage and soil conservation	Alentejo	4	2,99
5. Restructuring and establishment of olive grove inventory	Mainland	3	7,54
6. Programme of forestry measures	Mainland	3	41,20
<i>Phase 2 — 28.1.1988</i>			
7. Production of certified cereal and fodder-crop seed	Mainland, excluding Algarve	5	8,30
8. Animal health protection associations	Mainland	4	27,10
9. Idem	Azores	3	1,60
10. Idem	Madeira	3	0,90
11. Small irrigation systems	Mainland	4	12,20
12. Provision of electricity supplies	Madeira	3	0,60
13. Rural roads	Madeira	3	3,80
14. Improvement of traditional irrigation systems	Madeira	5	2,30
15. Development of agriculture and sheep-farming in the Mértola municipal area	Alentejo	7	3,96
16. Agricultural vocational training centres	Entire national territory	6	16,90
17. Training centres for agricultural advisers and agricultural research centre	Mainland	4	14,10
<i>Phase 3 — 7.2.1989</i>			
18. New collective irrigation schemes	Mainland	6	63,50
19. Renewal of existing irrigation systems	Mainland excluding Entre-Douro-e-Minho	5	14,50
20. Drainage and soil conservation	Mainland	4	14,00
21. Studies for the analysis of Portuguese agriculture	Entire national territory	4	10,00
Total			293,19

— 500 Mio ECU from the special budgetary heading;

— loans from the EIB's own resources to a maximum of 1 000 Mio ECU.

7.15. Four areas have been adopted as priority areas for programme realization:

(a) faster improvement of basic industrial infrastructure;

(b) stronger foundations for basic and further vocational training facilities for careers in industry;

(c) the financing of productive investment;

(d) productivity drives.

7.16. The general Commission guidelines for the implementation of Pedip in 1988 and 1989 ⁽⁹⁾ are centred around seven specific programmes.

7.17. According to information obtained from the Directorate-General for the Internal Market and Industrial Affairs at the Commission, as of 31 December 1988 90 Mio ECU had been committed and 45 Mio ECU paid against the special budgetary heading. In the case of the ERDF measures, it had been decided that approximately 80 Mio ECU was to be committed for several projects which were to form part of Pedip. No appropriation had been committed by the European Social Fund so far. In October 1989 no loan agreement had yet been finalized by the EIB.

⁽⁹⁾ OJ C 336, 31.12.1988, p. 4.

OBSERVATIONS CONCERNING PRE-ACCESSION AID

Coordination of activities and communication of information

7.18. In the case of the Community, four Directorates-General at the Commission are responsible on the technical side, according to the category of the project, and a fifth Directorate-General is responsible for authorizing expenditure and for global monitoring of aid. Coordination of their activities should be improved, even as regards the compilation and keeping of files, and the flow of information between them should be faster and more complete. On the technical side, action by the Directorates-General to supervise project implementation has been of inconsistent quality, both in the case of on-the-spot audits and examination of files, and some of them only managed to provide limited follow-up.

7.19. The Commission has made no provision, in either the agreements concluded with Portugal or the financing agreements for the various projects, for the establishment of a national authority to coordinate the activities of the various national authorizing agencies and to liaise with the relevant Commission departments. In particular, the *Fundo de Financiamento das Acções Pré-adesão Portugal-CEE* acts as paying agent only, under an agreement which it has concluded with the Commission.

7.20. As the different agreements have taken effect, the absence of any coordination of this kind has jeopardized the quality of information available to both the Portuguese and Community authorities regarding the implementation of the aid. Not until the end of 1987 was the Directorate-General for the European Communities at the Portuguese Ministry for Foreign Affairs appointed central coordinator. At the time of the Court's checks in April 1988, the change was still too recent for the Court to be certain that it would result in a genuine improvement, whether as regards the Commission or the authorizing agencies.

7.21. At the time of these checks the authorizing agencies had very little information concerning the state of progress of projects and were therefore able to send only partial information to the Commission on this point. Some of the annual reports provided for in the agreements had not been sent to the Commission, others had not been sent regularly, and the quality of those which had been sent was so modest that it was not possible to ascertain the state of operations.

Delays in putting agreements into effect

7.22. Generally speaking, there have been excessive delays in putting the pre-accession agreements into effect. As the expiry date of the agreements was deferred from 31 December 1985 to 31 December 1986, the Commission arranged to commit the expenditure in advance of that date, even in cases where the financing agreements had not yet been signed. Forty-six financing agreements, representing approximately one-third of the aid, were signed in 1986. One agreement was signed in 1987 and the most recent in December 1988, which is not in accordance with the provisions of the Council Decision of 17 December 1985.

7.23. None of the projects had been completed as of 31 December 1985, which means that most of the pre-accession aid will not have fulfilled the stated objective of making it possible for Portugal to approach accession to the Community on the terms set out in the 1980 and 1984 agreements. At the end of the first half of 1988 most projects were still in the initial stages of execution.

7.24. The delay can be attributed in part to the time taken by the Community procedure laid down in respect of project approval. Furthermore, it has to be said that many of the projects approved by the Commission were not sufficiently precise for them to be implemented at national level, so that they had to be clarified subsequently. Delays also occur in the national administrative procedures, particularly with calls for tenders.

Project financing

7.25. In accordance with the agreed procedures, the Commission made the payments requested by the *Fundo de Financiamento das Acções Pré-adesão* to a Deutschmark account opened in the Federal Republic of Germany. This procedure, which is customary in the case of non-member States, has not been altered since Portugal's accession to the Community on 1 January 1986. Eliminating the mark would, however, have improved the transparency of the complex operations of financial monitoring, which at the moment involve three currencies (the ECU, the mark and the escudo). The Court also found that the exchange rates used were not always the same in all the Directorates-General at the Commission.

7.26. The Fundo operates the mark account (payment applications to the Commission and withdrawals from the account) to meet individual financing requirements, project by project. Nevertheless there is usually a relatively high credit balance of 10 to 12 Mio DM on the account, because sometimes more than a year elapses before the funds deposited are mobilized. More global

management of cash requirements would have made it possible to reduce the volume of assets on deposit.

7.27. Apart from the case of total or partial withdrawal from a project, the general clauses of the financing agreements do not specify what should be done with any mark balances which may remain in the account on completion of the various operations because a project has cost less, or as a result of exchange-rate fluctuations. Similarly, there is no provision for any interest received on the account to be allocated to the aid programmes.

7.28. The amounts which the Commission passes to the accounts as payments are in reality advances which differ significantly from expenditure at national level and do not, therefore, reflect the state of progress of the work. It should also be remembered that some *Fundo* payments, for example to contractors, are also made by way of advances, but it is not possible, as the documentation available to the Commission stands, to differentiate between advances and final payments.

Monitoring and control of project implementation by the Fundo

7.29. In order to carry out its work as paying agent, the *Fundo* is required under the terms of the financing agreements to verify in particular the accuracy and formal regularity of the supporting documents.

7.30. Up until the time of the audit, however, these duties had been performed in a very limited manner. The files examined by the Court bore no trace of any verification of the eligibility of the expenditure from the point of view of conformity with the agreements. Nor was there any supervision of the allocation of financings between project beneficiaries' own resources, Community aid and national aid. No trace was found of any investigation of projects on which there had been no payment application by local authorizing agencies for periods of up to a year.

7.31. Furthermore, it was not possible to obtain a full statement on the progress of each project, whether in escudos, marks or ECU. The records available were concerned only with how Community appropriations had been used for each project. Neither was it possible for any audit report to be made available to the Court's officials.

Monitoring and control of project implementation by the Commission

7.32. The same shortcomings, from the financial point of view as well as from the aspect of economic results, were observed in the Commission's checking procedures. The investment selection and approval stages have not so far been followed by adequate supervision of implementation.

7.33. Article 4 of the agreement concerning the duties and responsibilities of the paying agent provides that every *Fundo* payment order in respect of operations subsidized by the Community must be co-signed by an official of the Commission. Two officials at the Community Press and Information Office in Lisbon have been given power to do this. As the Office in question is not in a position, given the variety of tasks entrusted to it, to carry out checks or any monitoring of files, approval has in practice become a mere formality. The problem was discussed at an inter-departmental meeting at the Commission in May 1986, but it was not possible to make any improvement. Moreover, an examination of project expenditure is due to be carried out in Brussels, but the procedures adopted in respect of this subject by the various Directorates-General concerned are very disparate.

7.34. The approach to monitoring the implementation of aid which emerges from the agreements does not take sufficient account of the need for information by which to assess the results of the operations. Even if they have not been applied fully, there are precise provisions concerning the parts of works which receive Community financing (approval and prior agreement of the Commission for contracts and payments, regular financial and economic reports, etc.). On the other hand, there are no provisions for monitoring of complete projects or for evaluating the overall effects expected and obtained as a result of the investments.

7.35. Generally speaking, not enough effort has been made to ascertain the state of progress of projects and to assess their effectiveness and that of the operation as a whole. This being so, the implementation of pre-accession aid has not made it possible to acquire all the experience which would have been useful for the successful implementation of subsequent programmes.

OBSERVATIONS REGARDING THE AGRICULTURAL DEVELOPMENT PROGRAMME

National regulations and implementing instructions

7.36. Decree-Law No 96/87 of 4 March 1987⁽¹⁰⁾ defined the duties and responsibilities of the various departments involved in implementing the Pedap. By their very nature, these provisions are general in scope. Article 13, for example, lists 'the monitoring and control of projects' as one of the duties assigned to the regional agriculture directorates; Article 16, on the responsibilities of the Ifadap (Instituto Financeiro de Apoio ao Desenvolvimento da Agricultura e Pescas), the institution through which Community financing passes, states that the latter agency 'is empowered to carry out checks'.

7.37. The Portuguese Government's implementing instructions (portarias) relating to the various programmes have not always included the necessary details as regards procedures. In the case of olive cultivation they even diverge from the conditions laid down in the programmes. They provide little indication of priorities and the criteria for selecting the works and beneficiaries to be assisted. The expected economic effects of development work, particularly in the case of irrigation, drainage or the grubbing-up of olive trees, are practically ignored. The implementation of imprecise and incomplete instructions at regional level may lead to a drift away from the objectives set out in the programmes, as the following observations show.

7.38. The national government files are mostly confined to technical aspects, with no discussion of economic justification, and they are not always kept in a systematic way. Even if one accepts that the majority of aid applications have to be drawn up by the administration and not by the parties concerned, this is not acceptable as an excuse for not supplying the facts which are essential for proper assessment of the files (areas of land, types of production before and after work, etc.)

7.39. The progress reports, which are sent regularly to the Directorate-General for Planning and Agriculture (DGPA) and Ifadap, are primarily of a statistical nature and are far too brief to provide any real monitoring of the work done. At the end of 1988, Ifadap had still made but little use of the control possibilities provided for in Article 16 of Decree-Law No 96/87, its operational sections

having merely carried out some on-the-spot monitoring and checking work. Ifadap's checks are expected to be stepped up in 1989.

7.40. In the view of the Portuguese authorities, there are indeed weaknesses in the regulations concerning the implementation of programmes, the examination of claims and control. They emphasize the need for improvements in project selection, fuller analysis and better definition of the obligations entered into by the recipients of aid.

7.41. The observations set out in the paragraphs which follow show, in general, that there is an undisputed divergence between the objectives and concerns set out in the programme and the way in which they are translated into reality, a divergence with which the Commission ought to be more concerned. The provisions of the programmes approved by the Commission have been modelled on similar measures previously adopted for other countries of the Community and pay scant regard to specific problems and local characteristics, so that in many cases there is a risk that this approach will result in their being poorly applied or applied only to a limited extent.

7.42. Referring to Protocol No 25 of the Treaty of Accession, the Portuguese authorities have said that increased production is the logical result of modernizing the country's agriculture by means of rationalization and improved productivity. They specifically refer to cereals, a strategic product which the country has to import.

7.43. Although Protocol No 25 does, indeed, consider that some increase in production during the first stage of the transitional period is acceptable, the programmes ought to have paid more attention to setting down the terms for, and envisaging the acceptable consequences of, increased productivity, so as to facilitate the successful integration of Portuguese agriculture into the common market at the end of the transitional stages. Any increase in production, particularly in the case of cereals, is in fact likely to prove disappointing for producers, since the price advantages enjoyed by certain Portuguese producers will have to be eliminated at the end of the first stage of the transitional period provided for in Article 260 of the Treaty of Accession.

Olive cultivation

7.44. The Portuguese programme, which was submitted to the Commission in May 1986 and approved by it,

⁽¹⁰⁾ Diário da República I Série No 52, 4.3.1987.

provides for the grant of a grubbing-up premium if three conditions are satisfied: the olive plantations must have provided an income in the preceding two years, there must be a minimum density of 40 trees per hectare, and a plan for improving the holding must be submitted.

7.45. The instructions for implementing this programme (*portaria* No 259/87 of 2 April 1987⁽¹¹⁾) include only the provision on density. Furthermore, paragraph 15 of the instructions extends the grant of the premium to the grubbing-up of trees in accordance with Article 2 of Decree-Law No 120/86 of 28 May 1986⁽¹²⁾. The objectives of the Decree-Law are, however, different from those of the programme, in that it aims to halt the decline of olive-oil production and, in Article 2, authorizes the grubbing-up of olive trees only in certain cases, notably where the trees are no longer productive or to increase the area of vines in official production areas. It should be noted that the Commission was aware of the instructions and the Decree-Law, but it made no objection to them.

7.46. Examination of the files showed that in practice most of the cases in which premiums were awarded in respect of trees grubbed up were not in accordance with the provisions of the programme. The files examined by the Court contained no certificates of revenue, no certified statement of the number of trees per hectare and no plans for improving holdings. On the contrary, the few statements which did appear amongst the documentation certified that the trees were in very poor condition, or that the olive groves in question had been converted into vineyards.

7.47. As for the olive register, for which the Community programme also provided, nothing has been done about it so far.

Irrigation

7.48. In the case of small-scale irrigation, the principal objective set out in the programme was the provision of water for animals, mainly sheep. The programme also states that the only production increases allowed in the regions examined by the Court are in maize, sunflowers and forage crops. In the cases audited by the Court, the main effect of the work carried out has been to increase wheat production, or even, in one of the cases examined, to introduce tomato cultivation.

7.49. In the case of another programme concerning traditional forms of irrigation, the audits revealed a special problem. In Entre-Douro-e-Minho the fields are in fact edged with pergolas of vines which are used for wine production and cover the periphery to a depth of approximately 2 m. In view of the small area of the plots, the vine plantations are comparatively important and any

irrigation of the crops for which a production increase is permitted under the programme (fodder, maize or potatoes) also irrigates the vines, to which there was no reference in the programme, and, moreover, aid for the irrigation of vines is prohibited by Community legislation.

Drainage and soil conservation

7.50. The drainage and soil conservation programme aims to provide the Alentejo region with suitable alternative crops through a combination of advisory and training measures and drainage and soil improvement operations. It therefore makes provision for training advisers who are subsequently to help producers draw up plans when carrying out drainage or soil conservation work.

7.51. In practice only drainage work has been undertaken. None of the files makes any mention of advisory assistance or plans or alternative systems of cultivation. On-the-spot checks showed that the drainage work, which in fact was very well executed, served to increase wheat production, whilst the programme objectives were ignored.

7.52. The files which were examined contained very little material. Some showed inconsistencies in the dates of the various documents. Work was very often carried out on the basis of an oral agreement and invoices sometimes bear dates prior to the applications for and grant of aid.

Agricultural and sheep-rearing development programme in the Mértola municipal area

7.53. This programme applies in a small agricultural area of the Alentejo to a small number of farmers (around 200), who are all members of the same cooperative. Although the neighbouring areas have the same development problems they are subject to the general system, which has less favourable aid conditions, and it was not possible to obtain any precise justification for the existence of a specific programme of this kind.

7.54. The cooperative in question is the central element in the programme. It prepares and manages recipients' files, draws up and submits applications for payment to Ifadap and collects payments on behalf of the recipients. The manner in which it discharges its responsibilities is not very disciplined, especially as checks on payment applications are very limited.

⁽¹¹⁾ Diário da República I Série No 77, 2.4.1987.

⁽¹²⁾ Diário da República I Série No 122, 28.5.1986.

7.55. Examination of recipients' files showed that the cooperative's management of them is muddled and fraught with irregularities. Despite the existence of computer resources, it was not possible to obtain an individual financial statement for each recipient. The supporting documents consisted in the main of debit and credit notes issued by the cooperative and posted to each farmer's individual account. They also included amounts invoiced to the cooperative by beneficiaries for private work carried out on their own properties or for the use of machinery, which, in any case, was financed by the programme. Checks carried out on the spot revealed that inaccurate declarations had been made in order to obtain an Ifadap payment when the work was still unfinished. Furthermore, the simplified system of accounts which was to be kept by every recipient under the terms of the programme did not exist, and as of end-1988 no expenditure had been declared in respect of vocational training.

Agricultural training centres and animal health protection associations

7.56. The programme provides for the construction, enlargement, operation and computerization of agricultural training centres. Of the 50 centres to be built or adapted, six were in progress and the others were still at the planning stage.

7.57. The audits showed that the centres were not built according to a central pattern, and that construction was delegated to the regional authorities, which adopted the solution that they considered most appropriate in the light of local characteristics. This type of formula ignores the link which has to be established between the construction programme and the subsequent organization of courses, with a risk that the buildings will prove unsuitable, or even remain unused. Furthermore it also has drawbacks as regards costs, the design of buildings and the terms on which contracts are awarded, which show unjustified discrepancies.

7.58. The programme envisages the formation of 250 animal health protection associations for cattle, sheep and goats, over a period of four years, taking in 70 % of the total stock of breeding females. The Community refunds to the Portuguese Government 75 % of the latter's contribution to the formation expenses and overheads of the associations. The government contribution is reduced annually and paid for a period of six years.

7.59. The maximum amount which can be taken into account in calculating the aid depends on the number of

animals declared. There is, however, no reliable procedure for identifying these animals, nor is there any valid system for checking that expenditure declared is duly justified, particularly in the case of vaccinations and blood tests.

CONCLUSION

7.60. The simultaneous implementation of a large number of technically complex measures, necessitating gradual change on the part of the government, entails a risk that they will be incorrectly applied and that objectives will be only partially realized.

7.61. Protocol No 24 of the Treaty of Accession had provided for an approach which made a better distinction between the objectives to be achieved in the short, medium and long terms. The Commission and the Member State ought to have taken more account of the size of the problems, spaced out the measures better and concentrated more effort on priority objectives. Furthermore, Article 2(3) of Regulation (EEC) No 3828/85 provided for the possibility of a Community contribution to carrying out the studies required for implementation of the common measure. These provisions were not applied, however, until the beginning of 1989.

7.62. The Commission ought to define the expected effects of implementing aid programmes in terms of economic results. It should encourage the national government to take action, so that these effects can be achieved without delay, and above all it should significantly step up controls, so as to be more aware of the true state of progress and to take action in good time. The major part of the Pedap in fact still has to be carried out and it is essential that every available opportunity be exploited, over and above the question of financial monitoring, in order to improve the situation and to ensure the success of these measures.

7.63. The difficulties encountered in implementing the pre-accession measures and Pedap should be avoided in the case of Pedip. To this end, the Commission, in close cooperation with the Portuguese authorities concerned, must adopt the necessary measures without delay in order to encourage the completion of programmes within the specified time limits in accordance with the declared objectives. In view of the goodwill shown by the Portuguese authorities, it is reasonable to hope that with careful, regular monitoring at both national and Community level the results achieved will be commensurate with the substantial amounts of finance allocated.

CHAPTER 8

The European Regional Development Fund (ERDF)

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INTRODUCTION

8.1. The European Regional Development Fund (ERDF) was created by Council Regulation (EEC) No 724/75 of 18 March 1975 ⁽¹⁾. This Regulation was amended by Council Regulation (EEC) No 214/79 of 6 February 1979 ⁽²⁾ and subsequently replaced by Council Regulation (EEC) No 1787/84 of 19 June 1984 ⁽³⁾, which entered into force on 1 January 1985. The objective of the Fund is to help to correct the main regional imbalances in the Community by financial contributions to the development and structural adjustment of underdeveloped regions and the introduction of new industries into declining industrial regions. The Fund bears a part of the

expenditure incurred by the Member States in the execution of Community programmes, national programmes of Community interest and studies and projects.

8.2. During the period 1975-88 the aid granted by the ERDF to projects amounted to 22 717 Mio ECU, equal to 93 % of all the commitments entered into by the ERDF. The projects cover, firstly, infrastructure investments, which received aid from the Fund amounting to 19 410 Mio ECU, and, secondly, investments in industry, handicrafts or services, usually referred to collectively as 'industrial projects', which received 3 307 Mio ECU of Community subsidies.

⁽¹⁾ OJ L 73, 21.3.1975, p. 1.

⁽²⁾ OJ L 35, 9.2.1979, p. 1.

⁽³⁾ OJ L 169, 28.6.1984, p. 1.

8.3. According to Article 21 of Regulation (EEC) No 1887/84, when projects are being selected, account must be taken of their contribution to the economic development of the region, the extent to which they are consistent with the Community's programmes or objectives, the situation in the economic sector in question and the profitability of the investment. These factors are assessed on the basis of the information supplied by the Member States under the terms of the regional development programmes (RDPs). The amount of the Community contribution to individual industrial investments is, in principle, 50 % of the aid granted by public authorities by way of regional aid.

8.4. In its annual report concerning the financial year 1986 the Court examined and evaluated the management and control systems employed by the Commission in its task of ensuring that ERDF measures are implemented correctly and effectively. The Court's annual report concerning the financial year 1987 analysed the effectiveness of Fund aid for infrastructure projects and the latter's contribution to regional development. This chapter presents the results of audits carried out with the aim of ascertaining ERDF activity in the field of individual industrial projects. In the first part of the chapter the role and importance of these projects in the achievement of the Fund's objectives will be examined. The second part will set out observations arising from an enquiry into the results of these projects as regards production and employment and into the impact of aid on decisions to invest in deprived regions.

THE ROLE AND IMPORTANCE OF AID TO INDUSTRY

8.5. The development of productive activities plays an essential role in achieving the Fund's objectives because it has an immediate impact on economic growth and employment and, consequently, on the task of correcting regional imbalances.

The proportion of aid to industry

8.6. The amended regulation of 1979 laid down that, for each period of three years, 30 % of the ERDF's resources were to be allocated to industrial investment. This rule was relaxed in 1983 by a Council Decision of 29 November 1983 (4). Subsequently, Regulation (EEC) No 1787/84 specified, in Article 35, that this percentage was a desirable objective.

(4) OJ L 340, 6.12.1983, p. 24.

8.7. In practice, this objective is far from having been achieved. In fact, between 1975 and 1984 aid to industrial projects represented only 18 % of total ERDF resources, or 2 079 Mio ECU. This proportion fell to 9,6 % during the period 1985-88 (1 228 Mio ECU). In this connection, the Court's report on the financial year 1987 (paragraph 6.71) has already pointed out the importance of improved distribution of Fund aid between industrial projects and infrastructure projects, the latter being under-used because, among other things, of the inadequate development of economic activities.

8.8. Recent trends have shown no signs of improvement. As far as individual projects are concerned, the proportion of ERDF aid to investment in industry, which was 17 % in 1985, 12 % in 1986 and 7 % in 1987, fell to 5 % in 1988. Between the entry into force of Regulation (EEC) No 1787/84, in 1985, and 1988, aid to individual industrial projects fell by more than a half, from 418 Mio ECU to 181 Mio ECU.

8.9. This trend is the result of the emphasis laid in Regulation (EEC) No 1787/84 on increasing aid to programmes and also of the fact that the new Member States (Spain and Portugal) have given almost complete priority to the presentation of infrastructure projects. All the same, after all industrial projects and other support measures for productive activities financed under the programmes have been taken into account, the share of Fund resources allocated to industry during recent years is still lower than the 18 % that prevailed during the period before 1985.

8.10. ERDF aid consists of reimbursements made to national authorities. However, for infrastructure projects new financing formulae are increasingly allowing the regional authorities to benefit directly from ERDF reimbursements, which has also stimulated regional demand for this type of project.

8.11. An examination by Member State shows that the situations vary widely (see *Tables 8.1* and *8.2*). Sums allocated to industry have been consistently falling for three years in Belgium, Greece, Spain, France and Italy and 1988 was characterized by a fall in ERDF aid to industry in all countries except the United Kingdom.

8.12. In terms of proportions of aid allocated to industry, only the Federal Republic of Germany has consistently exceeded the desired objective of 30 %, 56 % of Fund aid going to industry. Three other countries, Belgium, Ireland and the United Kingdom, allocated 20 % or more of ERDF aid to industry. During recent

Table 8.1 — ERDF aid granted to industrial projects (1975-88) ⁽¹⁾

	(Mio ECU)														
	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988 ⁽²⁾	1975-88 ⁽²⁾
B	0,9	1,4	1,4	1,4	5,5	7,0	0,9	6,9	1,4	4,7	5,3	3,0	1,4	1,0	41,7
DK	0,6	0,6	1,2	0,0	1,9	1,8	0,0	2,5	0,8	2,9	2,9	1,2	5,2	3,5	25,3
D	3,4	8,1	22,9	25,7	42,3	34,8	33,7	26,6	33,2	59,1	51,9	53,5	63,0	35,9	503,0
GR	—	—	—	—	—	—	8,2	14,3	11,1	5,6	0,0	1,7	1,5	0,4	34,5
E	—	—	—	—	—	—	—	—	—	—	—	11,2	0,0	0,0	11,2
F	18,8	25,2	28,8	29,7	63,5	45,8	47,5	13,9	32,0	33,4	28,8	18,8	3,4	0,2	370,4
IRL	13,2	12,7	13,5	15,0	29,5	9,9	18,0	32,8	24,3	49,5	38,2	22,0	24,8	22,5	311,3
I	53,5	18,5	74,1	49,2	50,5	67,1	26,7	48,5	51,1	56,6	194,8	186,1	120,6	43,4	975,7
L	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0
NL	0,0	0,0	0,0	5,5	0,0	7,0	0,0	4,8	1,1	4,7	9,8	0,0	0,0	0,0	32,4
P	—	—	—	—	—	—	—	—	—	—	—	—	0,0	0,0	0,0
UK	29,4	58,0	66,4	57,2	76,3	119,6	63,2	87,3	75,7	110,7	86,3	84,1	43,6	73,9	1 001,7
EUR	119,8	124,5	208,3	183,7	269,5	293,0	198,2	237,6	230,7	327,2	418,0	381,6	263,5	180,8	3 307,2

⁽¹⁾ For the period 1975-87, the data have been extracted from the Commission's various annual reports to the Council.

⁽²⁾ These data have been extracted from an information note produced by the Spokesman's Group and dated 24.1.1989. Because of adjustments made, the 1975-88 total is not consistent with the data for the various years taken singly.

Table 8.2 — Proportion of ERDF aid allocated to industrial projects (1975-88)

	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1975-88
B	22	21	16	23	61	59	35	37	16	14	22	16	6	4	21
DK	15	9	18	0	17	16	0	14	4	12	22	11	40	3	14
D	36	41	53	52	71	49	60	48	76	54	71	65	55	42	56
GR	—	—	—	—	—	—	3	6	3	2	0	0	0	0	1
E	—	—	—	—	—	—	—	—	—	—	—	2	0	0	1
F	41	33	41	36	40	23	30	4	11	12	9	7	1	0	13
IRL	66	37	44	43	47	13	17	29	24	31	25	18	15	15	24
I	43	9	39	22	13	14	4	8	6	7	22	23	13	5	12
L	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NL	0	0	0	67	0	31	0	27	5	13	55	0	0	0	13
P	—	—	—	—	—	—	—	—	—	—	—	0	0	0	0
UK	34	41	46	38	29	49	17	19	17	18	15	16	7	14	20
EUR	40	25	41	33	28	26	12	13	11	14	17	12	7	5	14

(%)

years the trend towards a reduction in the proportion of Fund aid going to industry was observed in practically all the Member States, which is amazing considering that this was a period of economic expansion.

Job-creation requirements

8.13. Under the terms of Regulation (EEC) No 724/75, aid could only be granted to projects which involved the creation or the maintenance of at least 10 jobs. The aid was calculated on the basis of national aid granted and was limited by the imposition of ceilings which were defined by reference to the cost of the investment or to the number of jobs which were expected to be created, so as to avoid favouring projects which were too capital-intensive and not likely to create many jobs. Subsequently, Regulation (EEC) No 1787/84 eliminated this ceiling, as well as the condition that a minimum of 10 jobs should be created or maintained.

8.14. This change in the regulation is more favourable, in principle, to capital-intensive projects than to labour-intensive ones. This trend turned out to be true of the large projects, for which ERDF aid per job to be created amounted to 9 000 ECU for the period 1985-87, as compared with 6 600 ECU during the period 1981-84. In the case of small projects no such tendency is observable, and the cost per job to be created is even tending to fall.

Industrial projects and the regional development programmes (RDPs)

8.15. The RDPs ought to define the objectives and the criteria for the selection of projects in such a way that they constitute a consistent view of regional development. As a rule, however, though these documents sometimes contain descriptions of problems encountered in industry in the poorest regions, they are most usually vague when it comes to defining specific objectives, such as the branch of industry, the type of company, and the nature of the projects to be promoted. In many RDPs, the industrial development objective is confined to reiterating the need to create jobs and, often, indicating the parts of the labour-force where employment problems are most serious.

8.16. In fact, there is no real definition in most RDPs of industrial development policies and strategies. The result of this situation is that the procedures for selecting industrial projects are weakened. In practice, those investment projects which are not in line with the formal conditions set out in the Regulation or which are located in sectors where aid may disturb market operations have been eliminated.

THE IMPACT OF INDUSTRIAL PROJECTS ON REGIONAL DEVELOPMENT

Method

8.17. In order to assess the impact of industrial projects, the Court carried out a survey of a sample of companies which had received ERDF aid and which had completed, partially or wholly, the project for which they were responsible. The sample was selected in such a way as to be representative in both financial and sectoral terms. The sampling technique used resulted in the Court's examining projects located in Belgium, France, the Federal Republic of Germany, Ireland, Italy and the United Kingdom. These countries absorbed 97 % of ERDF aid to industry over the period 1975-88.

8.18. The sample selected gives a flattering impression of reality because it does not include any projects which were abandoned and for which the ERDF aid was fully decommitted. Though it varies from country to country and from region to region, this phenomenon may be very important. Thus, on the basis of an examination of closed files concerning three countries, it can be seen that a large proportion of the projects (Ireland: 37 %; Italy: 34 %; United Kingdom: 22 %) for which the appraisal stage had led to a decision to grant aid were abandoned and the related aid had to be fully decommitted (of the total sums committed for each of these countries, it may be estimated that decommitments represented 33 % of the total in Ireland, 25 % in Italy and 24 % in the United Kingdom.) These observations are confirmed by an examination of a statistical sample of files closed in 1988, which covered all the Member States and which showed that 31 % of industrial projects aided had had to be fully decommitted, the amount representing 28 % of aid granted. Of course, the proceeds of these decommitments were re-used for other projects, in accordance with the rules, but situations leading to decommitments of this kind, and thus to the temporary non-use of finance, should be avoided by the development of management procedures which will ensure optimum use of Fund resources.

8.19. The audits took place in 1988, that is, at least three years after most of the projects examined had been started. As a result, the data reflected the favourable economic climate of the last few years.

8.20. The industrial projects' impact on regional development was mainly assessed on the basis of the replies supplied by the companies in receipt of aid to a standard questionnaire which was sent to them before the audit visits to the Member States took place. During the audit visits, the replies were evaluated and discussed with the companies in question so as to arrive at a more accurate picture of the extent to which the projects had

contributed to the achievement of Community objectives in terms of regional policy and to identify the causes of the failure or success of the projects selected.

8.21. The purpose of the questionnaire was to evaluate the contribution of the projects to the growth of regional production and the achievement of the job-creation objectives in the light of the guidance given by the ERDF regulations regarding project selection. For this purpose, the guidance given in the regulations, where necessary clarified and supplemented by Commission communications or by the RDPs, was converted into quantified indicators.

8.22. Thus, according to the regulations, selection should take account of the 'project's contribution to the economic development of the region' (5). An initial indication of its contribution can be gathered from the rate of use of installed capacities, which reflects the direct and immediate impact of a project on the growth of regional production.

8.23. The contribution a project makes to the regional economy may also be seen indirectly, through increased sales and purchases in the region. The activities of the company receiving aid may have effects on regional production by increasing demand for regional products. In this respect, Regulation (EEC) No 1787/84 requires special account to be taken of the effect of the investment on the natural resources of the areas or regions concerned (6). The project may also have indirect effects on economic development by improving conditions of supply for other companies, whether existing or new. For this reason, the share of purchases and sales in the region secured by the company in receipt of aid are an indication of the contribution to regional development.

8.24. The ERDF regulations state that investments in industrial activities must concern economically viable activities (7) and that when projects are being selected special account must be taken of the situation of the sector concerned and the profitability of the investment (8). An examination of the viability of companies receiving aid, carried out using the questionnaire, thus provides the means for assessing the permanence of the projects' effects on production, ability to make profits being the condition on which a company's future

development, and thus its ability to make a lasting contribution to the regional economy, depends.

8.25. The Commission's decision to grant aid is taken in the light of the direct or indirect effects of the investment on employment (9). The direct impact of projects on employment was evaluated in terms of the number of jobs actually created by the project. Effectiveness in terms of job creation was evaluated by comparing staff numbers forecast in the aid decision and the numbers recorded when the file was closed. Regarding indirect effects on employment, which are largely linked to sales and purchases by companies receiving aid, the examination also included jobs created by sub-contracting.

8.26. The element of permanence (10) was estimated by looking at the growth or otherwise of the number of jobs between the date on which the project was completed and the moment the survey was carried out.

8.27. Concerning regional imbalances resulting in particular from structural under-employment (11), the analysis also included the qualitative aspect of the jobs created (type of labour used: skills, age, sex and previous status) since there is not necessarily a correspondence between the characteristics of the regional labour supply and the staffing needs of the projects receiving aid.

8.28. The quantitative information collected was discussed with the companies concerned and was supplemented by requests for information as to any more qualitative contributions to regional development by the projects. Indeed, as is emphasized in the 'Plan for regional development programmes' (12), which is meant to be used as a point of reference by the Commission when taking decisions, 'particular attention must be paid to the qualitative objectives that are most closely linked to the ERDF's activities (e.g. the quality of the jobs to be created and of the economic structures and means of production envisaged)'.

8.29. The Court wishes to emphasize that its aim was not to judge the justification for a particular industrial investment. The results of a project may be considered satisfactory with regard to the company's objects but may have only a very limited impact on regional development. The Court's aim was to assess the quality of the ERDF management by examining the effectiveness of the contribution made by the industrial projects, as presented by the national authorities and selected by the ERDF, to the achievement of Community regional development objectives.

(5) Article 21, paragraph 1, section (a), of Regulation (EEC) No 1787/84; Article 5, paragraph 1, section (a), of Regulation (EEC) No 724/75, as updated.

(6) Article 21, paragraph 1, section (f), of Regulation (EEC) No 1787/84.

(7) Article 19, paragraph 1, of Regulation (EEC) No 1787/84; Article 4, paragraph 1, section (a), of Regulation (EEC) No 724/75, as updated.

(8) Article 21, paragraph 1, section (c), of Regulation (EEC) No 1787/84; Article 5, paragraph 1, section (c), of Regulation (EEC) No 724/75.

(9) Article 21, paragraph 1, of Regulation (EEC) No 1787/84; Article 5, paragraph 1, of Regulation (EEC) No 724/75.

(10) Article 19, paragraph 1, of Regulation (EEC) No 1787/84.

(11) Article 1 of Regulation (EEC) No 724/75, as updated.

(12) OJ C 69, 24.3.1976, p. 2.

Results

Direct impact on production

8.30. The direct impact of projects on production was assessed on the basis of the use that was made of the projects receiving aid. At the time the survey was carried out, in 1988, the level of production corresponded to 75 % or more of installed capacities in the case of more than two thirds of the projects examined. Only in 10 % of the cases were capacities used to an extent of less than 50 %.

8.31. An analysis on the basis of the amount of investment receiving aid showed that this has no significant effect on the success of the project. In contrast, the Court's audit confirmed that projects involving the creation of a new enterprise were less intensively used than those concerning the extension of an existing enterprise. Finally, the failure rate is higher in peripheral regions.

8.32. For the 30 % of cases of less satisfactory capacity utilization, the main cause was to be found in the inadequacy of demand. In some cases, the markets which were expected to emerge did not emerge, or developed inadequately, because of factors which were not easy to foresee, such as political decisions, changes in fashion, etc.

8.33. In other cases, the analysis of the situation in the sectors and markets concerned was not adequate. In the case of a project concerning a food-freezing plant, too little attention was paid to supply problems and it became clear even before the project became operational that local producers could not supply the products needed in the appropriate quantities and qualities. These shortcomings in the forecasts resulted in the creation of productive capacities which have not been used. Aid was also granted to projects located in sectors where the markets were already saturated. Thus, aid was granted for the production of fertilizer although fertilizer use is being curbed as a result of pollution problems and productive capacity is in excess of demand.

8.34. In some cases, the decision to invest was taken not in accordance with market trends but, for example, in order to guarantee security of supply. Thus, a company manufacturing aircraft engines financed a titanium processing factory so as not to have to depend exclusively on outside suppliers. It nevertheless continues to obtain supplies from these latter because of the very favourable prices they offer, with the result that the new production unit is being used only to the extent of 20 % of its capacity.

Indirect impact on production

8.35. An initial estimate of the indirect impact of projects on regional growth may be made by examining regional purchases of supplies for the company's production processes. In more than 80 % of cases, the proportion of supplies bought within the region was not significant even several years after the company receiving aid had started trading. In the rare cases where purchases within the region were reasonably important in quantitative terms, the products bought were mainly raw materials or products which had only been slightly processed and thus did little to reinforce or exploit existing industrial capabilities.

8.36. This situation often arises because the regional economies have difficulty in supplying the products requested in the quantity and qualities requested. In this connection, it should be noted that the processing of agricultural raw materials comes under the guidance section of the EAGGF.

8.37. In other cases, the projects are managed by industrial groups and supplies must be purchased within the groups. Moreover, the requirements of these companies are often such that local industry cannot meet them.

8.38. This kind of phenomenon can be clearly seen in regions where the projects are carried out by foreign companies or by certain industrial sectors such as the motor industry. In this latter sector, the Commission noted in a statement of opinion in 1981 ⁽¹³⁾ that the local effects of the investments will tend to diminish under the pressure of structural changes within the sector and that the employment/productive capacities ratio is destined to fall. A similar situation, though less pronounced, was observed during the Court's audit in sectors such as chemicals and electronics.

8.39. Sales within the region may also give an idea of the indirect effects of projects: projects receiving aid may, by supplying cheaper products, increase the competitiveness, and therefore the output, of companies already located in the region, or even encourage the creation of new firms. Almost 90 % of firms sell only a very small proportion of the production from the projects in the regions where they are located. In fact, the nature and quantity of the products are such that the regional market could not absorb a significant quantity of them, or, in the case of plant belonging to an industrial group, the products have to be delivered to other units in the group situated in other regions. In cases where deliveries in the region are more significant, this is usually because the companies are operating in sheltered markets such as construction

⁽¹³⁾ Doc. COM(81) 317 final, 11.6.1981.

materials, where the production has no significant multiplier effect.

8.40. Apart from these indirect quantitative effects upstream and downstream, it might be thought that the presence of firms which are growing stimulates economic activity in the region through a catalyst effect. Although rare, this effect has been observed. It is most usually attributable to the fact that the firms in question have long been established in the region and, sometimes, simply by offering an example, have stimulated the spirit of enterprise. For example, a small regional company building pleasure boats, which has since become the world leader in this sector, succeeded in developing the markets for this kind of product by introducing new ideas: the systematic renewal of the range of products, mass production and incorporation of new technological advances developed in yacht-racing. This type of development was copied by other regional firms in the same sector and made it possible for them to acquire a share in the expanding markets. Another example is that of a firm specializing in manufacturing metal girders which made a special effort to encourage the creation and enlargement of several small local companies which used its products by giving them specific technical and commercial aid.

Permanence of effects on production

8.41. An important aspect of the impact of projects on general regional development is the extent to which they are lasting. In the last analysis, the life-span of a project is guaranteed by its profitability. In this respect, the situation is favourable because 87 % of the projects examined are at present making a profit.

8.42. But the period for which a company remains within a given region does not depend on profitability alone. It also depends on what, for lack of a better term, could be called the quality of its installation. If a project is confined to the establishment of a single assembly line, which is effectively managed by external centres of decision, its development will be more vulnerable to fluctuations in the short-term economic situation and to the parent company's strategic decisions, and the investment will thus be much less firmly established. In contrast, if it includes functions such as research and development, the commercial and financial management of the firm etc., it will take deeper root and its effect on the region will be better guaranteed, since these functions require, apart from physical investment, considerable human investment. In this respect, it must be observed that projects receiving aid are often production units, which may easily be transferred out of the region.

Achievement of the job-creation objectives

8.43. On average, for the sample examined by the Court, the rate of achievement of the job-creation objectives laid down in the decisions to grant aid was 79 % according to information supplied with applications for final payment. However, in terms of the number of projects, less than a half (48 %) fully achieved the job-creation forecast. A direct effect of this kind cannot be considered to be really satisfactory, particularly as, very often, the deadlines specified in the decisions for the achievement of the job-creation objectives have been extended and the sample does not include cases of projects abandoned by the ERDF.

8.44. An observation by type and nature of project brings out similar observations to those made in connection with the impact on production. There is scarcely any difference between large and small projects as regards the extent to which the job-creation objectives are achieved. In contrast, projects involving the extension of existing facilities achieve better results than those aiming to create new facilities.

8.45. A country-by-country analysis corroborates this latter observation. The fact is that it is the countries which give priority in their application for ERDF aid to extension projects which come closest to achieving the job creation forecast.

8.46. An examination of the rate of success in terms of job creation, according to whether the projects may be considered capital-intensive or labour-intensive, does not bring out any significant difference between these two categories. At the same time, the actual creation of new jobs is independent of their cost in terms of aid or investment needed, a cost which may vary within one region in a range of 1 to 10.

8.47. Two main factors explain the fact that more than a half of the projects fail to achieve the job-creation objectives completely. The first explanation may be found in the fact that in most national aid systems the level of employment guaranteed is an important element in evaluating the project. In some cases, the aid is calculated according to the number of jobs that are expected to be created. This being so, there is a risk that companies which are submitting an aid application will inflate their job-creation forecasts and, in some cases, will in this way have the benefit of extra cash resources during the execution of the project. A second explanation may be found in the fact that the job-creation forecasts very rapidly become obsolete. The fact is that competition between companies forces them to improve productivity, with the help of advances in technology, both at the production process level and as regards the development of new products.

Nature and significance of employment data

8.48. The employment data sent to the ERDF must be interpreted with some prudence because of the uncertainties regarding their nature and their significance. In this respect, in spite of some minor improvement, the Court's enquiries could not discover any significant improvement over the situations described in a previous special report ⁽¹⁴⁾.

8.49. Sometimes there are errors of interpretation regarding the employment concepts that are to be applied, leading to an exaggeration of the extent to which targets have been achieved. This situation results from the absence of definition and precise criteria as to the method to be used for evaluating the jobs that are created by the project. Thus, in some cases, the jobs created are assimilated to full-time jobs even if they are not actually filled, or, worse, jobs occupied by apprentices are counted twice. Sometimes, the initial staff levels are inaccurately defined, which results in mistakes and often makes it very difficult to estimate the extent to which employment has really grown.

8.50. In a number of cases, as the Regulation allows, aid is granted, particularly in declining industrial regions, to projects intended to restructure companies and save jobs. The unavoidable conclusion from the Court's audit is that the objectives set out in the job decisions amount to a reduction in employment and that often, very often even, these forecasts are not achieved. Thus, an electrical equipment company received aid in order to maintain 1 450 jobs, when its total staff numbers were 1 650. On completion of the project, 1 270 jobs had been kept and, in 1988, total employed staff amounted to 959.

8.51. In other cases, jobs which are declared to be new mainly correspond to jobs which have in reality been maintained or transferred from the area where the project is located. An industrial baking plant had been destroyed by fire but the staff (170 people) had not been dismissed. They continued to be paid under an insurance contract and were re-employed as soon as the new plant became operational. The members of staff in question were nevertheless included amongst those occupying newly created jobs declared to the Commission (191 jobs).

8.52. In other cases, the number of jobs created is in line with the forecast, but, for lack of suitable labour, the new jobs have been filled by workers living in neighbouring regions, which may or may not be declining regions, or even in countries outside the Community.

⁽¹⁴⁾ Special report of the Court of Auditors concerning the creation or the maintenance of jobs in the granting of aid to regional investment (OJ C 345, 31.12.1982, p. 1).

Gross and net job creation by projects receiving aid

8.53. The positive effect of gross job creation by a project may be partially undone by job losses similarly linked to the implementation of the investment concerned. Thus, in the case of projects involving a company or a group, the tendency as regards employment is, in general, less favourable at the level of the company itself, taken as a whole, than at the level of the project, even if the latter has achieved its objective. In fact, the project, because it is new, is the most highly performing part of the company, which therefore attempts to use it to the maximum, even at the price of under-utilization of its other productive capacities.

8.54. In one of the regions that the Court studied, it was possible to assess the importance of this phenomenon. The projects selected in the audit sample ought to have created 6 300 jobs. According to the information submitted to the ERDF, only 4 300 real jobs were in fact created, representing a rate of achievement of less than 70 %. At the time of the audit, the projects together employed 5 170 persons, representing a rate of achievement as compared with the initial objectives of more than 80 %. Nevertheless, though the employment trend was favourable as regards the projects, the companies concerned had made more than 2 400 people in the region redundant during the same period. Thus, even including a very generous assessment of the number of jobs created indirectly thanks to sub-contracting, the initial employment objective had only been 50 % achieved at the time the audit took place, taking the net number of jobs created by the companies receiving aid as the reference standard.

8.55. Net jobs created by the projects may thus differ considerably from the gross figure. Similarly, the implementation of the projects, by reinforcing companies' competitiveness, may result in job losses at other firms in the region. There is, however, very little information on the basis of which gross and net creation of jobs could be investigated and analysed.

Correspondence between regional labour supply and jobs created

8.56. If they are to be really effective, the employment objectives must take account of specific aspects of the labour market in the disadvantaged regions. The analyses contained in the RDP often point up two qualitative aspects of these markets: underemployment of women and youth unemployment, particularly amongst the least skilled. The need to retrain older workers employed in declining industries is mentioned in some regions where there is a long-standing industrial tradition.

8.57. In many cases the type of labour needed for the projects which are receiving aid corresponds very imperfectly to the characteristics described above. Often, the nature of the work resulting from the projects receiving aid makes it impossible to employ female labour: for example, some social legislation permits night work by women only under specific conditions.

8.58. Youth unemployment is often linked to the absence and the inadequacy of suitable skills. In fact, many companies have complained of problems connected with the general level of education of their workforce, which they are obliged to solve by internal training courses. Moreover, they often have difficulty in finding within the region itself staff who are more than averagely skilled. In other cases, particularly in markedly rural areas, the local labour force has difficulties in adapting to the constraints of industrial employment.

8.59. Retraining older workers poses difficult problems which cannot always be solved by the availability of work, especially if they previously worked in sectors with very specific social and industrial characteristics.

Indirect impact of projects on employment

8.60. Projects may have indirect effects on employment through the multiplier effects that they have in the region and the revenue which they generate. The Commission's files give no information on this subject, but the limited extent to which the projects have been integrated into the regional economy gives grounds for thinking that these effects are usually modest.

8.61. Another indirect effect on employment may result from the growth of sub-contracting, which includes service activities (transport, cleaning, maintenance, etc.) and activities that are directly linked to production, when companies entrust productive operations to another company. In almost 70 % of cases, companies receiving aid resort to sub-contracting. However, generally speaking, only a limited number of jobs are affected.

8.62. In some cases, the companies do not make use of sub-contracting but recruit workers on the basis of short-term contracts, which may or may not be renewed, according to the economic situation at the time.

Permanence of the jobs created

8.63. The permanence of the jobs created was assessed by examining trends in staff numbers between the time the project was completed and 1988, when the audit was

carried out. As a general rule, thanks also to the recent improvement in the economic situation, employment relating to the projects receiving aid has increased, although the initial objectives have still not been achieved. All the same, this trend is the result of divergent movements: some companies, in spite of productivity increases, manage to increase production and staff numbers at the same time. Others, on the contrary, are obliged to make constant efforts to rationalize and thus restrict recruitment as much as possible, even if they are sufficiently profitable to continue in business.

8.64. Regulation (EEC) No 1787/84 provides in Article 33 that Member States shall, as far as possible, supply the Commission with information on jobs created or maintained within three years of the completion of the projects financed by the ERDF. However, very few Member States (France, the Federal Republic of Germany and Italy) have enacted legislation to check on the permanence of jobs created. Such legislation is applied to differing degrees and the information collected in this way is not systematically exploited.

The impact of aid on the decision to invest

8.65. Most frequently, the decision to invest in a particular region is the result of a complex process that takes account of its geographical position, the characteristics of its working population, the existence of suitable infrastructures, and economic-financial factors, of which regional aid is only one. In some regions, State aid eligible for ERDF support is accompanied by other significant benefits granted by the Member States themselves. In other cases, particularly in the case of projects carried out by public-sector companies, the decisions are strongly influenced by political factors or promises of public-sector orders. For example, the establishment of a subsidiary of a State-owned group in the chemicals sector was strongly influenced by the national government, which wished to compensate in this way for the fact that another subsidiary of the same group situated in the same region had had to be closed. Potential investors may on the other hand be discouraged by a relatively unfavourable financial environment. This is mainly true of local companies which cannot easily obtain access to the national financial market. In some cases, the final decision even depended on factors such as the image and general attractiveness of the region.

8.66. At the time the Court's investigations were being carried out, a very limited number of companies mentioned the possibility of obtaining State aid eligible

for ERDF support as a significant factor in their decision to carry out a project. In fact, State aid is often considered to be a subsidiary factor and, in certain rarer cases, as a guarantee which facilitates access to other sources of finance.

8.67. Only a small proportion of companies said that State aid had played a role in the location of the project. This may be explained by the fact that more than half of the projects are extensions, which, for technical and economic reasons strongly reduces the range of choice of location. In addition, as regards the creation of new businesses, a number of these were due to the initiatives of local entrepreneurs who did not consider setting up in any other region.

GENERAL CONCLUSIONS

8.68. In terms of utilization of productive capacities and profitability, the results of the industrial projects examined by the Court were acceptable. Their effects on the regional economy are however limited to direct effects only. In terms of growth, the projects aided have had hardly any incentive effect on economic activity in the region. Increasing the direct and indirect effects of the projects on regional growth is, however, essential if regional disparities are to be reduced.

8.69. In one out of two cases, employment forecasts associated with the projects have not been achieved and often they have still not been realized several years after the agreed deadlines, in spite of a rather favourable economic situation. Indirect effects on employment continue to be modest. What is more, jobs created do not always correspond to the characteristics of the regional labour markets.

8.70. Moreover, these results give a flattering impression, bearing in mind that they include only completed projects. A by no means negligible proportion of projects approved by the Commission had to be completely abandoned. Steps should be taken to reduce cases of this kind, which prevent the optimum use of Community resources, to the minimum.

8.71. This situation is due to weaknesses in the methods used by the ERDF for appraising the projects, in spite of some changes introduced in recent years⁽¹⁵⁾. The fact is that the selection procedures ought to take more account

⁽¹⁵⁾ See in this connection Chapter 6 of the Court's annual report on the financial year 1986.

of the regional and sectoral context of the projects and of the problems they are meant to help to solve.

8.72. Reform of the structural Funds⁽¹⁶⁾ could, by means of the Community support framework and the resulting operational programmes, help to increase the impact of the aid by favouring measures to stimulate the regional economy, and by bringing together the work of the various Community Funds and financial instruments. It could also make for better use of the various kinds of intervention laid down in the legislation that is at present in force.

8.73. Reform may also make it possible to establish a closer link between the industrial projects and the infrastructure investments. In this respect, the Court observes that the objective laid down by the Regulation, that is, the allocation of 30 % of the ERDF's resources to industrial projects, is far from having been achieved. Recent trends show a perceptible reduction in all States in the proportion of ERDF aid allocated to industry, in spite of the Commission's constant reminders of its importance⁽¹⁷⁾. The Commission should look at the way the ERDF's management systems operate at national and Community level so as to identify the factors that limit the submission of industrial projects and reduce their effects.

8.74. The main concern of the selection methods must be to identify as closely as possible the additional quantitative and qualitative contribution that a project can make to a region, as this contribution is the main justification for providing Community aid. The appraisal procedures must give priority to projects which are best suited to fit into the economic weft of the region and stimulate its development potential.

8.75. Improving the selection criteria is not enough if it is not accompanied by *ex post facto* analyses which make it possible to learn from the experience acquired. The Commission should therefore attach greater importance to the fundamental need to make *ex post* assessments of its work. The Court has reiterated this need on several occasions in previous special and annual reports, particularly in Chapter 6 of its annual report on the financial year 1987, which dealt with aid to infrastructure projects.

8.76. The efforts that need to be made to improve the effectiveness of the selection of industrial projects and optimize their impact should not be confined to the

⁽¹⁶⁾ Council Regulation (EEC) No 2052/88 of 24.6.1988 (OJ L 185, 15.7.1988, p. 9) and its implementing regulation, Council Regulation (EEC) No 4254/88 of 19 December 1988 (OJ L 374, 31.12.1988, p. 15).

⁽¹⁷⁾ Third periodic report from the Commission on the social and economic situation and development of the regions of the Community, Doc. COM(87) 230 final of 21.5.1987.

Community level. The Commission should take pains to make these concerns felt more and more vividly at Member State level, in particular in the notion of partnership that is to be developed as part of the reform of the Funds. Such an effort is all the more necessary and important as project financing is destined to become more

and more a part of the global programmes which the Member States will be responsible for implementing. It is therefore important that the Commission should be especially vigilant as far as these programmes are concerned and do everything to ensure that they are effective.

CHAPTER 9

The European Social Fund

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SPECIFIC OPERATIONS

Introduction

9.1. In its annual report concerning the financial year 1987 (paragraphs 7.10-7.55), the Court of Auditors set out its observations on preparatory studies and pilot schemes. Under the European Social Fund (ESF) which entered into force on 23 October 1983 ⁽¹⁾, these studies and schemes were continued in the form of specific operations and enjoyed a substantial increase in appropriations, which could be as much as 5 % of available appropriations.

9.2. Under Article 3(2) of Council Decision 83/516/EEC of 17 October 1983 ⁽¹⁾ on the tasks of the ESF, specific operations are defined as operations carried out with a view to:

- (a) 'encouraging the implementation of innovatory projects, as a general rule within the framework of a programme of action adopted by the Council'; or
- (b) 'examining the effectiveness of projects for which Fund assistance is granted and facilitating an exchange of experience'.

9.3. The basic rules and the administrative procedures applicable to specific operations are exactly the same as for other ESF measures. Only the duration of the aid granted differs, inasmuch as it can last for up to 36 months ⁽²⁾, whereas the other ESF measures may last for a period of no longer than one financial year. In contrast to the previous system of preparatory studies and pilot schemes, the promoter no longer has direct contact with the Commission and the innovatory aspect, which used to be a criterion for deciding priority, has become a criterion of eligibility.

9.4. In the period 1984-88, 612,9 Mio ECU were allocated to specific operations (Chapter 61). The commitments entered into by the Commission amounted

- (1) This Fund is primarily governed by:
 - (a) Council Decision 83/516/EEC of 17 October 1983 on the tasks of the European Social Fund, OJ L 289, 22.10.1983, p. 38;
 - (b) Council Regulation (EEC) No 2950/83 of 17 October 1983 implementing Decision 83/516/EEC concerning the tasks of the ESF, OJ L 289, 22.10.1983, p. 1;
 - (c) Commission Decision 83/673/EEC of 22 December 1983 on the management of the European Social Fund, OJ L 377, 31.12.1983, p. 1.
- (2) Under the terms of Article 4(2) of Decision 83/673/EEC.

to 414,4 Mio ECU, i.e. 68 % of available commitment appropriations (see *Table 9.1*), which were divided between 1 518 project approvals. At 31 December 1988, these approvals had resulted in payments of 180,1 Mio ECU, that is, 50 % of available payment appropriations (see *Table 9.2*). Recovery orders had been issued for some of these payments (5 Mio ECU) because certain projects had not been carried out or had been only partly completed. For the same reasons, some of the approvals (30,5 Mio ECU) had been the subject of decommitments. The result was that as at 31 December 1988, 203,7 Mio ECU was still awaiting disbursement (see *Table 9.3*).

9.5. The Court has carried out spot-checks of the specific operations approved by the Commission since 1984 and performed on-the-spot audits of some of them.

Table 9.1 — Specific operations. Annual implementation of commitment appropriations

<i>(Mio ECU)</i>		
	Final appropriations for the financial year ⁽¹⁾	Commitments entered into during the financial year
1984	85,08	42,7
1985	76,3	72,8
1986	124,8	93,1
1987	101,8	98
1988	116,07	107,8
Total period 1984-1988	504,05	414,4

Source: Revenue and expenditure accounts.

⁽¹⁾ After transferring the amounts unused for specific operations (Ch. 61) to Chapter 60, which stood at 58 Mio ECU in 1985 and 60 Mio ECU in 1987, the utilization rate for commitment appropriations amounts to 82 % and 66,6 %, taking into account the transfers.

Table 9.2 — Specific operations. Annual implementation of payment appropriations

<i>(Mio ECU)</i>		
	Final appropriations for the financial year ⁽¹⁾	Payments
1984	25,6	12,9
1985	15,7	25
1986	51,5	31,9
1987	84,4	52
1988	147,1	58,3
Total period 1984-1988	324,3	180,1

Source: Revenue and expenditure accounts.

⁽¹⁾ After transferring the 20 Mio ECU unused for specific operations (Ch. 61) to Chapter 60 in 1985, the utilization rate of payment appropriations amounts to 56 % and 52,3 % if the transfer is taken into account.

Table 9.3 — Specific operations. Commitments outstanding as at 31.12.1988

(Mio ECU)

Year of commitment	Commitments outstanding as at 31.12.1988
1984	2,5
1985	22,5
1986	41,8
1987	61,6
1988	75,3
Total period 1984-1988	203,7

Source: Eurada-ESF system.

Applications for aid

9.6. Three-quarters of all specific operations take place over more than one financial year. The Court found that applications for aid covering a number of years have increased, although sometimes they are for an annual training programme which is renewed several times.

Admissibility

9.7. In its annual report concerning the financial year 1987 (paragraphs 7.10-7.55), the Court stressed that the admissibility criteria laid down in the implementing rules for the ESF were far too imprecise. The Court emphasizes that:

- (a) the administrative forms contain insufficient detail for an assessment to be made of whether the applications for assistance comply with Community rules and, more specifically, the financial details give no reference to and in no way correspond to the presentation of the accounting plan;
- (b) furthermore, the forms are not always correctly and fully completed. In many cases, for instance, the types of training provided and the main skills taught are not mentioned; similarly, there is rarely any precise indication of how many people will have real job prospects after taking part in the programme.

9.8. Given that the Commission bases its decisions to approve and pay aid purely on the statements made in the files, the forms must be filled in with utmost precision. For instance, the Court considers it essential for the location of the operations and the content of the vocational training programmes to be stated in both applications for aid and applications for final payment.

Eligibility

Innovatory aspect

9.9. In addition to the eligibility criteria common to all ESF measures, specific operations must also be 'innovatory' in nature. There is no formal definition of this term, which leaves the Commission with a large degree of discretionary power. The Court found that many operations financed as specific operations were simply a repetition either of studies already carried out, in some cases over several years and generally in other regions, or of training programmes usually carried out by specialists. For instance, a large number of specific operations involve the setting up of companies and the use of computers. Such training already formed the basis of most of the ESF measures under the previous system of preparatory studies and pilot schemes. For example, the process of supporting the setting-up of companies involves the same basic training programmes, irrespective of the region, the country or the target group. Most of the basic training programmes are, moreover, available on the market.

9.10. This being the case, the innovatory nature of the projects depends on the change of location (for instance, one project, presented in an identical manner, except for the name of its location, was found to have been approved several years in succession by the Commission); since the syllabus covered by training programmes is itself so common, courses are often contracted out.

9.11. This is also true as regards the use of computers and knowledge of computer languages. For the Commission, the innovatory aspect resides, for example, in the level of training of the trainees, or the extent to which they require remedial training or even the promoter's lack of training experience.

9.12. It is mainly for financial reasons that the Member States present projects as specific operations in their

applications for aid. Given the surplus of appropriations available under Chapter 61, aid for projects approved as specific operations is unlikely to be reduced in the way that other ESF aid usually is.

Examination of effectiveness and exchange of experience

9.13. In accordance with Article 3(2), second indent, of Decision 83/516/EEC (3), 'examining the effectiveness of projects for which Fund assistance is granted' and 'an exchange of experience' are also eligibility criteria.

9.14. Since 1984, decisions to grant ESF aid in the field of specific operations have very rarely been taken on this basis. Furthermore, the Commission has not applied Article 5(3) of the Decision (3), which allows it to grant aid — covering all eligible expenditure — for operations whose purpose is to examine the effectiveness of general or specific projects for which Fund assistance has been granted.

Selection

9.15. None of the selection rules laid down in the various guidelines adopted by the Commission between 1984 and 1988 on the management of the ESF in respect of specific operations have had to be implemented. In view of the fact that appropriations were available, all the projects deemed admissible and eligible were approved.

9.16. For instance, in the various guidelines, the Commission stipulated a maximum of 100 people as a condition for the selection of specific operations. However, it was found that between 1984 and 1988

operations involving over 100 people accounted for over a third of the total number of recipients (for example, one specific operation involved 8 000 people). In the ESF activity reports (4), the Commission also noted that some projects were artificially divided into several operations in order to comply on paper with the limit of 100 people. If the applications involving over 100 people had been eliminated, over 50 Mio ECU would not have been used and the utilization rate of commitment appropriations would have fallen from 68 % to 59 %.

9.17. An analysis of the files shows that specific operations occur in very varied contexts, which, very broadly speaking, can be divided into two basic types of intervention:

- (a) first, training courses which deal with technological developments, i.e. those which concentrate chiefly on the newest aspects of the subjects taught and on the level (which is often high) of the training. Given the resources needed to provide this type of training, the bodies which do so have the technical back-up at their disposal which ensures that the training will continue. Moreover, the fact that the same operations can be, or are, adopted later under another ESF budget heading bears witness to the non-specific nature of the initial contribution by the ESF;
- (b) secondly, a large number of isolated interventions which, in most cases, are not followed up, do not even have any chance of survival and deal with disadvantaged target groups usually comprising people who have failed or 'dropped out'. Another feature of such groups is that they are rarely homogenous. Consequently, a large part, if not all, of the operation's resources is devoted to compensating, to the detriment of the vocational training aspect, for shortcomings in the group's basic education, which is incomplete or, in some cases, non-existent.

(4) ESF activity reports:

- (a) Thirteenth report concerning the financial year 1984, COM(85) 508 final of 17.10.1985;
- (b) Fourteenth report concerning the financial year 1985, COM(86) 583 final of 10.11.1986;
- (c) Fifteenth report concerning the financial year 1986, COM(87) 732 final of 5.2.1988;
- (d) Sixteenth report concerning the financial year 1987, COM(88) 701 final of 2.12.1988.

According to information contained in some of these reports, a number of applications for assistance were transferred to other areas of intervention. See, in particular, the fourteenth report, p. 90, point G1, paragraph 2, and the fifteenth report, p. 91, point 5.1, paragraph 2.

(3) Council Decision 83/516/EEC of 17 October 1983 on the tasks of the European Social Fund, OJ L 289, 22.10.1983, p. 38.

Implementation and follow-up of decisions

9.18. The Court's examination of a sample of specific operations (25 %) showed shortcomings in all categories of files. These weaknesses, which have already been pointed out in the past ⁽⁵⁾, chiefly concern:

- (a) the difficulty in assessing the eligibility of expenditure and trainees on the basis of files;
- (b) the inclusion of non-eligible expenditure;
- (c) the absence of any monitoring by the Member States to find out whether the trainees take up employment after completing a vocational training course;
- (d) the inadequacy of the information given by way of factual and accounting certification with applications for final payment.

9.19. Mention should also be made of the lack of monitoring of specific operations that last more than 12 months. The application for payment of a second advance submitted by the Member States includes certification that the first half of the operation has been carried out in accordance with the conditions laid down in the approval decision ⁽⁶⁾, and this is the only way in which the Commission controls the progress of the project. The approval decisions are very brief, scarcely ever consisting of more than two or three lines, which simply explain the type of operation approved. Consequently, there is great uncertainty over the outcome of projects until the time when the application for final payment is made or the grounds for the advances paid reach the Commission, since the Member State does not have to provide any explanation if a project is abandoned. The proliferation of decommitments when the files are wound up bears witness to the discrepancies between actual achievements and the initial forecasts made in the application for aid.

9.20. Attention should be paid to the weaknesses surrounding computerized management. Only limited use is made of the computer facilities available to the Commission for the management of ESF files. The statistical data given in aid applications is all that is entered on computer file, which means that no overall view is provided on computer of the cases dealt with ⁽⁷⁾. Furthermore, the Commission carries out no more than a

⁽⁵⁾ Special report No 1/88 of the Court of Auditors on national and Community systems and procedures relating to the management of the European Social Fund, OJ C 126, 16.5.1988.

⁽⁶⁾ Under the terms of Article 5(2) of Regulation (EEC) No 2950/83.

⁽⁷⁾ For instance, point 10 of Annex 1 of Decision 83/673/EEC, 'Joint financing by several Community financial instruments', has not been entered on the ESF computer file.

superficial check of the data supplied on magnetic tape by the Member States. This is why, for instance, the computer file on the recipients of ESF aid cannot always be used to find out which operations are managed by the same implementing body. Similarly, the payment file records financial transactions only in national currencies. Furthermore, the financial data on 1984 have not been updated since May 1988, despite the fact that many files were not yet wound up at 31 December 1988.

9.21. The basic data available on computer file provide only a very theoretical picture of the structure of training costs. The computer data are determined simply on the basis of the data given in the applications for aid. On completion of the project, actual costs are neither analysed nor compared. Such an analysis would enable an evaluation of the relative share of ESF measures accounted for by actual training. For specific operations which have received a final payment since 1985, the breakdown of costs is as follows:

- (a) training (preparation, operation and management of courses, vocational guidance and training of the teaching staff): 48,1 %
- (b) trainees' salaries: 30,1 %
- (c) accommodation, board and travel: 18,5 %
- (d) costs of effectiveness examinations and exchanges of experience: 1,5 %
- (e) depreciation: 1,4 %
- (f) other costs (rehabilitation and other aids): 0,4 %.

9.22. About one-fifth of applications for assistance for specific operations maintain that the operations involve an examination of effectiveness and/or an exchange of experience. In the applications for final payment, however, there is often no reference to these two points.

9.23. Although these concepts were included in the 1984 guidelines, they have not been precisely defined by the Commission. Consequently, in practice they are taken to mean a variety of things. An examination of effectiveness, for example, usually refers to end-of-course tests, but it can include the organization costs of the coordination committee. Exchanges of experience include the travel costs of trainees to places outside the Community.

9.24. The examination of effectiveness and the exchange of experience could have produced results if the Commission had not confined itself to an administrative role as regards the operations put forward by the Member States. In many cases, the promoters could have been put in contact with each other and encouraged to come to joint decisions on objectives, methods and results. For example, computer-assisted training and distance learning have been given a number of grants, sometimes simultaneously, without those concerned being put in contact with each other, even though sometimes they were carrying out their activities in the same town.

Assessment of the results

9.25. The Court noted that there is still no system for assessing ESF-assisted operations, either at a general level or at the experimental level of specific operations.

9.26. However, since 1984, the Commission has taken a series of measures in this area. According to the priorities laid down in the guidelines, it should select specific operations that include an appraisal. In its reports on ESF activities in 1984 and 1985⁽⁸⁾, the Commission outlines the main areas in which it concentrates its analyses. Finally, on the basis of a sample of files, it examines the basic training courses and the more specialized vocational training courses, without, however, drawing any practical conclusions. In later activity reports, no reference is made to analyses and research.

9.27. The balance sheet for specific operations is very similar to that for studies and pilot schemes. Some of the funds available under Chapter 61 remained unused, even though a method for assessing ESF measures has yet to be introduced and, as regards vocational training operations, the initiative lies with the Member States.

9.28. A report is drawn up on each specific operation. The quality and length of these reports vary and no summaries are available. The benefit of pooling the experience gained from a large number of operations with an absolutely identical training content is completely lost in all the details concerning the characteristics of the target groups (the disparity of whose basic deficiencies finally constitutes the main feature of the experiment, whilst at the same time being the main reason why no useful conclusions can be drawn).

9.29. Each annual report on the activities of the ESF since 1984 has provided a general description of the specific operations to which the ESF has given its approval. However, these reports do not discuss the objectives achieved by the operations or the results ESF aid has made possible as regards the content, methods, or organization of the training and its vocational approach.

9.30. It was found that welfare organizations, which is what the recipients of ESF aid for specific operations are, have a whole series of needs which cannot be met simply by the granting of funds. Indeed, a large number of specific operations are carried out by non-profit-making

organizations or bodies which do not have the necessary infrastructure or any specific experience in vocational training. These promoters have a fundamental need for 'know-how', for exchanges of experience, for communication and for advice. The Commission has made no provision to meet this type of need. This shortcoming is particularly regrettable given that the Commission has all the technical means available to it to initiate and assist cooperation between promoters, even at regional, interregional or transnational level and, moreover, a large amount of appropriations allocated to specific operations remain unused.

9.31. In its reply to the observations made in the Court's annual report concerning the financial year 1987 (paragraphs 7.20-7.25), the Commission pointed out that 'the contracts system was abandoned ... at the time of the 1984 review. The Commission is aware of the difficulties encountered and has therefore decided to drop individual project management in favour of programme management'. Despite the increased number of specific operations, the Commission has not managed, in the five years during which these operations have developed, to draw up and submit concrete proposals to improve the effectiveness of ESF aid as regards employment and vocational training. It has also failed to use the opportunities which have arisen in order to experiment, on a small scale, with programme management, which it will have to introduce, without experience, across the board as from 1989.

Conclusion

9.32. The conclusions drawn in the Court's annual report concerning the financial year 1987 (paragraph 7.55) on preparatory studies and pilot schemes also apply to specific operations. In addition, the following comments should be made:

- (a) the guidelines have not been followed in project selection because of the surplus of funds available. This surplus still exists, despite the approval of projects whose size (over 100 people) exceeds the experimental limits of specific operations;
- (b) programme management, the introduction of which the Commission announced in its reply to the Court's observations on the financial year 1987 (paragraphs 7.20-7.25), has not even been tried out;
- (c) the eligibility criteria have not been formally defined, with the result that the Commission has a large degree of discretionary power. The term 'innovatory' has still not been formally defined, even now, five years after the 1983 ESF became operational in 1984;

⁽⁸⁾ Thirteenth report on the activities of the ESF, p. 94, point V, 'Effectiveness of Fund assistance'. Fourteenth report on the activities of the ESF, pp. 96-97 and 102, point V.

- (d) this lack of formal definition allows promoters to make too free a use of the Commission's terminology when drawing up their aid applications, although in fact compliance with the requirements may be only superficial and information which would make it possible to check the truth of the matter does not appear in the file;
- (e) nothing in the files can be used as a basis for a cost/benefit analysis of the proposed operations, let alone for an assessment when the operations have been concluded;
- (f) a substantial amount of the appropriations allocated to specific operations remained unused, even though there was still no assessment of ESF measures, in particular there was no summary with constructive conclusions of the experiments introduced in the particular context of specific operations;
- (g) shortcomings still persist in the matching of training with the qualifications needed on the job market and in encouraging the spread of high technology in the field of training.

RECOVERY OF UNWARRANTED PAYMENTS

Introductory comments

9.33. The ESF which entered into force on 23 October 1983⁽⁹⁾ and was rescinded by Council Decision of 19 December 1988⁽¹⁰⁾ provides for the automatic payment

⁽⁹⁾ This Fund is primarily governed by:

- (a) Council Decision 83/516/EEC of 17 October 1983 on the tasks of the European Social Fund, OJ L 289, 22.10.1983, p. 38;
- (b) Council Regulation (EEC) No 2950/83 of 17 October 1983 implementing Decision 83/516/EEC concerning the tasks of the ESF, OJ L 289, 22.10.1983, p. 1;
- (c) Commission Decision 83/673/EEC of 22 December 1983 on the management of the European Social Fund, OJ L 377, 31.12.1983, p. 1.
- ⁽¹⁰⁾ Council Regulation (EEC) No 4255/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Social Fund, OJ L 374, 31.12.1988, p. 21.

of an advance of 50 % to recipients of assistance on the date on which the operations are expected to begin, or immediately after the approval decision when this is taken after the starting date of the operations. In the past⁽¹¹⁾, however, the payment of an advance was subject to certification that the operation had begun or, for subsequent advances of 30 %, that it had been performed to the extent of 50 %. If the planned operation is not carried out, or if the extent to which it is completed does not entirely justify the advance received, or if it fails to comply with the approval decision, or if the grounds for expenditure are provided late, the Commission should recover the advance or part of it. It is therefore the Authorizing Officer's responsibility to establish the debts owed to the Commission and issue recovery orders for the established entitlements.

9.34. Sums wrongly paid as advances under the ESF which entered into force on 1 January 1978⁽¹²⁾ amounted to some 150 Mio ECU in relation to total approval decisions equivalent to some 6 800 Mio ECU.

9.35. As illustrated by **Table 9.4**, the new entitlements established in 1988 in respect of approval decisions taken before 1984 amounted only to 0,1 Mio ECU. It may be inferred from this that the Commission's clearance of the 'burden of the past' in 1986 and 1987 (see the Court's observations in paragraphs 7.56-7.62 of its annual report concerning the financial year 1987) resulted not only in the near total liquidation of outstanding commitments for the ESF which entered into force on 1 January 1978, but also in the comprehensive identification of established entitlements in this area.

9.36. A characteristic feature of the Fund which entered into force on 23 October 1983 is the sizeable growth in the sums wrongly paid as advances, as shown in **Tables 9.4, 9.5 and 9.6**. This trend is ascribable in particular to the automatic payment of an advance of 50 % of the assistance granted.

9.37. The volume of established entitlements did not become significant until 1986 onwards. This may be explained by the maximum time-limit of 10 months following the close of the financial year which the Member States are allowed for submission of their applications for final payment⁽¹³⁾ and the time-limit of 13 months within which to justify the advances paid by the ESF⁽¹⁴⁾. This implies that the majority of entitlements established during one financial year concern

⁽¹¹⁾ Council Decision 71/66/EEC of 1 February 1971 on the reform of the European Social Fund, as amended by Decision 77/801/EEC, OJ L 337, 21.12.1977, p. 8, and Council Regulation (EEC) 2396/71 of 1 February 1971 on the reform of the ESF, as amended by Regulation (EEC) No 2893/77, OJ L 337, 21.12.1977, p. 1.

⁽¹²⁾ This Fund was abolished by Article 9(2) of Decision 83/516/EEC.

⁽¹³⁾ Article 6(1) of Decision 83/673/EEC.

⁽¹⁴⁾ Article 6(2) of Decision 83/673/EEC.

Table 9.4 — Entitlements established in 1988

(Mio ECU)

Reference year	Entitlements established in 1988 relating to advances paid pursuant to approvals for the reference year ⁽¹⁾	Part repaid in 1988 ⁽¹⁾
Financial years prior to 1984	0,1	0,1
1984	3,7	2,2
1985	20,7	4,8
1986	89,8	51,6
1987	37,0	22,5
1988	1,5	0,9
Total	152,8 ⁽²⁾	82,1

Source: Item 6150 of the revenue and expenditure account (revenue section) and the accounts for reused sums 479001.

(1) Excluding the revenue balance entered at 31.12.1988 in the 'revenue still to be entered' account (24,3 Mio ECU).

(2) Recovery orders whose due dates were not observed were issued for 57,3 Mio ECU out of a total of 70,7 Mio ECU (152,8 Mio ECU - 82,1 Mio ECU) still outstanding as at 31.12.1988.

Table 9.5 — Entitlements established during the reference financial year

(Mio ECU)

Reference financial year	Established rights
1984	16,1
1985	57,3
1986	154,3
1987	168,6
1988	152,8

Source: Data taken from the revenue and expenditure account (item 6150 — Revenue) concerning the reference financial year and account 479001 for the financial year 1988.

advances paid in respect of approval decisions taken two years beforehand. The majority of claims in respect of advances paid on the basis of 1984 approval decisions were thus established in 1986. This same finding emerges from **Table 9.4** in respect of claims relating to advances paid on the basis of approval decisions taken in the financial year 1986.

9.38. Considerable time-lapses continue to exist between the creation of a claim and its repayment and the due dates are not always observed, as may be inferred from **Tables 9.4 and 9.7**. It emerges moreover that:

(a) in the case of advances for which a total repayment was requested and which involved considerable

amounts, as shown in **Table 9.6**, the average time-lapse — calculated on the basis of a representative sample — between the date of payment of the advance and the date on which it was recovered was — at 31 December 1988 — about 30 months for payments in respect of 1984 and 1985 approvals. A large number of these debts had still not been paid by the same date. The delays also vary from Member State to Member State;

(b) in the case of debts outstanding as at 1 January 1988 and still not recovered at 31 December 1988, as shown in **Table 9.7**, the main debtor States are, in order of size of the debt, Italy, the United Kingdom, Belgium, the Netherlands and France;

(c) calculations carried out on a representative sample of recovery orders (2 100 cases) showed that some 40 % of debts were repaid within the deadlines laid down in the debit notes and that about 25 % of debts were outstanding for more than a year after the deadlines.

9.39. Many recoveries continue to appear in the Commission's 'revenue still to be entered' account, since they were not identified on receipt or have yet to be considered as an established entitlement, as shown in **Table 9.8**.

9.40. The examination carried out by the Court in 1988 dealt mainly with the problem of sums wrongly paid as advances from the ESF which entered into force on 23 October 1983 and the repayments relating thereto. The study was based on a survey and analysis of the Community and national procedures in question on the one hand and on a representative sample of cases on the other. Audit visits and fact-finding missions were carried out in Belgium, Denmark, the Federal Republic of Germany, France, Italy, Ireland, the Netherlands and the United Kingdom in order to study national procedures.

9.41. During the financial year 1987, the Financial Controller, for his part, carried out a special audit on the recovery of ESF claims. This audit was followed by a memorandum to the Commission from the Member in charge of the Directorate-General for Financial Control in agreement with the Member in charge of the Directorate-General for Employment, Social Affairs and Education ⁽¹⁵⁾. The memorandum listed the audit conclusions and proposed certain measures which were to be taken. It was approved on 25 May 1988 by written procedure. By this Decision, the departments concerned in DG V, the Accounting Officer and the Financial Controller were assigned the duty of putting into operation the practical measures referred to in the memorandum, a matter to which the Court has paid special attention.

⁽¹⁵⁾ Doc SEC(88) 752-E/618/88.

Table 9.6 — Entitlements established prior to 31 December 1988⁽¹⁾, concerning the ESF which entered into force on 23 October 1983

Year	Approvals		Advances paid relating to approvals for the reference year (Mio ECU) ⁽³⁾	Approvals for which entitlements have been established		Entitlements established in respect of advances for the reference year (Mio ECU) ⁽⁵⁾	Approvals for which the whole advance had to be repaid	
	Number ⁽²⁾	(Mio ECU) ⁽³⁾		Number ⁽⁴⁾	%		Number ⁽²⁾	(Mio ECU) ⁽⁵⁾
1984	2 568	1 854,3	880,1	1 338	52,1	121	420	21,0
1985	3 775	2 188,5	1 032,7	1 388	36,8	128	650	42,9
1986	4 760	2 523,0	1 253,8	1 392	29,3	125	754	45,9
1987	7 061	3 523,6	1 748,7	803	11,4	40	484	21,0
Total	18 164	10 089,4	4 915,3	4 921	27,1	414	2 308	130,8

(1) In view of the procedures for applying for final payment and for assessing projects, an increase can be expected in 1989 both as regards entitlements established in connection with 1986 approvals, and, in particular, those relating to 1987 approvals. Entitlements established in connection with 1988 approvals at present stand at only 1,5 Mio ECU (see Table 9.4).

(2) Data taken from the Eurada-ESF system.

(3) Source: revenue and expenditure account concerning the reference year.

(4) Data taken from the Eurada-ESF system and periodic accounts — current financial year.

(5) Data taken from periodic accounts — current financial year — at 1 December of the reference financial years.

Observations on the implementation of the practical measures listed in the memorandum of 25 May 1988

9.42. In accordance with its responsibility to remind the competent national authorities of the 'recipients' obligation to repay advances obtained in error, without waiting to be asked to do so by the Commission', the ESF management reminded them in its note of 15 July 1988 of the obligation to repay the sums received from the ESF which had not been used, without, however, directly associating with this requirement the obligation to repay without awaiting a Commission request to do so.

9.43. Similarly, in accordance with its responsibility to again remind the competent national authorities of the need to inform the Accounting Officer immediately of any unrequested repayments, the ESF management requested in a note of 15 July 1988 that a new procedure for informing the Accounting Officer be implemented for these cases of repayment. Despite this recommendation, however, unrequested repayments continue to be made without the object of the repayment being immediately identifiable.

9.44. 'In cases of unrequested repayment', the Authorizing Officer should 'immediately draw up a recovery order making it possible to regularize the accounts in respect of this repayment'. He should issue it 'as soon as possible' in cases where the recipient recognizes, in his application for final payment, that the advance or a part thereof should be repaid. In reality, the recovery order is

not drawn up immediately after an unrequested repayment unless the latter is accompanied by a cancellation of the file by the competent national authorities. In the other cases (unrequested repayment before 31 October of the year $n + 1$ without cancellation of the file, application for final payment at 31 October of the year $n + 1$ revealing an excess payment of an advance, with or without an unrequested repayment), the recovery order is not drawn up until after the file has been processed by the department concerned.

9.45. Faced with the task assigned to him of 'giving priority to attempts to recover major claims', the Accounting Officer has developed a system of reminders communicated to the debtors via the competent national authorities, created a data-processing system for recovering claims and regularly informs the Authorizing Officer of the claims situation. Efforts should nevertheless be increased and in respect of the actual recovery of claims — both major claims and disputed claims — the Accounting Officer is still largely reliant on the Authorizing Officer and the national authorities. It should be noted that in the past the attitude taken by the Commission's Accounting Officer did not comply with the requirements of Article 24(1), second subparagraph, of the Financial Regulation⁽¹⁶⁾, whereby 'the accounting officer shall exercise all due diligence to ensure that the resources due to the Communities are recovered at the due dates indicated in the recovery orders, and shall ensure that the rights of the Communities are safeguarded.' Most of the Member States never received reminders prior to August 1988, while claims had remained pending since at least the end of 1986.

(16) Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities, OJ L 356, 31.12.1977.

Table 9.7 — Claims outstanding as at 1 January 1988

(Mio ECU)

Breakdown of claims relating to approvals for the financial years in question		Claims not recovered at 31.12.1988
1. Claims relating to approvals for financial years prior to 1984	31,9	20,5
2. Claims relating to 1984 approvals	49,6	38,5
3. Claims relating to 1985 approvals	48,9	22,1
4. Claims relating to 1986 approvals	6,9	5,0
5. Claims relating to 1987 approvals	0,1	0,1
Total	137,4	86,2

Source: Item 6150 of the periodic account — Revenue.

9.46. In conjunction with DG V, the Accounting Officer is also instructed to make more frequent use of the procedure of recovering claims by setting them off against debts. After, in December 1988, the ESF management had informed the competent national authorities of its decision to set off the sums to be paid against those to be received by the same beneficiary 'in cases where it is possible to do so', the setting-off procedure was not applied until April 1989 and the ESF management has only just taken the organizational measures required for its application. It should be noted, moreover, that each application should be subject to the prior approval of the competent national authorities. A rule stipulating the type of payment which may be set off (either the initial payment to be made to the debtor or only the final payments) has still not been laid down. In order to ensure its effectiveness, the Court considers that the setting-off procedure should not solely concern sums to be paid as final payments but also advances.

9.47. Contrary to the measure referred to in the memorandum, no file where payment has not been made has yet been sent to the Commission's Legal Service. Priority is given to the application of the setting-off procedure although it is likely to be ineffective for a series of disputed files.

9.48. To conclude, the whole set of measures has not been implemented as planned. Therefore, at 31 December 1988, the problems of time-lapses and suspense accounts were nowhere near being solved. Moreover, even if these

measures had been implemented as planned, they are, in any event, not sufficient to counter all the weaknesses and gaps established in the Community and national procedures.

Other observations on Community procedures

Shortcomings in Community rules and management which explain the size of the sums unduly paid as advances

9.49. Given the almost exponential increase in the number of files⁽¹⁷⁾ and the automatic payment of advances, which were characteristic features of the ESF which entered into force on 23 October 1983, the Commission departments responsible for assessing the applications for assistance continue to content themselves with a brief description of the operations and recipients⁽¹⁸⁾ and may thus authorize the payment of advances which are difficult to justify.

9.50. The Commission's reluctance to provide a concrete meaning for the term 'calculation methods' in connection with the expenditure estimates that have to be provided with applications for assistance⁽¹⁹⁾ leaves the way open to over-estimates.

9.51. It should also be noted that the Commission did not obtain any guarantee from the Member States that the estimates of measures to be implemented would be satisfactorily observed. The idea of guaranteeing the successful completion of the operations⁽²⁰⁾, although of interest for other purposes (see paragraph 9.62), does not, in fact, have a bearing on the achievement or otherwise of the forecasts. Consequently, the Member States have not interpreted this concept as meaning they have real responsibility, on their own authority, for ensuring that operations are carried out as closely as possible to the estimates.

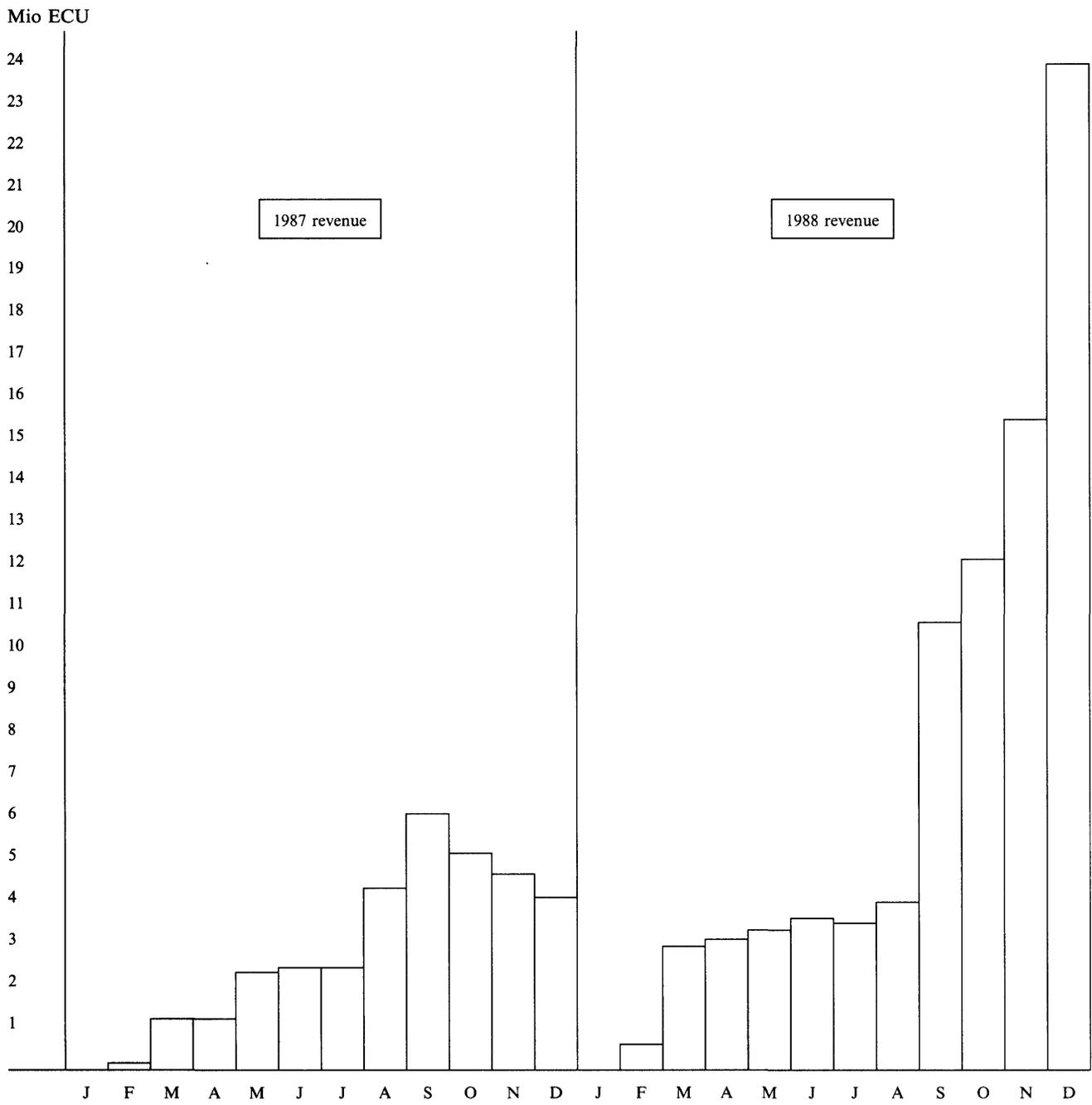
⁽¹⁷⁾ The number of new files rose from 500 in 1983 to 3 300 in 1984 and 10 000 in 1988.

⁽¹⁸⁾ Paragraph 3.19 of the Court of Auditors' special report No 1/88.

⁽¹⁹⁾ These calculation methods should be provided in accordance with section 15 of Annex 1 of Decision 83/673/EEC. The shortcomings in this respect were analysed in paragraph 3.16 of the Court of Auditors' special report No 1/88.

⁽²⁰⁾ Article 2(2) of Decision 83/516/EEC and section 21 of Annex 1 of Decision 83/673/EEC.

Table 9.8 — Fluctuations in the suspense account balance (475109) 'revenue still to be entered'



9.52. An examination on the basis of files showed that unwarranted payments are often linked to the above-described shortcomings. Indeed, the most frequent explanations ⁽²¹⁾ for these payments are:

- (a) an over-estimate of the cost per hour per trainee (or the average cost per trainee if the cost per hour per trainee cannot be calculated on the basis of the file);
- (b) an over-estimate of the number of trainees (the real reason for this cannot always be identified; it may be a lack of interest on the part of trainees or companies or the small number of trainees who are eligible or who fulfil the priority criteria, etc.).

Other contributory factors are also of significance, for instance: the failure to implement the operations, the fact that some or all of the operations, target groups or expenditure were not eligible or did not meet the priority criteria, the failure to take into account in the application for final payment non-eligible or non-priority categories of expenditure which had been included in the application for assistance, the delay in the execution of operations compared with forecasts, the reduction in the length of the operations, the absence or reduction in public funding or the lateness of the decision by the Commission to grant approval.

9.53. As regards interest, the Court notes that the recommendation — referred to in the memorandum of 25 May 1988 — to charge interest on account of late payment has not been applied. In a broad sense, the Council, in its statement annexed to Council Regulation (EEC) No 2950/83 'recognizes the problem posed by the recovery of unwarranted payments made as Social Fund assistance, or through any Community financial instrument, which are likely to produce interest for the holder. It invites the Commission to examine in a more general context possible solutions to this problem and to make appropriate proposals'. There has still not been any concrete solution to this problem even if the provisions of internal procedure relating to the recovery of claims ⁽²²⁾ indicate that the Accounting Officer is responsible for charging interest on Community claims not repaid on the due date and even if the additional payment of interest on account of late payment for sums not repaid is referred to in Article 24(3) of Council Regulation (EEC) No 4253/88 ⁽²³⁾.

9.54. Had a decision been taken during the reform of October 1983 making it possible for the Commission to

⁽²¹⁾ It was not always possible to identify these factors; the problem is described in paragraph 9.69.

⁽²²⁾ Thirteenth edition of the internal rules on the implementation of the general budget of the European Communities (revision of 20.7.1987).

⁽²³⁾ Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88, OJ L 374, 31.12.1988, p. 1.

claim interest for the period during which payments in excess of what was due were held by the recipient bodies, it would have curbed the growing volume of overpayments and, at the same time, cut down the delays in repayment. The imposition of interest on account of late payments alone does no more than make it possible, as pointed out in the Financial Controller's special audit report ⁽²⁴⁾, to rectify the malpractice of deferring payment indefinitely after the due date of the recovery order. It does not solve the problem of the interest-free advances held by the recipients for what are sometimes long periods.

9.55. The procedure for the suspension of the automatic payment of advances, at the request of the Member States ⁽²⁵⁾, does not lay down any obligation for the latter to request suspension. Consequently, no Member State requests it, even if there are problems surrounding the implementation of the operations in question at the time when the Commission pays the advances.

9.56. An examination of the files revealed that some national measures co-financed with the ESF were not sufficiently well defined when the applications for assistance were made and should not have been approved by the Commission. There was even less reason for the approval decision's being followed by the payment of an automatic advance. Consequently, the Member States should have asked for the payment of advances to be suspended.

Weaknesses in the procedures for the recovery of unwarranted payments

Establishment of entitlements

9.57. The regulations and decisions of the Council and the Commission do not provide for sanctions in the event that a Member State fails to observe its obligation to notify the Commission immediately of any change in the factors on which approval of assistance was based ⁽²⁶⁾; the Commission is not, therefore, systematically informed of these changes.

9.58. The rather formalistic assessment of applications for final payment by the ESF departments ⁽²⁷⁾ results in many entitlements never being established. Indeed, the quality of the assessment of 'applications for final payment' for which unwarranted advances have been

⁽²⁴⁾ Doc. XX/35/87, p. 17.

⁽²⁵⁾ Article 5(3) of Regulation (EEC) 2950/83.

⁽²⁶⁾ Article 5 of Decision 83/673/EEC.

⁽²⁷⁾ Paragraphs 3.23-3.27 of the Court of Auditors' special report No 1/88.

made from the time of their submission is no different from the assessment of the other files.

9.59. The deadline of 10 months after the end of the financial year for the submission by the Member States of applications for final payment — and even 13 months to provide the grounds for an advance received — is unjustifiable for cases where the operation has not been carried out.

9.60. Because of the abovementioned deadline of 10 months, the Commission's inspection of the operations carried out in the year n does not begin in most cases until after 31 October of the financial year $n + 1$. It would be preferable if the Commission could begin the inspection earlier and if it could be informed immediately after the end of the financial year whether the total amount of assistance due is equal to or less than the advance received.

9.61. It was found that cases in which the grounds for the payment of advances from the ESF had not been provided via an application for final payment by 31 January of the second financial year ($n + 2$) following the end of the reference year (n) and cases where applications for final payment showed that excess advances had been paid were not assessed more quickly by the ESF departments than the files containing normal applications for final payment⁽²⁸⁾. In many cases, assessment by the Fund's departments was completed after 30 April of the financial year $n + 2$.

Guarantee of the successful completion of the operations

9.62. Since the reform of the ESF in 1983, the idea of guaranteeing the successful completion of operations and that of the secondary liability of the Member State for repaying unwarranted payments⁽²⁹⁾ have been linked, since secondary liability concerns the operations to which the guarantee applies. However, the Commission has never specified how the Member States should apply their secondary liability⁽³⁰⁾. In these circumstances, a Member State has the right to refer to national legislation to define this notion. Consequently, the Commission does not have the necessary Community instruments available to it to oblige a Member State, if necessary, to repay unwarranted payments which the debtor cannot or will not repay.

⁽²⁸⁾ Admittedly, at the end of the year and at the beginning of the following financial year, the departments responsible for the Fund have to examine applications for assistance, excess payments and applications for final payment all at the same time. In addition, at the end of the financial year, there is the implementation of the budget as regards payments which have to be carried out by the end of the financial year.

⁽²⁹⁾ Article 6(2) of Regulation (EEC) No 2950/83.

⁽³⁰⁾ Secondary liability is interpreted in the following, mutually exclusive ways:

- after doing everything possible to obtain the repayment from the body which owes the wrongly paid sums and failing to obtain it, the Commission turns to the Member State;
- by virtue of the principle of joint and several liability it is irrelevant whether the Commission approaches the Member State or the debtor to recover a sum.

Procedures for drawing up, issuing and following up debit notes

9.63. The Financial Regulation allows the issuing of collective debit notes, i.e. ones where the sum to be recovered refers to several excess payments. This procedure has, on occasion, made it extremely difficult to identify the revenue, for instance when the number of the established entitlement had been omitted or, in particular, when the total amount repaid did not correspond to the debt and the details of the repayment were not attached. In such cases, the revenue was paid into the suspense account 'Miscellaneous revenue yet to be booked'.

9.64. The Authorizing Officer wrongly allows the Accounting Officer to act in his place as regards the fixing of due dates on recovery orders. It was found, moreover, that this date is usually fixed after the Financial Controller has given his approval, which is also contrary to the Financial Regulation⁽³¹⁾.

9.65. As a general rule, the Commission's Accounting Officer sends the debit note only to the national authorities responsible for submitting applications for assistance and payment for the Member States, which are the only authorities competent as regards relations with the ESF. For a brief period after the end of the financial year 1988 he sent it only to the body receiving the excess payment. As from February 1989, the abovementioned authorities and the recipient bodies have both simultaneously received the debit note, which should speed up the recovery process.

9.66. The requirement made on the debit notes sent to the relevant national authorities to state the number of the established entitlement on the payment order is not always complied with by the body making the repayment or by the bank concerned. The Commission's Accounting Officer had to pay the revenue into the suspense account 'Miscellaneous revenue yet to be booked' before booking it. Since this suspense account records repayments which differ as regards the degree of difficulty in settling them, a settlement account should be created, which would record only those repayments made on the debtor's own initiative that are already identified and correct, i.e. those which can be easily entered in the accounts, whereas the suspense account would continue to record repayments whose purpose cannot be immediately identified or the amount of which does not correspond to the sum due. Such a procedure would make the accounts clearer.

⁽³¹⁾ Article 23(2) of the Financial Regulation.

File management

9.67. Until the end of 1987, the ESF was not systematically informed by the Commission's Accounting Officer of the recovery payments made⁽³²⁾ and had done absolutely nothing to obtain such information. For many files, therefore, the ESF lacks information essential for their management, such as the sums repaid and the date of repayment or whether or not a debt has been recovered.

9.68. An examination of the files revealed that they do not systematically contain:

- (a) the date on which the advance was paid;
- (b) the recovery order (especially as regards advances paid for 1984 and 1985 approvals);
- (c) a copy of the payment, which the bodies responsible for repayments should send to the ESF departments in the case of unrequested repayments.

9.69. It is not always possible to clearly identify, in each case, the reasons why an unwarranted payment was made and why an entitlement was established. For instance, in the case of approvals where the recipients have not justified the advances received by 31 January of the financial year $n + 2$ (which means the advance should be repaid entirely or in part) the files in question virtually never contain information on the reasons for the absence of supporting documents. Furthermore, the ESF departments have never enquired as to these reasons.

Lost revenue for operations eligible for ESF assistance

9.70. Although under Article 22(2) subparagraph (a) of the Financial Regulation revenue from the refund of amounts paid in error may be re-used, the revenue resulting from the recovery of sums unduly paid as ESF advances has not been re-used for operations eligible for ESF assistance. In 1988, revenue from debts was, for the first time, paid into an account for re-use. However, access to this account was possible only as from the date on which the 1988 budget was finally fixed. Consequently, the sum of 45,5 Mio ECU could, in theory, have given rise

⁽³²⁾ Since the beginning of 1988, the Accounting Officer sends the ESF accounting and data-processing unit the new debt statements which are drawn up when a new debit note is sent to a debtor or when a financial transaction is made in a file, such as a payment, increase, reduction or cancellation of the debt.

to new commitments in 1988. The loss for operations eligible for ESF assistance already amounts, at 31 December 1988, to 436 Mio ECU for the 1984-87 period.

Comments on the national procedures

Shortcomings in the national procedures for applying for final payment

9.71. The size of unwarranted payments, which is explained mainly by the shortcomings of Community procedures (see paragraphs 9.49 — 9.56), is also caused by the sometimes unsuitable manner in which the national authorities responsible for submitting applications for final payment operate. As a result of this, applications for final payment arrive at the Commission after 31 January of the financial year $n + 2$, or additional information concerning applications for final payment requested by the Commission departments is sent late. This means that, in the first case, full repayment of the advances received is required, and in the second the application for final payment has to be appraised in the light of the situation prevailing at that moment, which also results in the full repayment of advances in some cases.

Monitoring of the implementation of operations and monitoring of excess payments (before receipt of debit notes) by the relevant national authorities

9.72. The procedures set up by the national authorities for monitoring operations co-financed with the ESF fail to reveal within a reasonable period of time possible discrepancies between what is actually carried out and the forecasts⁽³³⁾.

9.73. For instance, sometimes there is no procedure for systematic notification that the operations have begun (Belgium and Ireland). In other cases, notification is late (France, Italy and the United Kingdom), since the recipient bodies send the information only in order to obtain payment of the ESF advance.

⁽³³⁾ According to Article 5 of Decision 83/673/EEC, the Member State is required to notify the Commission immediately when an operation for which an application for assistance has been made or assistance granted cannot be carried out or can be carried out only in part.

9.74. In some Member States, the procedures which should enable the authorities to be informed that operations have not been carried out by the end of the period of eligibility or immediately following it are not strictly applied or are non-existent (Belgium, France and Italy).

9.75. Some national authorities are not informed of the partial or total implementation of the planned operation until the application for final payment is made (Belgium, France, Ireland and the Netherlands) or long after the end of the period of eligibility (Italy).

9.76. Even when States possess information on discrepancies between forecasts and actual achievements, they do not send it immediately to the ESF departments (Belgium, France, the Netherlands and the United Kingdom).

9.77. Some national authorities responsible for submitting applications for assistance and payment and which are the only authorities responsible for relations with the ESF — and consequently the initial bodies to receive debit notes — stated that they did not make repayments on their own initiative (France) or did not encourage the bodies responsible for repayments to make them of their own accord, (Belgium, Spain, Ireland, Italy and the Netherlands). These authorities are of the opinion that the Member State has only secondary liability and that it is up to the Commission to take the initiative to send debit notes. The French authorities also fear that they might find themselves paying twice.

9.78. In some Member States, no unrequested repayments are made (Spain, France and Ireland), while such repayments are made systematically by the German and Danish authorities and by the United Kingdom in the case of advances which have not been paid to the recipient bodies.

Late repayment of debts and insolvency of the final recipients of ESF payments

9.79. Most of the Member States do not consider the deadlines for payment stipulated on the debit notes they receive as binding. In the case of some Member States (the United Kingdom as regards advances paid to the recipient bodies, Spain, Ireland and the Netherlands), late repayments are due to at least a certain degree of inertia (which some justify by the delays in the Commission's payment decisions) on the part of the national authorities responsible for submitting applications for assistance and payment and for providing guarantees and certification

and on the part of the bodies which have to repay unwarranted payments, or to disputes over the debit notes received. For other Member States, late repayments are also explained by other factors.

9.80. In Belgium, bodies that have received the guarantee of the national authority responsible for submitting all applications for assistance and payment to the ESF and have not repaid their debts by the deadline are sent a number of reminders a year by the national authority, which in this way manages to ensure that most of the bodies concerned repay the Commission. The national authority cannot, however, intervene in the case of bodies whose projects are officially guaranteed and certified by other authorities (e.g. regions or linguistic communities) even if one of these authorities finds itself confronted with a relatively large number of excess payments that the bodies it has guaranteed have not repaid within the deadlines.

9.81. It should be noted that the Belgian national authority maintains that in the case of non-solvency of the recipient body, the authority guaranteeing the successful completion of the operations is ultimately responsible for paying back unwarranted payments. However, the administration accountable to the regional certifying authority is of the opinion that it is only required to check, using the administrative resources at its disposal, whether the applications for assistance and payment comply with Community legislation and to inform the Commission of any discrepancies compared with the estimates and of any action taken against the recipient body and to take any steps necessary to recover the sums to be repaid. There is, then, at least in the present situation, some uncertainty about the actual repayment of all the unwarranted payments.

9.82. In France, the national authority responsible for submitting applications for assistance and payment to the ESF and for providing guarantees and certification is also responsible for repaying all unwarranted payments. It groups a number of debit notes together for the files it manages in order to cut down on the number of transfer transactions, a procedure which causes some delay in repayment. For the other files, which are managed by central administrative authorities, prefectures of overseas departments or bodies under the supervision of central administrations, the national authority makes repayments using funds not yet allocated in the budget and which the Commission has recently paid to the administrative departments and managing bodies, which can also cause some delay.

9.83. In Italy, particular problems are caused by the government framework projects. The management of ESF files concerning these projects by the national authority responsible for submitting applications for assistance and payment has been mediocre. For instance, applications for final payment for some 1984 files were not sent to the ESF departments until after 31 January 1986. As for some 1985 files, they contained so little

information that the Commission called for all the advances to be repaid. The national authority repaid only the difference between the sums it had received from the ESF and those it had paid as advances and final payments to cover the expenses of operations actually carried out by the enterprises involved in government framework projects. It disputed the requests for full repayment in the case of some 1984 files, calling for more flexibility on the part of the Commission for the files dating back to the first, transitional year of the ESF which entered into force on 23 October 1983, and also held up repayment for some 1985 files.

9.84. The origin of the dispute lies in the fact that the Italian national authority would be obliged to require private companies which have carried out eligible, priority operations, to repay aid granted both by the Italian Ministry of Labour and by the ESF because of administrative errors for which they were not responsible. For the other files, which received unwarranted payments that were not repaid within the deadlines stipulated on the debit notes, and where the recipients were regions, public corporations, joint-management welfare bodies or national vocational training bodies, the delays in repayment are also caused, in part, by a degree of indifference on the part of the authorities providing guarantees and certification. Nevertheless, it should be noted that each regional authority itself officially guarantees and certifies files which fall solely within its competence.

9.85. Finally, it should be stressed that in Italy the competent national authority adopts a minimalist interpretation of the idea of guaranteeing the successful completion of the operations, as mentioned in paragraph 9.81. The application of this interpretation should be monitored, in particular as regards government framework projects.

Conclusion

9.86. In order to speed up the identification of unwarranted payments and the settlement of debts resulting from the application of the Community rules on the ESF which entered into force on 23 October 1983, the Commission should:

- (a) introduce procedures for sending out debit notes more quickly;
- (b) speed up the application of the compensation procedures;
- (c) propose charging interest in order to reduce the period for which unduly paid sums are held;
- (d) provide a more precise definition of the idea of guaranteeing the successful completion of operations.

9.87. As regards the ESF which entered into force on 1 January 1989, the Commission should remain aware of the problem of unwarranted payments and introduce measures which will prevent its recurrence, especially since:

- (a) the concepts of guarantee and Member States' secondary liability have not been included in Regulations (EEC) Nos 2052/88 ⁽³⁴⁾, 4253/88 and 4255/88, even though the responsibilities of the Member States in the new 'partnership' between the Commission, the Member States and the competent national authorities appointed by the Member States ⁽³⁵⁾ are not yet clearly defined;
- (b) the amendments adopted by the European Parliament ⁽³⁶⁾ to strengthen the rules concerning the financial provisions and the monitoring of unduly paid sums have not been accepted by the Commission and the Council.

⁽³⁴⁾ Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the EIB and other existing financial instruments, OJ L 185, 15.7.1988, p. 9.

⁽³⁵⁾ Community operations are to be established through close consultation between the Commission, the Member State concerned and the competent authorities designated by the latter (hence the term 'partnership'); Article 4(1) of Regulation (EEC) No 2052/88.

⁽³⁶⁾ Amendments adopted and legislative resolution embodying the opinion of the European Parliament on the Commission's proposal to the Council (COM(88) 500 final), (Doc. A2-250/88), OJ C 326, 19.12.1988, pp. 216-234. The amendments concerning wrongly paid sums are mainly numbers 71, 77, 76, 143 and 81.

CHAPTER 10

Transport

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INTRODUCTION

10.1. The improvement of Member States' transport infrastructures, in particular the links between Member States, can make an important contribution to the cohesion of the Community. This is especially so for the peripheral regions of the Community as it would help them to participate more equally in the Community's economic and social development.

10.2. Financial support for transport infrastructure projects, in the form of subventions to Member States in support of new road and rail projects, has been available from the Community's general budget since 1982. But the Council has never adopted a comprehensive regulation governing this programme of support nor any multi-annual plan for its implementation. Instead it has

proceeded by way of annual or biennial regulations approving financial support for particular projects⁽¹⁾. These projects are selected from lists submitted by Member States.

10.3. According to the remarks columns of successive budgets, the purpose of this financial support is to encourage Member States to embark on transport infrastructure projects with a Community interest or to speed them up. The scope of Community interest is defined in the Annex to Council Regulation (EEC) No 4059/86⁽¹⁾.

⁽¹⁾ Council Regulation (EEC) No 3600/82 (OJ L 376, 31.12.1982); Council Regulation (EEC) No 3620/84 (OJ L 333, 21.12.1984); Council Regulation (EEC) No 4059/86 (OJ L 378, 22.12.1986); Council Regulation (EEC) No 4070/87 (OJ L 380, 22.12.1987).

10.4. Once the Council has approved financial support for a particular project, it is the Commission's responsibility to decide, within the limits of appropriations available in the budget, on the precise amount of subvention to be granted, within a ceiling of 25 % of the cost of the project. The Commission then enters into an agreement with the Member State concerned. These agreements provide for the payment of a first tranche of the subvention (30 % or 40 %) on signing, a second tranche when the project is 50 %, or in some cases 70 %, complete and a final tranche on completion. The second and final tranches are only paid when the Member State has submitted reports showing the state of completion of the projects concerned. The agreements also lay down the specification of the project and its construction period.

10.5. *Table 10.1* shows expenditure on this programme for the years 1984 to 1988. The Court has examined controls over this expenditure in selected Member States. It has also attempted to assess the impact of the programme on the Community's transport infrastructure.

10.6. During the course of these enquiries the Court has examined the implementation of the transport infrastructure programme, including selected road and rail projects, in Greece, Portugal, Spain and the United Kingdom; and has carried out more limited enquiries in the FR of Germany and Ireland.

LINKS WITH THE COMMUNITY'S STRUCTURAL FUNDS

10.7. This chapter deals with the Community's transport infrastructure programme. Formally this programme is distinct from transport projects assisted under the European Regional Development Fund, on which the Court reported last year⁽²⁾, which have different eligibility and selection criteria and are managed by other Commission services (but not necessarily by different services in the Member States). The objective of improved accessibility of disadvantaged regions is common, however, to both instruments and sometimes the two intervene in the same project. It is important, therefore, that the Commission develop clearer organizational links between the transport infrastructure programme and related structural policies.

(2) OJ C 316, 12.12.1988, Chapter 6.

COMMUNITY DECISIONS TO GRANT SUBVENTIONS

10.8. In the absence of a multiannual Community plan, Member States are unable to develop their own transport infrastructure plans — which are universally long-term or medium-term — with a knowledge of the particular projects which will attract EEC subventions. At the planning stage they do not even know the overall amount of Community assistance they are likely to receive in the years of implementation.

10.9. It is inevitable, therefore, that in most cases Member States propose for subvention projects which they have already decided to undertake on the basis of national criteria. An eventual decision to grant a Community subvention is no doubt welcomed but is not a determining factor in the national decision to go ahead with the project.

10.10. This is well illustrated by the many cases where the decision to grant a subvention was taken after work on the project concerned had actually been started. For example the Court found that on five out of six projects examined in Greece, on two out of four projects examined in Portugal and on two out of six projects examined in the United Kingdom work had started before the dates on which the Commission agreed to grant subventions.

THE MEMBER STATES' TREATMENT OF FUNDS RECEIVED UNDER THIS PROGRAMME

10.11. In Greece, despite the fact that decisions to grant subventions were often taken after the start of the projects concerned, the Court was able to satisfy itself that Community funds provided under this programme do increase the budgets of the departments responsible for the implementation of transport infrastructure projects and thus effectively contribute to higher spending in this area.

10.12. In the FR of Germany, Ireland and the United Kingdom, however, the Court's enquiries showed that there was no demonstrable link between the receipt of Community funds and higher spending on transport infrastructure projects.

Table 10.1 — Expenditure on the Community's transport infrastructure programme

Member States		(1 000 ECU)											
Year	Belgium	Denmark	FR of Germany	Greece	Spain	France	Ireland	Italy	Luxembourg	Netherlands	Portugal	United Kingdom	Total
1984			4 200	4 000		3 000	3 000		5 000	1 750			15 000
1985	5 500		4 200	25 770		7 960	2 580	8 682	1 470			21 890	79 802
1986	2 800	7 000	4 000	24 500	2 500	7 500	4 000	19 500		4 200	1 500	12 500	90 000
1987 ⁽¹⁾	500	500		5 500	12 000	5 100	3 000	8 500	100	4 200	8 000	5 100	53 000
1988	3 000	2 500		5 000	12 000	11 500	5 000	8 000		5 000	3 000	10 000	65 000
Total	11 800	10 000	8 200	64 770	26 500	35 060	17 580	44 682	6 570	15 150	12 500	49 490	302 802

Source: Revenue and expenditure account for the years 1984, 1985, 1986, 1987, 1988.

(¹) An amount of 500 000 ECU was paid to the 'Groupe des Douze chemins de fer de la Communauté' under Commission Decision C(87) 2496 final 5.

10.13. This can be most clearly illustrated in the case of the United Kingdom where:

- (a) for the United Kingdom Department of Transport projects (e.g. Sidcup bypass and Maidstone to Ashford) the subventions do not have the effect of increasing the budgets of the regional offices responsible for implementing the projects concerned. The Community contribution is in practice appropriated in aid of the general Department of Transport vote. In consequence it does not stimulate any increase in the roads programme but acts only as a subvention to the general funds of the Department;
- (b) for British Rail projects which fall in a subsidized part of the network (e.g. the Harwich project), the receipt of a Community subvention serves only to reduce by an equivalent amount the public service obligation subsidy received by British Rail from central government. Again the benefit goes to central funds and not to a specific transport infrastructure project;
- (c) the full costs of county council transport infrastructure projects (e.g. Ashford roads, Braintree bypass) have to be contained within annual ceilings fixed by the Department of Transport. Any support received from the Community does not act to increase these ceilings. The end result in these cases is that the Community subventions serve to reduce the costs falling on county ratepayers without achieving any improvements to the transport infrastructure programmes.

10.14. The situation in the FR of Germany and Ireland is similar in that Community funds are retained by the Ministry of Finance or its equivalent. They are not transferred on a project-by-project basis to the authorities responsible for implementing transport projects. As a consequence a link between Community funds and particular projects is not discoverable. This does not mean that projects approved by the Council for financial support have not been implemented. With the exception of two projects in Ireland (see paragraph 10.22 (b) and (c) below) the Court found that projects approved by the Council in these Member States had been constructed or were in the course of construction.

TRANS-EUROPEAN ROUTES

10.15. As Community subvention decisions are based on proposals put forward by Member States for projects

within their own boundaries, there is a risk that projects supported under this programme will reflect national interests rather than wider European ones. This is a potential problem, in particular, for those Member States on the periphery of the Community.

10.16. For example, the United Kingdom is being slow in providing a good link between Holyhead, the port of entry for most of Ireland's exports by road, and the United Kingdom motorway network. This link may not have the highest priority in United Kingdom national terms but is of great importance for Ireland's trade with the rest of Europe. Similarly, in Portugal construction is under way on the motorways in the north of the country connecting Porto and Bragança and Aveiro and Vilar Formoso; but the Spanish authorities have no immediate plans to continue these motorways from the border with Portugal to connect to the Spanish motorway network with its links into the body of Europe.

THE SIZE OF THE COMMUNITY SUBVENTION

10.17. The legislation provides that transport infrastructure grants may not exceed 25 % of the cost of the project. In practice, grants are expressed by the Commission as fixed-sum contributions. But there are no established guidelines for arriving at the level of contribution for particular projects within the approved ceiling; and Commission files contain no reasons to support decisions in individual cases.

10.18. The Court's examination showed that rates of support on individual projects varied, for no very apparent reason, from 10 % to 22,9 %. As decisions to grant a subvention at a particular level are often taken before a firm estimate of the cost of a project is known, the eventual rate of Community assistance is frequently much lower than was forecast at the decision stage.

10.19. *Table 10.2* shows for selected Member States the average rates of Community assistance expressed as a percentage of the estimated cost at the time of the decision and of the revised estimated or final cost.

Table 10.2 — Average rates of contribution under the Community's transport infrastructure programme

Member State	Average rate of contribution	
	At the date of the Commission decision (in %)	At the date of the revised estimate (in %)
Greece	22,9	13,3
Portugal	12,3	6,7
Spain	15,4	13,3
United Kingdom	10,0	8,8

10.20. The Court makes two comments on the data in this table:

- (a) that the generally low rate of Community assistance under the transport infrastructure programme seems not by itself to provide much encouragement to Member States to embark on transport projects with a Community interest or to speed them up, which reinforces the conclusion in paragraph 10.9 above that these subventions are not a determining factor in national decisions to go ahead with particular projects; and
- (b) that the Commission should set clearer rules regulating the level of Community contributions and record the reasons for individual decisions on the relevant files.

DELAYS IN CARRYING OUT ASSISTED PROJECTS

10.21. As stated in paragraph 10.3 above a primary aim of this programme is to speed up the implementation of transport projects which are in the Community interest. In practice the granting of a Community subvention often fails to achieve this objective.

10.22. In Ireland, the Court found in March 1989 that three of the four assisted projects have suffered long delays:

- (a) the Commission agreed in December 1984 to grant a subvention of 3 Mio ECU towards the construction of the Wexford bypass in the south of the country which had started in 1979 and was expected to be completed in 1986. The latest estimate is that the project, towards which 2,25 Mio ECU of the grant had been disbursed by June 1987, will not now be finalized until 1990, although the bypass itself was opened to traffic in 1988;
- (b) the Commission awarded a subvention of 2,4 Mio ECU to the Shankill to Bray project on the Dublin to Wexford road in July 1985 and paid the Irish authorities a first tranche of 0,72 Mio ECU a month later. Work had still not started on the project at the time of the Court's visit in March 1989 and it is not now expected to be completed before 1993;
- (c) a similar delay has arisen on the Dunleer project on the same axis. A subvention of 4,0 Mio ECU was granted in December 1986 with payment of the first tranche of 1,6 Mio ECU the same month. But again construction of this project had not started at the date of the Court's visit, and present plans forecast completion for 1992.

10.23. Again in March 1989, the Court found that there have been long delays in implementing four out of six projects supported by the Community in central and southern Greece:

- (a) work has still not started on two stages of the Varibobi-Schimatari project for which a subvention of 12,5 Mio ECU was agreed in July 1985, and on which 3,75 Mio ECU had been disbursed by the end of 1988;
- (b) there are delays of at least one year in the completion of the Solomos-Nemea project on which a subvention of 3,5 Mio ECU was granted in December 1986, and the Artemisio-Tripoli project which was granted a subvention of 3,0 Mio ECU in December 1987; and on which 2,45 Mio ECU and 1,20 Mio ECU respectively had been disbursed at the end of 1988;
- (c) there is a 2,5 year delay on the Sfinga-Aliartos project for which the Commission agreed a contribution of 1,55 Mio ECU in December 1986 when the project was expected to be completed by the end of 1987; 0,62 Mio ECU had been paid on this project by the end of 1988.

DELAYS IN SUBMITTING CLAIMS FOR LATER TRANCHES OF SUBVENTIONS

10.24. Delays by the Member States in submitting claims for payments due under this programme cause the Commission problems in managing their budgetary appropriations; they are also indicative of Member States' lack of regard for the importance of the subventions concerned.

10.25. In the United Kingdom on three of the six projects examined the authorities had neglected to claim payment of later tranches of subvention when they became due. For one of the projects concerned (the Sidcupbypass) the authorities had only claimed the initial 30 % due on the signing of the agreement in July 1985 although the road was substantially completed and opened to traffic more than two years ago.

10.26. In Greece, too, the Court noted that the national authorities did not always claim payment from the Commission when this was due. For example the Ritsona-Thiva project was 50 % complete by the end of 1987. But the Greek authorities at the time of the Court's visit in March 1989 had still not claimed the second tranche of the Community's contribution then due.

MONITORING BY THE COMMISSION OF THE IMPLEMENTATION OF THE TRANSPORT INFRASTRUCTURE PROGRAMME IN THE MEMBER STATES

10.27. Under the relevant legislation the Commission is required, in liaison with the competent authorities in the Member States, to carry out on-the-spot checks of projects receiving financial support under this programme. If these checks reveal irregularities or substantial change in the nature or conditions of the project for which the Commission's approval has not been sought, the Commission is entitled to suspend payment of its financial support, and in extreme cases to recover sums disbursed.

10.28. In addition to these on the spot checks the Commission requires Member States to provide progress reports on the implementation of assisted projects when making the application for the second tranche of support;

likewise a final report has to be submitted before payment of the final tranche.

10.29. The Court's enquiries showed that the Commission had achieved only a limited programme of on the spot checks. From the start of the programme in 1982 up to the end of 1988, the Commission had carried out only four missions to Member States to examine the implementation on the spot of five supported projects. Three of these missions took place at the final claim stage of the projects concerned. The financial support involved in these projects amounted to 22 Mio ECU compared to a total of 303 Mio ECU committed under this programme.

10.30. So far as the in-house checks of progress and final reports are concerned the Court makes the following points:

- (a) these reports contain useful information but as they represent the uncorroborated evidence of the Member State, they are no substitute for on-the-spot examinations;
- (b) as the Commission only requires reports to be submitted by Member States when they apply for the second or final tranches of financial support, delays in implementing projects or in submitting claims for payment of support (see paragraphs 10.21 to 10.26 above) serve to deny the Commission even this information on the progress of projects or at best to delay it.

10.31. The Court's enquiries revealed instances where, without the approval of the Commission, there had been substantial change in the nature or condition of the project. For example, the national authorities in Portugal, without informing the responsible service of the Commission, changed the Paredes-Penafiel project from a national roads' project to be financed and implemented by the Department of Transport to a motorway project to be financed by the imposition of tolls and implemented by a private company. Moreover, the delays in project implementation referred to in paragraphs 10.21 to 10.23 above which involve substantial modifications to the original Community support agreements had not been brought to the attention of the Commission.

10.32. There are no recorded instances where checks carried out by the Commission either in-house on the basis of reports or on the spot have led to the suspension or cancellation of financial support.

10.33. In the Court's view the level of monitoring of this programme achieved by the Commission is inadequate. It recommends that, as a minimum, the Commission

institutes a more frequent programme of on-the-spot visits including visits during the construction of projects as well as when final claims have been submitted; and writes into the agreements with Member States a requirement that annual progress reports shall be sent to the Commission irrespective of the claims position.

CONCLUDING REMARKS

10.34. The primary objective of this programme is to encourage Member States to embark on or to accelerate transport infrastructure projects with a Community interest. From its examination of the implementation of the programme the Court has to conclude that, six years after the first grants were made available, the programme has largely failed to meet this objective for the following reasons:

- (a) despite the efforts of the Commission over many years, the Community has still not adopted a multiannual legal and financial framework for this programme;
- (b) Member States are unable, therefore, to take account of Community subventions in their transport planning processes and, in consequence, receive support only for projects which have already started or where the decision to go ahead with the project has already been taken;
- (c) in three of the Member States where the position was examined, Community contributions are essentially subventions to central funds and do not serve to increase the amount of appropriations available for the construction of transport infrastructure projects. This is not in itself conclusive evidence of misuse of Community funds since in principal the objectives of the Community support could be achieved by re-ordering priorities within existing budget limits. In conjunction, however, with the remark at (b) above, the implications of this situation, in the Court's view, are rather serious;

(d) in any event the rates of Community support are too low to have an influence on national decision-making;

(e) despite Community support intended to accelerate them, there have been long delays in the implementation of many of the projects.

10.35. There is a risk under the present procedures that insufficient consideration will be given to routes which are of vital interest to one Member State but which lie in another Member State (Trans-European routes).

10.36. The Commission's monitoring of the implementation of the projects which it is supporting needs to be improved so that it is fully informed of changed specifications, problems in implementation, delays in submitting claims, etc. Where a Member State fails to implement a project as planned, the Commission should use its powers to suspend or cancel financial support.

10.37. In the Court's view this programme cannot be fully effective until it is placed in the context of a multiannual plan of action, with insistence on Member States demonstrating that Community support leads to increased spending on transport infrastructure projects with a Community interest. Consideration should be given to the benefits which would be gained by concentrating resources on fewer but more highly desirable projects (from the European point of view) rather than spreading support so widely. Trans-European routes should be considered for higher levels of support to persuade Member States to build for others.

10.38. Finally, the Court would like to see enhanced links between this programme and the related Community structural policies, particularly in view of recent steps to improve the coordination of the latter ⁽³⁾.

⁽³⁾ Council Regulation (EEC) No 2052/88 (OJ L 185, 18.7.1988); Council Regulation (EEC) No 4253/88 (OJ L 374, 31.12.1988); Council Regulation (EEC) No 4254/88 (OJ L 374, 31.12.1988); Council Regulation (EEC) No 4255/88 (OJ L 374, 31.12.1988); Council Regulation (EEC) No 4256/88 (OJ L 374, 31.12.1988).

CHAPTER 11

Financial and technical cooperation with non-member States

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COUNTERPART FUNDS FROM FOOD AID IN SOME AFRICAN AND ASIAN COUNTRIES

Introduction

11.1. In accordance with Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management ⁽¹⁾, aid is usually sold so as not to compete too keenly with local produce and the primary use of the 'counterpart funds' generated is to finance projects which make some contribution to the country's agricultural development. The delivery agreements concluded between the Community and the recipient States specify the procedures for implementation of these principles on a case-by-case basis. The Court's previous audit work ⁽²⁾ showed that the system did not always function satisfactorily: bank accounts were non-existent or did not yield an adequate return; revenue from sales was substantially less than the value of the products (due to losses, theft, excessively low sales values or prices, gifts, very high distribution costs, etc.); there were delays in making funds available; the funds generated were utilized slowly and, sometimes, in inappropriate ways.

11.2. The Court has recently examined the situation in a number of countries: Senegal, Mauritania, Mali, Zambia and Mozambique, Tunisia, Pakistan and Bangladesh. The information collected confirmed the previous findings and also revealed new types of problems.

Confirmation of previous findings

Constitution of resources

11.3. The revenue declared is often very low relative to the true value of the produce supplied by the Community. The quantities sold are generally less than the quantities sent, due to loss or theft during shipping, transshipment, overland transport and/or storage, and because of cases of distribution free of charge for which there is no provision in the delivery agreements. The produce is frequently sold at a price which is too low, so that there is a danger of its competing with local produce. The gross sales revenue is burdened with excessive charges (shipping, unloading, port storage, transit, overland transport, storage and the operation of the agencies responsible for taking charge of food aid, etc.). Furthermore, the

⁽¹⁾ OJ L 370, 30.12.1986.

⁽²⁾ Special reports 6/87 and 7/87; OJ C 31, 4.2.1988.

amounts actually available are less than the amounts agreed. The services which are responsible for sales are slow in transferring the revenue and in this way receive concealed operating subsidies.

Use of funds

11.4. The funds are seldom used quickly. As a result, they lose a substantial part of their purchasing power. The local currency, in which they are generated, depreciates. In very exceptional cases, where the funds are invested quickly in accounts which bear realistic interest rates, these delays do not have any adverse consequences. In Mozambique, however, the delays cost 30 Mio ECU and in Zambia, 9,8 Mio ECU.

11.5. Between 1982 and 1987 the volume of funds used for specific operations contributing to the agricultural development of the recipient countries was ultimately very limited compared with the initial value of the produce supplied by the Community (see *Table 11.1*). In Tunisia, 4 Mio ECU of the 18 Mio ECU actually generated from aid of approximately 30 Mio ECU was invested in artificial insemination and milk-collection programmes. In Senegal, the only specific investment is the cow-pea development programme. In Mali, the funds invested as a specific contribution to the expansion of the storage capacity of the Bamako dairy union and the importation of a herd of cattle were negligible relative to the total value of Community aid. In Mozambique there was a similar situation with regard to an irrigation project. In Mauritania and Zambia, none of the uses of funds has made any specific contribution to the agricultural development of these two countries.

Other types of application

11.6. For the remainder, the funds were either not used or they were used for the type of financing which the Court has already warned the Commission against in its previous reports, since it is all too often tantamount to financing deficits of every kind. This applies, in particular, to the financing of the management of agricultural markets. Applications of this type are on the increase:

- (a) in Senegal and Mali, a substantial proportion of the funds generated was used to support or contribute towards public management of the cereals market (public buying into intervention, crop loans, storage aid, etc.);

Table 11.1 — Use of counterpart funds, 1982-87

(Mio ECU)

Counterpart funds Country	Value of aid supplied (*)	Revenue generated	Use in specific agricultural development projects	Other uses
Senegal	15,2	8,5	3	4,5
Mauritania	18,4	0,86	—	—
Mali	27,8	8,3	0,7	7
Zambia	29,7	6,10	—	1,77
Mozambique	94,4	53,8 (1)	0,53	33,3
Tunisia	31	18	4	—
Pakistan (2)	—	—	—	—
Bangladesh (3)	99,4	63	—	63
Total	315,9	158,56	8,23	109,57

(*) Cost to EEC budget (excluding EAGGF refund).

(1) Includes a loss of purchasing power of approximately 30 Mio ECU.

(2) Token entry: Pakistan did not receive any food aid for sale after 1981.

(3) Figures supplied for period 1984-87.

(b) in Mauritania the funds were used to relieve the recipient country's budgetary shortfalls, notably as contributions to projects of all kinds financed with third-party donors;

(c) in Zambia, counterpart funds were used to finance the recipient State's contribution to projects financed jointly with the European Development Fund (EDF);

(d) in Bangladesh the funds first made it possible for the State to provide subsidies for fertilizer and from 1984 on were then used to finance the government's contributions to both EEC projects and other donors' projects (mainly in agriculture and rural areas);

(e) in Mozambique, 40 % of the scanty resources generated were used to reimburse budgetary investments which had already been made and sometimes even destroyed in the war;

(f) everywhere substantial amounts cover the deficits produced by quasi-governmental organizations' management.

11.7. Overall the Court can only reiterate its previous findings, which the European Parliament included in the resolution adopted on 19 January 1989.

New types of application for counterpart funds

Multilateralization of counterpart funds

11.8. In Senegal, Mali and Mauritania a large majority of donors of food aid for sale recently got together and, with the agreement of the local authorities, pooled the counterpart funds.

11.9. This has real advantages for donors and recipients. Once pooled, the counterpart funds can be used to finance large-scale operations which, if they are to be effective, must be above a critical figure, which bilateral funds do not normally reach. This pooling of resources makes it possible to improve the coordination of applications and integrate them within a coherent policy of agricultural development. The way is thus opened up for multiannual programming of aid in accordance with the wishes expressed by the Council in its resolution of 15 November 1983. Joint decision-making procedures are set up, facilitating the evaluation of food requirements and the annual programming of aid. There is a permanent structure available to the recipient country, which simplifies its relations with a large number of donors.

11.10. If aid is to be pooled satisfactorily, however, there is one fundamental condition which must be fulfilled: the operating rules for the 'common funds' must be drawn up with care. This appears to have been the case in Senegal, but not in Mauritania, and especially not in Mali. In the latter country the funds were pooled with those from other donors as part of a 'programme for restructuring the cereals market' (PRMC) set up in the form of a club with unwritten and changeable rules of operation. The 'PRMC' has bank accounts, which contain funds, and is an important part of Mali's agricultural policy. But it is an indefinable body with extremely vague objectives and structures. Decisions concerning cereals policy are taken there, considerable sums are disbursed there, but no one knows precisely when, by whom and under what rules decisions are taken, and the accounting system for recording financial operations is inadequate. During its audits on the spot the Court found significant managerial omissions: the absence of any monitoring of the quantity and quality of aid received from the Community; failure to draw up annual accounts and the absence of any double-entry bookkeeping; and non-recording of debts, which in some cases may represent substantial sums.

11.11. The multilateral counterpart funds have substantial resources, generated by a pool of international food aid, and are highly structured around long-term utilization programmes, which in turn are linked to the implementation of entire areas of the recipient countries' agricultural policies, so that they are, in fact, parallel agricultural budgets of a permanent nature managed jointly by the donors and the recipient country. In order to function they require continuity of revenue, which is supplied by the food aid. Their success may thus lead beneficiaries to ask for food aid not so as to cover a food deficit, but to generate revenue. The Community has already had to cut back some requests for food aid which were regarded as excessive. When drastic cutbacks were made in Senegal and Mali these countries had become so accustomed to the revenue from counterpart funds that the Community had to supply substitute financial aid.

11.12. These parallel budgets also tend to become self-financing (see paragraphs 11.13. — 11.15. below) and to grow bigger through the use of systems of repayable interest-bearing loans. An increasing proportion of local public finance is thus placed under joint management. Above a certain threshold there is a risk that this system will become unacceptable.

Financing of food strategies

11.13. The applications associated with the management of agricultural markets are diversifying (public purchases to guarantee high prices to producers, storage

of seasonal surpluses, crop loans to producers, loans to traders to help them buy and store produce at guaranteed prices, purchase of imported produce, consumption aid, market research, etc.). With the pooling of counterpart funds, these result in expenditure of around 10 Mio ECU per annum, notably in Senegal and Mali, and are, to a greater or lesser extent, part of medium-term programmes in the spirit of the aforementioned Council resolution, which recommended the use of counterpart funds in principle to finance operations to support food self-sufficiency policies.

11.14. The objectives thus stated place the emphasis on expenditure which is intended to guarantee an income for farmers, to encourage them to produce more, to organize the internal market, which favours local produce, so as to redirect consumption towards local produce. Some of the expenditure has had a markedly beneficial effect on one or other of the parameters mentioned above, such as the expansion of cow-pea production in Senegal and the programmes of loans to farmers and traders in Mali.

11.15. Nevertheless the results are often disappointing. It is extremely difficult to achieve the stated objectives where there are more immediate priorities or economic and administrative constraints. Price support means sacrifices for consumers, particularly in the towns, and the provision of protection for the internal market by means of frontier controls. The promotion of local produce when new nutritional habits have been acquired means imposing a degree of restraint on the consumer. These considerations, and some others, like the difficulty of setting up management systems (material, administrative and financial) which are reliable and effective, explain why seasonal purchases, storage and the various programmes for lending to economic agents have very often had limited results.

Conclusion

11.16. At the time of the audits, and despite the recent progress, the Commission was not in a position to monitor the management of the counterpart funds. In many cases there were still no service instructions for the delegations. In some of them the monitoring of funds was still ineffectual. The Commission is therefore unable to provide all the necessary information regarding the state of the counterpart funds.

11.17. Furthermore, in view of the increasing variety of ways of using counterpart funds, the Commission should weigh up the advantages and disadvantages of the various options. It would be dangerous for preference to be given to applications which are too sophisticated, in the guise of

'nutritional strategies', if it were not possible to control them correctly, or if the policies pursued in other ways in terms of consumer prices and frontier protection were to differ from them too much. Furthermore there is a risk that these very sophisticated applications may involve excessive interference in the administration of the recipient countries.

ments, as well as the Financial Controller's reports and the Commission delegation's files in Islamabad. It also made on-the-spot visits to six projects which represent 30 % of the total financings effected in Pakistan on the basis of Article 930 appropriations (see *Table 11.2*)

Delays

COMMUNITY AID TO PAKISTAN

Financial and technical cooperation with Pakistan

11.18. Financial and technical cooperation with Pakistan began in 1976. In 1988 the Court of Auditors attempted to evaluate the results of this by examining the Commission's files, i.e. those of its managing depart-

11.19. The most obvious feature is the substantial delays which were found at both commitment and payment levels. The only exception was the Community participation in the Tarbela dam project, for the reason that this is only a limited contribution to what is a very sizeable project, the execution of which had been organized beforehand. Some of these delays are structural and are in excess of one year. They are due to the fact that the Pakistani authorities wait for financing agreements between themselves and the Community to be signed before setting in motion their own programming and decision procedures.

Table 11.2 — Article 930 — Commitments and payments

		(ECU)		
Nature of financing		Commitments	Payments	Balance
(a) Projects (Title, No)				
Kharpur irrigation II	76/02	3 249 534	3 249 534	—
Chasma right bank irrigation	77/04	4 179 404	4 179 404	—
Tarbela Dam (*)	78/04	4 800 000	4 800 000	—
Baluchistan livestock development (*)	79/04	6 700 000	1 439 108	5 260 892
Baluchistan water supply I	80/09	4 000 000	3 621 876	378 124
Baluchistan water supply II	83/12	7 800 000	1 560 000	6 240 000
Solar energy (*)	80/08	1 800 000	901 848	898 152
Karachi fish harbour (*)	81/01	12 000 000	502 553	11 497 447
NWFP emergency water supply (*)	81/03	2 700 000	2 510 000	190 000
Baluchistan roads	84/16	4 000 000	3 500 000	500 000
Vocational training II	85/18	16 000 000	—	16 000 000
Rural electrification	85/22	10 000 000	—	10 000 000
Talli flood irrigation	86/15	7 800 000	—	7 800 000
Buner irrigation development (*)	87/15	10 600 000	—	10 600 000
Primary education	87/16	15 000 000	—	15 000 000
Baluchistan agricultural college	88/07	18 000 000	—	18 000 000
Total (a)		128 628 938	26 264 323	102 364 615
(b) Delegation's administrative operating costs in 1987		250 000	—	250 000
(c) Miscellaneous consultancy contracts		380 081	368 395	11 686
Total 930 [(a) + (b) + (c)]		129 259 019	26 632 718	102 626 301

(*) Projects visited by the Court.

Planning errors

11.20. In the light of experience the actual planning for several projects proved to be defective. In the case of solar energy project No 80/08 the error was in the choice of site: the solar energy installations were set up one kilometre from Kankoi, which was reached by the electricity powerlines of the Pakistani national grid a few years after the investment had been made. Because of this the investment was not much use. Road construction projects No 84/16 are causing maintenance problems because there was no provision for surfacing in the beginning, even though it was foreseeable that the level of traffic would be high.

11.21. In the case of project No 79/04, the Baluchistan livestock development project, experience has shown that the initial idea was too ambitious and complex, in fact, highly unrealistic. The initial proposal was as follows:

- (a) irrigation of extensive areas for the development of pasture and fodder crops for the livestock;
- (b) construction of a modern animal feedstuffs plant and a modern dairy;
- (c) construction of an artificial insemination unit;
- (d) construction of a vaccination centre;
- (e) establishment of a number of lamb-fattening centres; and
- (f) importation of some 1 000 Friesian cows for distribution to farmers.

Items (a), (c), (e) and (f) of the project were to be financed by the EEC, by means of a grant of 6,7 Mio ECU, and items (b) and (d) by means of loans from the Asian Development Bank (ADB), which was also the overall contractor for the project, with responsibility for ensuring that it was carried out.

11.22. Some eight years after the project started, and three years after its theoretical completion date, the situation is such that:

- (a) only 30 % of the proposed area is under irrigation; neither grass nor animal feed is being grown, but cereals are cultivated as being of more use in feeding the local population and for rearing battery hens;

- (b) the animal feed factory and the dairy have been built, but they are completely unused. Faced with the prospect of having to make the annual payments on the loan obtained from the ADB, the provincial government is seeking to sell these plants to the private sector, at prices below cost and for uses other than those initially proposed as part of the project;
- (c) the artificial insemination unit has been built and is operating. The insemination programme (improvement of the local herd by cross-breeding with high-yield European breeds) is developing satisfactorily, but more slowly than planned;
- (d) the vaccination centre is operational;
- (e) the lamb-fattening centres are very much behind schedule. Nevertheless the delay has been turned to good advantage by the Pakistani technicians who have modified the design radically and involved breeders. It is hoped that the future outcome will be positive;
- (f) the thousand or so Friesian cows have been imported. They have been installed in two State farms, where they are well cared for and are breeding. The calves from the successive crossings are distributed to the farmers, but not in large numbers. This part of the programme has not been a failure. Nevertheless, in terms of the expenditure involved, the results of the artificial insemination programme appear more interesting.

11.23. Overall, the initial design errors are obvious. They are the fault of the ADB, the originator and manager of the project, which, moreover, evaded the obligatory Court audit provided for in Article 8(b) of the financing agreement and Article 7 of the project management agreement by not attending the on-the-spot audits. These mistakes, which are damaging in themselves, particularly for Baluchistan's provincial finances, are also the cause of substantial delays. However, the fact that some elements of the project have been successful and that the whole project merits continuation, albeit on a new footing, is thanks to the Pakistani veterinary officers, who have turned the lost time to good advantage by adapting the project in the light of experience, and to the Commission delegation in Islamabad, which helped them. In 1988 the Commission decided to withdraw from its collaboration with the ADB and concluded an agreement with the Pakistani authorities, whereby the latter would take over responsibility for the project.

11.24. The weakness of the feasibility studies often explains the basic planning errors. This was the case with the Baluchistan livestock development project, where there are obvious deficiencies in the feasibility study produced by the ADB. It is also the case with the Karachi

fishing port reconstruction project (project No 81-01), which was initially planned on the basis of a preliminary study commissioned by the ADB from a Danish firm, which subsequently had to be completely redone on the basis of Community-financed technical assistance (from a German firm), thus resulting, fortunately, in another scheme and another work programme. At least two years were lost because of this. By chance, the rapid depreciation of Pakistan's currency relative to the ECU made it possible to offset, with respect to the work paid for in the local currency, the negative effects of the rise in the ECU cost of the expenditure to be financed in strong currencies. In view of this, there is a risk that even if the original feasibility study is sound its findings will be rendered obsolete by delays in carrying out the project. Inadequate surveys, erroneous choice of project orientation, delays in carrying out projects — these three phenomena are often interrelated.

Technical assistance

Pakistan's reticence

11.25. The Court noted a certain reticence on the part of the Pakistani authorities towards European technical assistance, even though the latter is generally of good quality. For example, during execution of solar energy project No 80/08 at Kankoï the Pakistani authorities chose to assemble the equipment themselves rather than allow the technicians from the French suppliers to install them, as stipulated in the contract. As a result, the solar panels were not set up at the optimum angle to the sun's rays. In addition, a third of the panels have not been installed and remain in store, unused, on the site. In all fairness, it must be added that this reticence regarding technical assistance has abated over the last year or two, due to the efforts of the Commission delegation which was set up in Islamabad in 1986. Even so, in the Buner Valley development project, No 87/15, the amount of technical assistance was drastically reduced, even though it is essential for the future management of a project of this kind, and despite the fact that the delegation urged that it be maintained.

Additional work

11.26. In the case of the Karachi fishing port project No 81-01, the German firm, Lackner, considered that additional work amounting to 358 000 DM (152 700 ECU) was necessary, although there was no provision for

it in the contract, and invoiced the Commission accordingly, even though the Commission had not authorized it. Although an exhaustive search was made, Lackner was unable to produce any letter of acceptance concerning this non-contractual work, and none was found in the files of the delegation in Islamabad or the Commission in Brussels. Lackner also demanded interest on overdue payments against this invoice, the validity of which is, however, very questionable. In the Court's opinion attention must be drawn to the need for the Commission to point out to undertakings clearly that contracts must be revised to include additional clauses to cover any additional work before the work is carried out.

Pakistani contribution to projects

11.27. All the projects, naturally, entail some form of Pakistani involvement: contributions in kind from government departments or independent public bodies, to which a financial contribution may be added in some cases. As a general rule, undertakings given by the Pakistani government in respect of these contributions have been kept, especially where the initial budgetary allocations are concerned. The Court draws particular attention to this fact, as it is relatively rare among the countries which receive aid under Article 930. In qualitative terms as well the Court's appreciation was favourable: relations between Pakistanis and expatriates working together on projects were excellent. There is one aspect which might be criticized, however: the difficulty of managing a project which requires coordination between several ministerial departments. These difficulties are apparent from analysis of the Baluchistan livestock project, even though the shortcomings of the ADB count for a lot in this particular instance. They are shown up by examination of the experimental solar energy project at Kankoï which was managed by the Pakistani energy authority. Not only was it impossible for the federal and provincial governments to agree on the choice of further sites: on the Kankoï site no one took the trouble to organize the irrigation of land near the solar-energy pump, although this had been foreseen at the beginning.

Transparency of Pakistani financial networks

11.28. The financial system employed by the Commission and the Pakistani authorities to enable funds to be transmitted from Brussels to each of the project managers where expenditure has to be met in local currency is wholly satisfactory. The Court conducted a detailed examination of payment circuits, as it had previously done in India and certain countries in South America, in order to test their speed, transparency and reliability.

Apart from one transfer that took six months to reach project level, the speed was satisfactory. Transparency and reliability are guaranteed by the way in which Pakistan's budget and accounting systems treat subsidies from abroad: clearly segregated headings make it possible for the sums transferred by a donor to be transferred in full to finance each jointly agreed project. It is thus relatively easy for the Commission and the delegation in Islamabad to monitor them, unlike the practices which the Court has noted in other countries whose administrative and financial traditions are nevertheless closely allied (see Report No 4/86 on financial and technical cooperation with India) ⁽³⁾.

Choice of partners

11.29. In projects where the Community has chosen to join forces with other agencies its choice has not always proved to be a fortunate one in practice, notably in the case of the ADB as discussed above. For example the Commission relied on Unicef for the management of three water supply projects. Unicef's projects were relatively ill-conceived at the technical level and it had to ask the Commission to provide the finance to correct certain of its errors. In particular, Unicef was completely unaware of several important provisions of its association agreements with the Commission, especially those concerning the purchase and use of equipment.

⁽³⁾ OJ C 75, 23.3.1987.

Maintenance

11.30. Several projects pose serious problems where maintenance is concerned. The Court was able to confirm this for itself in its inspection of the Kankoï site, where the supports of the solar panels were beginning to deteriorate. The Financial Controller pointed out numerous instances of poor maintenance in most of the projects which he himself visited.

Aid to Afghan refugees in Pakistan

11.31. Aid to Afghan refugees living in Pakistan is financed under Article 936, 'Aid towards self-sufficiency for refugees and displaced persons', which forms part of Chapter 93 on 'Cooperation with Latin American and Asian developing countries'. The appropriations originally committed amounted to 9,09 Mio ECU; 60 % of this has been disbursed (see *Table 11.3*).

Absence of management rules

11.32. In its management of the projects financed under Article 936 the Commission has cooperated with NGOs, either directly or through the intermediary of the United Nations High Commissioner for Refugees (UNHCR). It

Table 11.3 — Article 936 — Commitments and payments

<i>(Mio ECU)</i>			
Reference	Projects	Commitments	Payments
NA AR.1.84	Afghan refugee health and hygiene in the Pir Alizai and Surkhab camps	0,680	0,680
NA AR.4.86	Continuation of above project	0,675	0,439
NA AR.2.84	Self-sufficiency micro-projects for Afghan refugees in North-West Frontier Province	1,200	0,922
NA AR.2.86	Construction of an integrated complex at Peshawar and vocational training courses for Afghan refugees	0,630	0,630
	Appraisal	0,030	0,030
	Production of blankets, uniforms and satchels for Afghan refugees in North-West Frontier Province	1,045	1,045
NA AR.6.87	Continuation of above programme	1,800	0,900
NA AR.6.87	Reafforestation and training for Afghan refugees	3,000	0,820
	Appraisal	0,030	—
	Total	9,090	5,466

has not established any set of rules to encompass the selection, planning, management and monitoring of the operations to be implemented. Article 936 has thus remained free of the obligations which are imposed on managers of financial and technical cooperation projects financed from Articles 930 and 931 (Reg. 442/81, opinion of the Committee for Latin American and Asian developing countries, financing decision, financing agreement) as well as those imposed on the managers of projects under Article 941, 'Community contribution towards schemes concerning developing countries carried out by non-governmental organizations' (general co-financing conditions laid down by the Commission, including setting the Community co-financing at 50 %, the rest to be borne by the NGO).

Multiple financing

11.33. Examination of three projects under which *Action internationale contre la faim* (AICF, France) established medical infrastructure and sanitation in refugee camps in Baluchistan provides a good illustration of inadequate management under Article 936. Two projects were financed through the UNHCR using funds provided in part by the Community and paid directly to AICF in Pakistan. The third is wholly financed by the EEC by means of direct payments to AICF as well. This diversity of channels for projects which are close to each other but have many sources of finance, some expenditure being paid from Paris and some from Pakistan, makes it extremely difficult to verify whether funds have been used properly. The Court confined itself to controlling the plausibility of the use of funds received on the spot in Quetta. It noted that the Commission has had great difficulty in verifying expenditure effected through the NGO's head office.

11.34. The situation was somewhat similar in the case of the project for the construction of a hospital and vocational training centre in Peshawar and the organization of courses by *Solidarité Afghanistan*. In the case of this project, which was co-financed with other donors, the NGO subcontracted part of the project to three other NGOs in Peshawar:

- (a) *Aide médicale internationale* (France and Belgium);
- (b) *SOS per gentes* (Belgium); and
- (c) *Architectes sans frontières* (France).

The detailed examinations which the Court tried to carry out at the NGO's head office in Liège, in the relevant section of the Commission in Brussels and on the spot in Peshawar served only to underline that the Commission is

totally unable to ensure that the funds allocated to the NGO for this project are being properly utilized.

11.35. Admittedly, it was possible for the Court, at the cost of a visit to the site in Peshawar, to confirm that a vocational centre exists, that a hospital of a reasonable quality is being built at reasonable cost, to meet a specific, clearly identified need, and that the necessary courses are provided. Beyond these purely material aspects, however, darkness sets in. The project, or one of the elements of it, might perfectly well have received financing in excess of 100 % through appeals to various donors. Control is difficult, due to the inadequacy of the accounting systems at the NGO'S head office, the multiplicity of components within a single project, the constant changes which they undergo and the no less constant changes affecting the financing. The Court found that in fact the Community had financed the construction of the buildings on its own. In reality, the definition of the actual project, as well as the financing of it, lacked precision from the beginning.

11.36. In future, therefore, projects financed by the Community for implementation by a NGO should form a genuine self-contained entity and be defined precisely. The financial package for each project should be known from the start, and should be definitive, cash estimates included. Furthermore, Community financing should reach the NGO in charge of the project through one channel only.

Relations with the UNHCR

11.37. Acceptance of multiple financing often leads to intervention by the UNHCR, which forwards to the NGO funds which the UNHCR itself has received from the Community. This is the case for example, with the Danish NGO *Dacaar* and the two British NGOs 'Ockenden' and 'Afghan Aid', which set up for the refugees workshops producing carpets, jewellery, clothing and quilts. The three NGOs are dependent on funds received from the EEC via the UNHCR, EEC funds paid direct to their central offices in Europe and on UNHCR funds not from the EEC, in theory allocated to other project components, although in fact any distinction is illusory. In the case of *Dacaar*, the EEC funds come from Article 941 (aid to NGOs), which introduces a further complication. The Commission would have gained by organizing its relations with the UNHCR better, as the latter organization's management, as the Court was able to see in Pakistan, does not raise any problems. Each month each of the managers to whom the UNHCR has granted funds sends a report set out in financial terms. The data supplied in this way are consolidated on an annual basis. In theory, there is no reason why they should not be sent to the Commission, since the Court of Auditors obtained them before it went to Pakistan. The Court gained the impression that the UNHCR might also agree to send the Commission on a

set date a single report containing all the figures for the period in question for all projects involving a European financing contribution.

Community food aid to Pakistan

11.38. The Community has set up several channels for forwarding food aid to Pakistan:

- (a) part was sent direct to the Pakistani authorities:
 - (i) up till 1982, to cover Pakistan's food deficit, the aid was to be sold to generate counterpart funds for investment in agricultural development projects;
 - (ii) after 1983, the point at which Pakistan began to move gradually towards self-sufficiency in food-stuffs, the volume of aid lessened and was intended for distribution to the needy free of charge.
- (b) a second part was allocated to international organizations for them to incorporate it in their specific development programmes (World Food Programme (WFP)) or to steer it towards Afghan refugees in Pakistan (UNHCR with the help of WFP);
- (c) a final part, much smaller in terms of volume, was given to NGOs either for those in need in Pakistan, or for Afghan refugees.

11.39. As regards the counterpart funds from direct food aid to Pakistan, the Court pointed out in its annual report for 1981⁽⁴⁾ that the quantities delivered between 1974 and 1981, with an approximate value of 40 Mio ECU at world prices, had not, by March 1982, been used to finance development projects. Since then the amount has been swollen by the sales from 1982. The Pakistani authorities subsequently informed the Commission of the projects to which they had allocated the greater part of the funds. The Court noted, nevertheless, that in practice the Commission had neglected to monitor the management of these funds; at the time of the Court's visit, an amount

of approximately 4,3 Mio USD was shown in the Pakistani government's accounts as pending application, without the Commission's being aware of it.

11.40. From 1984 to 1988 the Commission supplied food aid direct for distribution free of charge by the Pakistani authorities (3 120 t of skimmed milk powder, 2 250 t of butter oil and 2 000 t of vegetable oil) to a total value of 10 Mio ECU. The conditions under which these commodities were received at the port of Karachi were such that, when losses occurred, it proved impossible to make any call on the insurances financed by the Community. The largest losses occurred in 1988. Paying an inspection firm to supervise the unloading has done nothing to improve the situation. The free distribution of the food aid by the Pakistani authorities has been carried out under unsatisfactory conditions. The progress reports sent to the Community were incomplete and the information which they contain shows that part of the aid was directed towards non-priority users (some army units, a large public service, an industrial manufacturing company). At the beginning of 1988 the Community was confronted with another *fait accompli*. Substantial amounts of produce (650 t of skimmed milk powder, 595 t of butter oil and 506 t of vegetable oil) had been sent to the commissariat for emergency aid to Sind, on the instructions of the Pakistani Prime Minister, for distribution to victims of a drought in the Thar desert. It has not been possible for the Community to verify the actual use of these amounts, either directly or through the agency of the WFP. It has not been possible for it to obtain any valid report on the utilization as distribution was effected without any system of management, however unstructured.

11.41. Up until 1986 the UNHCR received food aid which was intended for Afghan refugees. The UNHCR in fact delegated to the WFP the task of receiving the produce and supervising its distribution to refugees via the Pakistani commissariat for Afghan refugees. From 1987 onwards the UNHCR asked the Community to forward the aid in question direct to the WFP. The Court's audits showed that management and supervision of this aid were highly satisfactory. Nevertheless, the Commission has never really asked for, or *a fortiori* obtained from the UNHCR or the WFP, any progress reports which would make it possible by means of a check based on documents to verify that the food-aid programmes for refugees are being implemented properly.

11.42. Finally, two NGOs with their principal offices in the USA were commissioned by the Community to distribute food aid to Pakistan. In both cases the NGOs called on other NGOs to help them distribute the produce supplied to them:

- (a) 'Catholic Relief Services' relied on 'Caritas Pakistan' and its network among the Catholic churches to

⁽⁴⁾ OJ C 344, 31.12.1982, paragraph 9.13.

distribute the produce supplied to the needy members of the population. The Court found that the transport and reception conditions were good, but noted that the many religious organizations which were given the task of distributing the food aid at the ends of the network were sometimes disinclined to provide the progress reports asked for by 'Catholic Relief Services';

- (b) 'World Vision' relied on 'Shelter Now International' to distribute milk products to Afghan refugee children. The management of this unit appeared satisfactory and well-coordinated with the other channels for distributing food aid to refugees.

Conclusion

11.43. In overall terms, financial and technical cooperation with Pakistan is moving in the right direction, in spite of excessive delays, initial project-planning errors and maintenance problems. The aid to Afghan refugees living in Pakistan was found to be of benefit to the recipients. The main criticism on this point is that the Commission handled the Article 936 financing without laying down any management rules. The Commission

would have gained by structuring its intervention better, notably by making more systematic use of the UNHCR, whose purpose it is to manage financings provided for the benefit of refugees. Finally, examination of food aid shows that there is a lack of monitoring where the Commission is concerned, whether of the old counterpart funds, aid to the Thar desert region or aid managed by the UNHCR or the WFP. At a general level, the adjustments and improvements which were noted in the case of aid to Pakistan are in part due to good Pakistani cooperation, but also, in equal part, to the activities of the Commission delegation, which has been in Islamabad since 1986. It is its absence during the first seven years of cooperation that explains most, if not all, the errors and shortcomings. It was the delegation's action, once it was there, which made it possible to realign certain projects (Karachi fishing port, Baluchistan livestock project), or conversely, to halt financing which was no longer justified (solar energy) long before the appropriations committed had been used up. With three or four expatriates assisted by an equal number of Pakistani staff and a good working relationship, it is possible, at very little cost and at close quarters, to ensure that the management of Community funds is sound and thus give the Community a respectable image. The Court once again urges that a delegation or permanent office be set up in every country which receives a significant amount of Community aid by way of technical and financial cooperation, even if the number of staff is small. It is a *sine qua non* for the effectiveness of the aid.

CHAPTER 12

Staff and operating expenditure

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INTRODUCTION

12.1. As regards staff expenditure, this year the Court of Auditors has audited the institutions' interpreting expenses.

12.2. As regards operating expenditure, the Court's observations concern the Joint Sickness Insurance Scheme of the European institutions, the management of which is not covered by the Community budget.

12.3. This chapter also deals with the expenditure of the European Schools. Although most of the observations in respect of the Schools refer to the Joint Sickness Insurance Scheme, and thus amount to an extension of the subject discussed under operating expenditure, the subject is nevertheless examined separately, given that the Schools are bodies external to the Communities.

STAFF EXPENDITURE

Interpreting expenses

Introduction

12.4. In order to provide interpretation at the meetings which they organize, the institutions and other Community bodies make use of two bodies which supply interpreting services, one being a Commission service in Brussels, the Joint Interpreting and Conference Service (JICS), and the other a service that is jointly managed by the European Parliament and Commission in Luxembourg. The Court of Justice has its own interpreting service.

12.5. As at 31 December 1988, 387 persons employed on contracts governed by the Staff Regulations worked at the Commission's interpreting service in Brussels, 148 at the Parliament's and 32 at the Court of Justice's, i.e. a total of 567 persons, while 1 433 free-lance interpreters were on the books of the JICS in Brussels and 1 000 were similarly available in Luxembourg. This makes a total of 2 433 approved interpreters, some of whom are common to both services. In order to ensure the availability of these free-lance interpreters, the institutions have concluded outline agreements with the International Association of Conference Interpreters (IACI), an international organization that represents the interests of interpreters.

12.6. Expenditure on interpreting is covered by both Chapters 11 (Staff in active employment) and 13 (Expenditure relating to missions and duty travel) of Title I of the institutions' budgets and by certain budget headings of Title II in respect of the appropriations for the 'Joint Interpreting Service' or 'Services rendered by free-lance interpreters'.

12.7. In 1988 the cost of interpreting amounted to 43,4 Mio ECU for the Brussels service, 26,2 Mio ECU for the Luxembourg service and 2 Mio ECU for the Court of Justice, i.e. a total of 71,6 Mio ECU. **Table 12.1** shows the expenditure broken down by institution. Expenses relating to the employment of free-lance interpreters amounted to 29 Mio ECU, broken down as shown in **Table 12.2**.

Management of interpreters

12.8. The Brussels and Luxembourg services manage both interpreters who are established officials or otherwise subject to the Staff Regulations and free-lance staff, who are self-employed interpreters rendering services under the terms of contracts that they conclude with the interpreting services.

12.9. The Commission in Brussels provides interpreters for meetings organized by the Commission, Council, Economic and Social Committee, the European Investment Bank and other Community bodies. The Luxembourg service provides interpreters for meetings organized by the Parliament in its three working places, the Commission departments located in Luxembourg and the Court of Auditors. It also pays the free-lance interpreters who are employed by the Court of Justice.

12.10. Interpreters are very much in demand, especially in Brussels, where in 1988 the JICS provided interpreters for 9 137 meetings (7 % more than in 1987) and these interpreters worked 106 395 interpreting days. The total number of interpreting days broken down by service and institution is given in **Table 12.3**. It should however be noted that the number of interpreting days worked at the Parliament by its own officials is not available. This lack of statistics makes it difficult to assess the contribution made by these officials to the interpreting work-load. The same absence of statistics was observed at the Court of Justice.

12.11. In order to facilitate the recruitment, management and remuneration of free-lance interpreters, as well as the management of rooms and assignment of interpreters, some institutions have equipped themselves with data-processing systems. Thus, the Commission uses

Table 12.1 — Cost of interpreting by interpretation service and by institution in 1988

(1 000 ECU)

Brussels service		
Commission	21 950,5	
Council	17 838	
Economic and Social Committee	2 792	
Other bodies	785	
Total		43 365,5
Luxembourg service		
Parliament	21 115,2	
Commission	4 624	
Court of Justice	284	
Court of Auditors	154	
Total		26 177,2
Court of Justice	2 008	2 008
Grand total		71 550,7

Table 12.2 — Free-lance interpreting expenses by institution and by place of work in 1988

(1 000 ECU)

Place \ Institution	Institution					Total
	Brussels service	Commission Luxembourg	European Parliament	Court of Justice	Court of Auditors	
Brussels	13 888,6	0,0	3 380,1	0,0	0,0	17 268,7
Luxembourg	15,9	3 597,5	239,4	284,5	127,9	4 265,2
Strasbourg	2,0	34,5	4 100,5	0,0	0,0	4 137,0
Other places	849,1	381,0	1 089,6	0,0	0,0	2 319,7
Total	14 755,6	4 013,0	8 809,6	284,5	127,9	27 990,6

the Safir data-processing package (system for allocating interpreters to meetings) in Brussels and the Apex package (payment of external staff) in Brussels and Luxembourg. The Parliament uses the Geri system (management of meetings with interpretation) to manage meeting rooms, whilst its procedures for recruiting and assigning interpreters had still not been computerized by the end of 1988.

Observations applicable to a number of institutions

The Agreement with the IACI and application of that Agreement

12.12. The Parliament, Commission and Court of Justice, on the one hand, and the International Associ-

ation of Conference Interpreters (IACI), on the other hand, have concluded an Agreement laying down the working conditions and pay rates for free-lance interpreters. An assessment of this agreement, from the point of view of Community rules and sound management, calls for the following observations:

- (a) Article 5 provides for free-lance interpreters to be paid solely per full working day. However, a lot of meetings inevitably involve half days (for example, the opening and closing days of the Parliament part-sessions). As is already the practice at the Commission in Brussels, all the institutions should ensure that the interpreters are available for work for the whole day and that they are paid and their services used accordingly;
- (b) as regards the remuneration of free-lance interpreters, since 1983 the Parliament has imposed an *ad hoc*

Table 12.3 — Interpreting days by service and by institution in 1988

Brussels service			
Commission Brussels			
operating	52 883		
research	1 095		
Council	44 594		
Economic and Social Committee	6 971		
Others	852		
Total	106 395		106 395(*)
Luxembourg service			
Commission Luxembourg	11 485		
Parliament	22 126(**)		
Court of Justice	711(**)		
Court of Auditors	390		
Total	34 712(**)		34 712(**)
Grand total			141 107

(*) Including 65 665 officials/interpreting days (61,7 %) and 40 730 free-lance/interpreting days (38,3 %).

(**) Excluding days worked by the interpreters/officials for the parent institution.

deduction from payments made to them and the sums thus collected are paid into the Communities' budget in accordance with the rates fixed by its administration. These rates are based on Regulation 260/68 EEC on tax for the benefit of the European Communities. The administration also draws up attestations certifying that free-lance interpreters are not subject to national tax on Community benefits. However, Article 13 of the Protocol on the Privileges and Immunities of the European Communities stipulates that only officials and other servants of the Communities shall be exempt from national taxes on salaries, wages and emoluments paid by the Communities, and that the conditions and procedures that make the latter liable to Community tax are laid down by the Council. This provision thus excludes any possibility that the assessment basis and the taxation rate may be established by the institutions' administrations. The Commission has refused in the past both to collect Community tax on such emoluments and to draw up exemption certificates. This interpretation was declared to be in compliance with the law by the Court of Justice (Cases 43/84 and 111/84), which also felt obliged to state that free-lance conference interpreters cannot claim the status of Community employees. Nevertheless, the Commission and the Court of Justice's administration have now agreed, within the framework of the Agreement which entered into force on 1 January 1989, that the free-lance staff should be subject to Community tax (Article 8 of the Agreement);

- (c) free-lance interpreters are allowed only one place of business at a time. This place may be changed every six months (Article 13 of the Agreement). The application of this provision is not checked to ensure

that the place of business remains the same both in respect of the IACI and of the interpretation services in Brussels and Luxembourg. It should be noted that certain parts of the free-lance staff's pay are calculated on the basis of the place of residence, which should also be a criterion for recruitment.

Agreements in respect of the reimbursement of expenses

12.13. In Brussels, the reimbursement procedures, by which the institutions pay for the services of interpreters supplied by the JICS, date back to 1975 and 1976. In general, these documents are very much outdated and have become to a large extent inapplicable. The agreements in question do not lay down specific procedures by which the cost of supplying interpreters to the institutions concerned may be calculated. At present, in Luxembourg free-lance interpreters are paid for the actual cost of interpreting. Officials made available to the other institutions for interpretation purposes by the Parliament are paid a fixed sum, whereas in Brussels all expenses relating to the cost of free-lance staff and officials, data-processing and ancillary costs are included in an overall sum and are then recovered by fixed-rate invoicing per interpreting day. The provisional fixed rate invoiced by Parliament in 1988 was 384 ECU, whereas the JICS's was 400 ECU. After recalculating the various basic elements, the JICS then reduced its rate retrospectively to 387 ECU, whereas the Parliament increased its rate to 388 ECU.

Management of interpreters by the Parliament and the Commission in Luxembourg

12.14. The situation in Luxembourg is characterized by the fact that the Parliament and Commission are both involved in the recruitment of free-lance interpreters. After selection by the Parliament, free-lance interpreters are recruited on the basis of a letter signed jointly by the two institutions. They are assigned to meetings by Parliament and are paid by the Commission. It should be noted, in particular, that the recruitment of a free-lance interpreter has differing consequences, depending on whether he is called upon to work for one institution (Parliament) or for the others. Indeed, differences exist as regards the amount of the daily subsistence allowance, exemptions as regards hotel accommodation, tax on remuneration and means of redress in cases of dispute with the institutions. This situation, which, moreover, has never been clearly set out in a specific agreement, is not logical and discriminates against the interpreters. It should be reviewed in order to standardize the way in which free-lance staff are paid and managed.

COMMISSION

Brussels management

Re-utilization

12.15. Since the appropriations entered in the budget (item 1170, Free-lance JICS interpreters) are not considered to be appropriations relating to remunerations and allowances, they may be subject to automatic carry-overs to the next financial year. Moreover, these appropriations may be re-utilized, as revenue from services rendered, over a period of two years.

12.16. In particular, the possibility of re-utilizing appropriations has made it possible for the Commission to build up, for the Brussels' allocations used by the JICS, a financial reserve which in 1988 had achieved considerable proportions. In fact, in 1988, for estimated expenditure of approximately 17 Mio ECU, the JICS had at the beginning of the financial year an amount of 17 Mio ECU by way of unutilized revenue from appropriations re-utilized in 1987 and appropriations available under item 1170 (313 000 ECU). To these appropriations were added the amounts reimbursed during the financial year, in particular by the Council

(16,9 Mio ECU) and the Economic and Social Committee (2,9 Mio ECU), giving the JICS in 1988 a global amount of 36,8 Mio ECU, with a monthly average of 14,7 Mio ECU appropriations available from item 1170.

12.17. This situation does not appear to be transparent, if it is considered that for one budget heading (item 1170), to which 313 000 ECU (unutilized in 1988) had been allocated, the total funds available to the JICS under the same heading were actually 36,8 Mio ECU. Such anomalies could be eliminated if the reimbursement procedure, both at the level of the Commission and the debtor institutions, was speeded up. Thus, the appropriations could be used during the financial year, avoiding, where possible, re-utilizing them during the subsequent financial year, and thus creating a reserve of unutilized appropriations.

System of expenditure

12.18. The following observations must be made on the reliability of the management of controls effected in respect of the system of expenditure (partly computerized, see the following paragraph).

- (a) the initial acquisition by the JICS of data used as a basis for calculating free-lance interpreters' emoluments is checked by the same persons who entered them in the Safir data-processing package. Instead, the data-acquisition stage should be separated from the control operations;
- (b) the basic data (number of days worked and amounts owing in the form of reimbursement of expenses) are sent by the JICS to the department which authorizes the expenditure and which is located in another Directorate-General. The payment order is then sent to the Financial Controller. During this procedure, no supporting document is sent to the authorizing department, which is thus not in a position to fulfil its obligations to check whether the claims are justified and the amounts correct;
- (c) as for the Financial Controller, he has confined himself in the past to merely checking the operations of the managing department and the Authorizing Officer's department and does not check the records before approving payment orders. Moreover, no specific control is made.

Data-processing packages

12.19. As regards the data-processing packages, the Safir system, which is used for managing meeting-rooms, allocating interpreters to meetings and preparing payments, no longer fully meets the requirements of the service, in particular from the point of view of its

performance. Moreover, access to the system is not very easy and the layout of the data on the screen is neither simple nor clear. Thus, setting up a team of interpreters solely under the Safir system becomes a very complicated operation which, added to the insufficient reply time, creates serious difficulties.

12.20. The data-processing package used to pay free-lance interpreters (Apex) has, for its part, one major weakness, in that it places the same interpreter in two different files according to who is employing him (Brussels or Luxembourg). This situation results in neither of the two services having access to the information on one and the same person produced by the other part of the system, and it is impossible to merge the information available.

12.21. With regard to the Safir-Apex interface, it should be noted in particular that the amounts produced by Safir and sent to the other system are not comparable with those drawn up by Apex in respect of the amounts owing to the free-lance interpreters, which makes it impossible to monitor the information sent by Safir to Apex. Moreover, the JICS, which manages Safir, does not have direct access to information stored in Apex in respect of payments made to each interpreter.

Luxembourg management

Advances paid by the Commission

12.22. It was noted that the procedure for settling advances paid to free-lance interpreters suffers from considerable delays. Thus, at 30 September 1988, an amount of approximately 75 000 ECU for advances granted before the financial year 1988 still had to be settled.

Hotel expenses

12.23. Whereas the JICS in Brussels permits only a few exemptions to the principle of not reimbursing free-lance interpreters' hotel expenses, which are supposed to be covered by the daily subsistence allowance, the Luxembourg service authorizes, on the contrary, a certain number of exemptions (1 277 in 1988), against a total of 3 150 nights spent in hotels by all of the interpreters working for the institutions located in Luxembourg. The 1 950 nights authorized by the Commission for its own

meetings, those of the Court of Justice and the Court of Auditors represent an amount of approximately 120 000 ECU. Since meetings organized by these latter institutions are almost only ever held in Luxembourg, their working place, in respect of which the daily subsistence allowance already takes into account the cost of accommodation, the Commission should ensure that such exemptions are only authorized in exceptional and duly justified cases.

PARLIAMENT

12.24. In addition to the general observations which have already been made (paragraphs 12.12 to 12.14), the management of interpreters governed by the Staff Regulations and free-lance interpreters employed by the Parliament calls for the following specific comments.

Absence of computerized management methods

12.25. Whereas the Commission undertook in 1976 to develop a data-processing package for the management of interpreters, the European Parliament did not start work on its computerization until 1984, using a project of its own. In 1988 only the part relating to the management of rooms and meetings was operational. The result of this was that:

- (a) the management of interpreters had to be effected manually, under the responsibility of nine Heads of Division, assisted by a coordination unit. Once the management process has been computerized, it could be effected by a team of operators;
- (b) the absence of computerization has made it difficult to select free-lance interpreters on the basis of their professional abilities (qualification and training criteria), or on the basis of the cost of recruitment;
- (c) there is a lack of overall control in respect of activities, human resources and departmental resources. In this respect, it should be pointed out that there are certain weaknesses regarding the use of interpreters who are established officials. Thus, an examination of the use made of them during November 1988 revealed that 21 % of their working time (i.e. 522 days or 27 man/months) could not be accounted for, whereas 71 % was taken up by interpreting, waiting or travelling.

5 % by leave, 1 % by sick leave and 2 % by professional training.

Daily subsistence allowances

12.26. The free-lance interpreters working for the Parliament receive a higher daily subsistence allowance than those working for the other institutions. In the latter's case, the statutory amounts are applied, as provided for by the IACI Agreement, whereas the Parliament has decided upon higher amounts (e.g. 3 954 BFR in Brussels compared with the normal amount of 3 625 BFR).

COUNCIL

12.27. On account of the Council's constantly increasing interpreting needs, it paid the Commission for 44 594 interpreting days (40 948 days in 1987 and 39 501 in 1986) in 1988. According to the current arrangements with the Commission, the Council is allocated a fixed quota of interpreters each month, to which may be added the extra interpreters required for all its meetings to be held.

12.28. Out of a total of 44 594 days paid for in advance, the Council paid the Commission for 6 549 days (i.e. 15 % of the total) in respect of which no work was done because meetings were cancelled. It should also be pointed out here that the number of days cancelled was even higher, since cancelled interpreting days are only invoiced in cases where the JICS has not been able to reallocate interpreters. The cost of these interpreting days amounts to 2,6 Mio ECU, excluding the final calculation. It should be noted that since 1981 the Council has not made use of the opportunity provided for in the Agreement with the Commission to ask for its quota to be reduced, on four weeks' notice, which could easily be done for the holiday months (January: 881 days cancelled and paid, July: 923, August: 1 214, December: 728).

12.29. At budgetary level, it should be noted that in 1988 the Council allocated from the appropriations for the financial year an amount of 2,2 Mio ECU, representing expenditure for 1987 (i.e. 14 % of the appropriations authorized for 1988). This charging of expenditure to the following financial year's budget is contrary to the principle of annuality.

ECONOMIC AND SOCIAL COMMITTEE

12.30. In 1988, the Economic and Social Committee used a part of the 1988 appropriations (3,4 Mio ECU), i.e. an amount of 0,4 Mio ECU, to settle interpreting expenses for the months of November and December 1987. This practice, which is contrary to the principle of annuality, is all the more open to criticism since, at the end of the financial year 1987, a balance of 0,2 Mio ECU was cancelled because it had not been committed in time by the Authorizing Officer responsible.

12.31. At the beginning of 1989, the Economic and Social Committee again used appropriations carried forward from the financial year 1988 to cover other items of expenditure incurred in 1987, contrary to the principle of annuality. In fact, an amount of 0,1 Mio ECU owing in respect of the financial year 1987 and invoiced by the Commission on 1 July 1988, was not validated by the Authorizing Officer until 13 February 1989, was authorized the following day by the Financial Controller and was charged against the appropriations of the financial year 1988.

Conclusions and recommendations

12.32. The present management of interpreting resources by the institutions is complex and open to improvement in several respects. The following conclusions and recommendations would appear necessary in this connection.

12.33. As regards the Agreement concluded by the institutions with the International Association of Conference Interpreters (IACI), the Court noted that Article 8 of the Agreement provided for the deduction of Community income tax from free-lance interpreters' emoluments (see paragraph 12.12 (b)). This provision, which is contrary to Article 13 of the Protocol on the Privileges and Immunities of the European Community, should be revised accordingly.

12.34. The situation prevailing in the two interpretation services shows that estimates of the cost of a day's interpreting are based on different methods. The institutions should therefore endeavour to harmonize and coordinate these methods in order to take account of all the components of the cost of interpreting and so ensure transparency and an equitable distribution of costs.

12.35. As for the situation in the Luxembourg interpretation service, which is characterized by the distribution of management between the Parliament and the Commission, these two institutions should review matters, in particular with a view to standardizing both the conditions under which free-lance interpreters are recruited and the way they are managed.

12.36. The budgetary implementation of the expenditure in respect of the Commission in Brussels lacks transparency and results in an excessive amount of appropriations being made available. Within the framework of a rationalization of resources, these appropriations could be grouped together under a single budget section and managed accordingly.

12.37. As for the data-processing packages used in the management and system of expenditure, the Court noted that it was difficult to incorporate new concepts into the Safir package, and that such amendments would require a major restructuring of the software and organization of the central data-file. While the Apex package is effective, it too requires certain specific adjustments.

OPERATING EXPENDITURE

Joint Sickness Insurance Scheme

Introduction

12.38. The Court decided to carry out an audit of the Joint Sickness Insurance Scheme of the European institutions. Its examination of this Scheme covered its operations and financial management.

12.39. The legal basis for the sickness insurance Scheme is the Staff Regulations of Officials of the European Communities, Title V, Chapter 2. Article 72 lays down the rules and basic principles for the operating of the Scheme. Implementing rules for this Article of the Staff Regulations have been adopted by mutual agreement by the Community institutions.

Organization and operation of the Scheme

12.40. According to the legislation at present in force, the Scheme, which is managed outside the Community budget, guarantees to persons covered by it the reimbursement of expenses incurred as a result of illness, accident or pregnancy, as well as the payment of an allowance towards funeral expenses.

12.41. The Scheme applies to those who are defined as 'members' and other persons covered by a member's

insurance. The various categories of beneficiary (officials, former officials, pensioners, temporary staff, Members of the institutions, etc.) are defined under Articles 2, 3 and 4 of the legislation.

In 1988 the number of members amounted to 26 217 persons (including 1 533 belonging to the European Schools), whilst the total number of beneficiaries was 62 279.

12.42. The Scheme is operated by a Management Committee, a Central Office, offices responsible for settling claims (Settlements Offices) and a Medical Council:

- (a) the Management Committee is an interinstitutional body composed of 18 members, who represent the institutions and their staff. Its role is to ensure that the Rules are applied consistently and to examine the financial position of the Scheme, to draw up an annual report on the financial position and to make suggestions, proposals or recommendations to the institutions. It also delivers Opinions as provided for in the Rules;
- (b) the Central Office, which is attached to the Commission, is responsible for coordinating and monitoring the work of the Settlements Offices. It provides secretarial services for the Management Committee and carries out any statistical survey or analysis required to assist the Management Committee in the execution of its duties;
- (c) the main work of the Settlements Offices is to process applications for reimbursement of medical expenses submitted by members of the insurance Scheme. They also maintain contact with the Medical Officer and deliver opinions provided for by the Rules;
- (d) the Medical Council assists the other bodies and has a purely advisory role.

Moreover, the Commission has certain exclusive powers, for example, to open or close down the Settlements Offices, receive contributions, authorize and check payments, keep the non-budgetary accounts and manage and invest the Scheme's surpluses.

12.43. The Scheme is mainly financed (91,2 %) by contributions from the institutions and other Community bodies concerned and from the members. The present rate is fixed at 4,05 % (2,70 % of which is paid by the institutions and 1,35 % by the members) of basic salaries, basic pensions and taxable allowances. Other Scheme revenue includes interest from invested funds (8,7 %) and refunds from third parties (0,1 %).

Revenue for the financial year 1988 totalled 1 898 Mio BFR (43,6 Mio ECU) and expenditure amounted to 2 167 Mio BFR (49,8 Mio ECU). Amongst the re-

imbursements authorized, it should be noted that dental expenses form the highest category of expenditure, with an amount of 419 Mio BFR, representing 20,41 % of total reimbursements, whereas hospitalization expenses, to quote another significant heading, only account for 7,79 %. Between these two categories fall serious illnesses, with 19,38 %, X-ray examinations, analyses, tests and diagnoses, with 10,83 %, pharmaceutical products, with 10,50 %, and surgery visits and home calls, with 9,87 %.

The financial management of the Scheme

Growth of revenue and expenditure

12.44. An analysis of the annual revenue and expenditure of the Scheme for the financial years 1980 to 1988 inclusive reveals that the rate of growth of total revenue (contributions, interest from invested funds and refunds from third parties), having reached 18 % in 1982 compared with the previous year, dropped to 6,4 % for the financial year 1988, according to the Scheme's estimates. Thus, the average rate of increase of revenue for the period under consideration is estimated at 7,7 % per year. On the other hand, there has been an increase in expenditure compared with the previous years during the period concerned (1980 to 1988) varying between approximately 22 % in 1982 and 8,6 % in 1988. The annual average rate of increase in total Scheme expenditure is estimated at 14,9 %.

The Scheme's operating surplus

12.45. The evolution of statutory revenue (contributions and refunds from third parties) and expenditure shows that there was for the first time a deficit of 131 Mio BFR (2,8 Mio ECU) for the Scheme as a whole in 1983. This deficit was mainly due to the amendment of the contribution rate as from 1 August 1983 (10 % reduction), the rise in the scale of reimbursements (from 80 % to 85 %) for a large range of categories of medical treatment and the setting-up of a system of screening which has cost 38 Mio BFR (0,8 Mio ECU). Thanks to interest from invested funds, the Scheme's financial situation remained positive until the financial year 1985, when the out-turn of the operating account became negative (deficit estimated at 10 Mio BFR, i.e. 0,2 Mio ECU). On the basis of the Scheme's accounts as drawn up on 28 February 1989, the expected deficits for the financial years 1986, 1987 and 1988 were estimated at 140 (3,2 Mio ECU), 211 (4,8 Mio ECU) and 269 Mio BFR (6,2 Mio ECU) respectively, and consequently the total deficit for the four financial years (1985, 1986, 1987 and

1988) will amount to 630 Mio BFR (14,4 Mio ECU). This reversal of the financial situation may be explained by the fact that since 1983 expenditure has increased at least twice as fast as revenue, including interest.

12.46. For 1990 a total operating deficit in the region of 1 600 Mio BFR (36,8 Mio ECU) may be expected, whereas the Scheme's reserves will only amount to 920 Mio BFR approximately (21,1 Mio ECU) on this date, if no corrective steps are taken. The operating deficit of the financial year 1990 will roughly correspond to 30 % of the statutory revenue and to 22 % of the Scheme's expenditure.

Presentation of the accounts

12.47. According to the legislation in force, the Commission is required to compile quarterly figures showing the accounting position and send them to the other institutions and the Management Committee (Article 26). The latter has to examine the financial position and make a detailed annual report thereon.

12.48. The accounts (operating account and balance sheet) presented each year by the Management Committee are provisional, estimated, multiannual accounts for the previous three financial years.

12.49. At least three years have to pass before the final figures for a financial year may be obtained. This situation may be explained as follows:

- (a) on the one hand, by the fact that with regard to the accounting for various operations and the allocation of expenditure to the financial year, it is the date upon which the medical treatment was given which counts, and not the date when the reimbursement claim was submitted or payment was made;
- (b) on the other hand, the above situation is caused by the long period that must elapse before entitlement to reimbursement of medical expenses incurred is lost. This period, stipulated in Article 13 of the legislation, is in practice between 12 and 18 months for the submission of normal reimbursement claims and over two and a half years for special reimbursements, not counting the delay in doubtful cases (reimbursement claims pending at Settlements Offices for whatever reason).

12.50. An examination of the Scheme's accounts for the last four financial years has revealed that the estimates made in respect of both revenue and expenditure outstanding at the end of each financial year, which have

considerable influence on the Scheme's financial out-turn, were not justified. For example, the final balance sheet for the financial year 1984, drawn up on 29 February 1988, shows a surplus of 56,2 Mio BFR (1,3 Mio ECU), whereas the provisional balance sheet for the same financial year, drawn up on 28 February 1985, provided for a deficit of 50,4 Mio BFR (1,1 Mio ECU).

12.51. An examination of advances granted to members which had not been settled revealed cases going back to previous financial years (1985, 1984 and even 1983). No regular check or clearance appears to have been carried out in respect of the Scheme's assets prior to the closure of the accounts. At the Luxembourg Settlements Office there are some advances which are probably impossible to recover. Moreover, the legislation in force does not contain any provisions relating to the recovery of these claims or to when they may be considered to have legally lapsed.

12.52. In order to obtain a clearer and more comprehensible presentation of the balance sheet, the Scheme ought to amend it so that the amounts are presented more clearly (for example, more detailed analysis of the amount of liquid assets, setting-off of cash accounts against the Commission's clearing account, given that the Scheme does not have its own cash fund, analytical presentation of the clearing accounts, etc.).

Approval of the Scheme's accounts

12.53. The annual report, which is usually drawn up by the Management Committee each year in June, is the only accounting document which reflects the Scheme's accounting position. Since this is an interinstitutional Scheme, the management of which is outside the budget, the question of approving its accounts was referred to the Heads of Administration. In the absence of any formal provisions on the discharge to be given in respect of the annual report relating to the Joint Sickness Insurance Scheme's accounting position, the Heads of Administration are agreed that if the Commission — to which these reports are sent and which has tutelary responsibilities for the Scheme — makes no adverse comments as regards these documents, its agreement will be considered as being equivalent to discharge.

12.54. The funds managed by those who are in charge of the Scheme will soon amount to 50 Mio ECU. The question as to whether a formal discharge procedure should be established should therefore be reconsidered.

Observations relating to the Scheme's organization

Powers given to the various bodies

12.55. Under the legislation in force, the administration of the Joint Sickness Insurance Scheme of the Institutions of the European Communities is entrusted to the Commission (DG IX-C-1), the Scheme's various bodies and to the institution's administrations (Appointing Authority and Heads of Administration).

12.56. This structure has proved ill-suited to the decision-making process and makes the Management Committee's role a difficult one, despite the fact that, on the basis of its interinstitutional composition, this body is the most representative of the parties concerned (members and Community institutions).

The composition of the Management Committee

12.57. It was noted that certain employees of the Scheme's bodies (Central Office, Settlements Offices) had been appointed as full members or alternates of the Management Committee. Since the Management Committee very often meets to deliver opinions on the decisions taken by the Settlements Offices (for example where officials appeal), the part played by these employees, and in particular those responsible for the Settlements Offices and their hierarchical superiors, in the work of the Committee in their capacity as members should be reviewed, especially since the latter assume the role of authorizing officers for the validation of expenditure and take part, at the same time, in the work of the Management Committee, which is responsible for ensuring that the Rules are applied consistently (Article 18 (6) (a)).

Staff made available to the Settlements Offices

12.58. During the audit it was noted that 15 officials had been made available to the Settlements Offices in Brussels and Luxembourg by the other European institutions in order to cope with the Offices' increasing work-load. These staff are accountable to the Settlements Offices, i.e. the Commission, whereas from an administrative point of view they still belong to their institutions of origin.

12.59. This practice creates management problems and leads to certain situations which do not comply with the statutory provisions:

- (a) making officials available in this way to the Settlements Offices is not provided for by the legislation, on the one hand, and is not effected in accordance with the provisions of the Staff Regulations governing the secondment of officials, on the other (Articles 37 to 39);
- (b) the fact that some of their staff belong temporarily to another institution hampers the proper functioning of the Settlements Offices, in particular the Luxembourg Office, and makes it difficult to integrate such staff into their new working environment. Specific problems thus arise, such as for example, the fact that their staff reports continue to be drawn up by their institutions of origin, and the absence of uniformity in the grading of staff responsible for carrying out the same duties within the Settlements Offices, which creates hierarchical disputes;
- (c) the questions of the number of officials to be made available to the Settlements Offices, and their qualifications, are not submitted beforehand for approval by the Commission, which is responsible for the Settlements Offices.

12.60. If this practice of making members of staff from the other institutions available to the Settlements Offices is to continue, it is obvious that these employees' position will have to be regulated within the framework of the provisions of the Staff Regulations. Moreover, criteria determining the number, the administrative position and the qualifications of these employees should be established, by mutual agreement, by the Commission and the other institutions. It should be mentioned that this question has a bearing on the operating costs of the Scheme, and more particularly on the way they are distributed between the institutions.

Centralization and decentralization of the Settlements Offices' work

12.61. According to the Rules on sickness insurance for officials of the European Communities (Article 20), the Settlements Offices are to be opened or closed down by the Commission. Thus the Commission has sole responsibility for the Settlements Offices. The Court noted, however, that certain duties entrusted to the Settlements Offices which came within the Commission's sphere of responsibility were nevertheless being carried out by the staff of other institutions (Parliament, Council and Court of Justice).

12.62. This situation, besides the fact that there is a duplication of work in certain cases, creates problems regarding the legality of the operations carried out (they are carried out by persons who have no connection with the Settlements Offices and are thus not authorized). Indeed, only those employees who are assigned to the

Settlements Offices and the Central Office are sworn to medical secrecy (Article 20 (4) of the Rules), whereas the others are not.

12.63. If the Commission considers it advisable to decentralize the work of the Settlements Offices it should do so legally (by delegation of powers), by ensuring that the legality and regularity of the operations is properly coordinated and supervised.

The system of registering members

12.64. According to Article 21 of the Rules, 'persons covered by this Scheme shall be registered with the Central Office and with one of the offices responsible for settling claims'.

12.65. An examination of the system for registering members revealed that:

- (a) there is no such independent system at the Scheme's Central Office;
- (b) the system for registering members differs from one Settlements Office to another. For example, some files are kept manually, some on computer, or both at the same time.

12.66. The method of updating the beneficiaries' personal data depends on the system used. For the manual files (Luxembourg and Ispra), changes are notified to the Settlements Offices in writing by the administration of the institutions concerned. Under the other so-called 'computerized' systems, the institutions' administration itself enters the amendments and new registrations in the system. No controls are made as to the accuracy and completeness of the file in Luxembourg. At Ispra, a recent reconciliation of data produced a number of differences between the Settlements Office's manual system and the computerized system operated by the administration.

12.67. The situation described above clearly shows that the basic task of checking the beneficiaries' data prior to the validation of reimbursement claims for medical expenses is not carried out at the same level from a qualitative point of view at the various Settlements Offices. The Offices rely entirely on the institutions' administrations for any information concerning the situations of beneficiaries of the Scheme.

Control in respect of the Scheme's revenue

12.68. Contributions are paid regularly by the institutions to the Commission. No check is made either by the Commission or the Scheme as to the rate and accuracy of the amounts paid. Since the beginning of 1982 the management of the Scheme's invested funds has been entrusted to DG XVIII, 'Credit and Investments', in accordance with the terms of an agreement between the Director of the Scheme's Central Office and the Head of the 'Borrowings and Liquid Assets' Division. The amounts of interest earned are notified each month to the Commission's Accounting Officer and to the Scheme's competent bodies. It should be noted that the present Rules do not contain any provisions relating to the authorization and checking of revenue.

Payments made by the Scheme

12.69. Article 24 of the Rules stipulates that the Financial Regulation is applicable to the Scheme's payments. The procedures followed differ, depending upon the nature of the reimbursement: reimbursement of medical expenses (approximately 95,4 % of the total), special reimbursements (approximately 1,1 % of the total) or screening costs (approximately 3,4 %).

12.70. As far as the reimbursement of medical expenses is concerned, differences in procedure and weaknesses were noted at the level of control at the various Settlements Offices:

- (a) at the Brussels Settlements Office checks are carried out on the daily work of the employees responsible for rate-setting (list of errors) and on the weekly lists. All reimbursement claims of over 20 000 BFR are checked by the financial sector of Division DG IX-C-1;
- (b) at the Luxembourg Settlements Office the rating work was not checked systematically on a daily and weekly basis until the beginning of 1988;
- (c) at Ispra checks at the Settlements Office are confined to the rate-setters' daily work before the data is encoded by the establishment's computer centre;
- (d) at the Council all the rating work is checked systematically;
- (e) finally, it was noted that the Settlements Offices' organization charts do not include any 'controller'

posts and that the existing computerized system, save at the Council, does not contain any control procedure to prevent, for example, the same treatment being paid for twice.

12.71. It is obvious that control of the rating work needs to be improved and systematized, in particular at the stages of rating and daily codification of the data for each reimbursement claim and of the weekly summary list prior to payment.

12.72. Another sort of control applicable to this category of expenditure is selective inspections. Under such a measure, periodic checks on the payment of certain benefits and/or on categories of beneficiary and/or on individual beneficiaries could be made on a systematic basis.

12.73. As for the screening tests, they also come under the legislation on risk cover (Annex I, paragraph IV (2)). This reads: 'Expenses for early-detection screening tests, provided they have been organized or approved by the Scheme, shall be reimbursed at the rate of 100 %'. In 1988 the overall cost was estimated at 74 Mio BFR (1,7 Mio ECU) for an approximate total of 5 000 persons who had undergone screening tests.

12.74. With regard to the responsibility for and organization of these tests and the validation of the related expenses, the following should be pointed out:

- (a) the organization, supervision and control of screening tests are not the specific responsibilities of the Settlements Offices;
- (b) the relationship between the screening tests and the annual medical check-ups which officials are obliged to undergo in accordance with the Staff Regulations is not clear. Officials who have already had a screening test still have to undergo the annual check-up;
- (c) any exemption in respect of both the extent of the examinations and analyses and their frequency is granted by arrangement between the official responsible and the person concerned, without the authorization or opinion of the Medical Officer;
- (d) the screening tests were reviewed by the Scheme's Central Office in 1985. It was noted in this respect that, except for certain comments in respect of the administration and the presentation of certain statistics relating to the anomalies found, no observations were made on the utility and effectiveness of the system.

The role of the Financial Controller

12.75. It has already been mentioned that the legislation in force only provides for the Financial Controller's intervention in cases where payments are to be made by the Settlements Offices (Article 24).

12.76. An analysis of the procedure concerning payment orders produced the following observations:

- (a) in the case of the payments made by the Council's Office, the Financial Controller responsible does not give his approval until after the event, i.e. after the payment;
- (b) medical expenses are validated on the basis of the supporting documents supplied by the member. These supporting documents are subject to medical secrecy. Thus, after having been checked in detail by the members of staff responsible for validation, they are filed in the official's personal file or stored on microfiche. Operations subsequent to authorization and payment are carried out in the absence of supporting documents. Although this situation is explicable from the point of view of medical secrecy, it would, however, be desirable for the Financial Controller to be entitled to inspect the supporting documents.

The role of the Medical Officer

12.77. The legislation in force provides on several occasions for the Settlements Office's Medical Officer to be consulted as part of the procedure for reimbursing medical expenses. His opinion is a determining factor, both as regards the advisability of a reimbursement and as regards its total or partial amount and the maximum rate applicable. Where expenses are considered to be non-functional, unnecessary and/or superfluous, the Medical Officer's opinion is an even more determining factor, since there are no predetermined financial limits and criteria.

12.78. Since the Medical Officers at the Settlements Offices do not work full-time for the Offices and continue to practise privately at rates and under conditions determined by themselves, it may be asked to what extent they may oppose one of their colleagues' opinions when he considers that the expenses incurred are functional, necessary and not superfluous.

12.79. It is therefore essential that the Scheme should establish more precise criteria and ceilings for the abovementioned cases and examine the possibility of

using full-time Medical Officers, especially for dental expenses.

The adjustment of ceilings

12.80. Medical expenses are reimbursed in accordance with a scale of ceilings and specific conditions adopted by means of a procedure for revising the legislation. Nevertheless, there are no legal provisions for adjusting the ceilings, the frequency of such adjustments is not specified, there are no criteria or objective economic parameters and the method of calculation has not been fixed. According to the principle currently applied, the ceilings are fixed so that at least 90 out of every 100 cases of medical and hospital treatment actually administered to members and their dependants may be covered. Thus, the ceilings are adjusted on the basis of data supplied by the system itself (price and medical fees actually paid), whereas other factors (inflation, salary increases, official medical rates, etc.) are not taken into consideration. It should be pointed out that the official medical and medico-dental rates applicable in Luxembourg and Belgium are considerably lower than the scales of charges applicable to European officials in these countries (1).

Conclusions and recommendations

12.81. At present, several bodies and administrative units are involved in the work of the sickness insurance Scheme, and their responsibilities and powers have been determined in such a way as to make the decision-taking process very unwieldy and long.

12.82. In order to clarify this situation, the responsibilities and powers of the various bodies involved in the Scheme's operation should be redefined, with a view to simplifying and speeding-up the decision-taking procedures. The following measures would be desirable:

- (a) unequivocal assignment to the Commission of the tasks of organization and administrative and finan-

(1) As a guide:

Consultation of a specialist (paediatrician)	Belgium	713 BFR
	Luxembourg	755 BFR
	Scheme's rate	1 261 BFR

cial management of the Scheme; the Commission should also be empowered to take the initiative where measures are needed in order for the Scheme to function properly;

- (b) the Management Committee should continue to play an advisory role;
- (c) provision for consultation of the Heads of Administration Group only in very important cases (for example, amendments to the Staff Regulations of Officials and rates of contributions).

12.83. A determining factor for the proper functioning of the Scheme is the organization of the work of the Settlements Offices. The centralization or decentralization of the duties assigned to the Settlements Offices and the discharge of those duties by officials belonging to other institutions than the Commission should be regulated in such a way that the effectiveness of the work, the uniform application of the legislation and the systematic control of the operations are guaranteed.

12.84. The enquiry brought to light discrepancies and weaknesses as regards the way the Settlements Offices work and in particular:

- (a) the lack of uniformity between the various Settlements Offices in respect of the system for registering members (Article 21 of the Rules) and updating their data. Since the Scheme does not have its own register, it has to rely on the institutions' administrative systems and/or information and amendments communicated by the institutions' administrations. These systems were not designed to serve the Scheme's requirements;
- (b) the system and methods of control for the settlement of medical expenses on the basis of the reimbursement claims submitted by the members vary from one Settlements Office to another. Bearing in mind that there is an absence of real control of the Scheme's payments by the Financial Controller, control of these payments, in particular as regards the rating work, needs to be systematized, improved and harmonized;
- (c) the current situation as regards screening tests shows that the initial objective, which was to promote screening for the benefit of spouses and officials' children, has not been achieved, since the system is mainly used by officials. Moreover, those who undergo screening tests are still legally bound to have an annual medical check-up. There is thus a need to reappraise the whole system of screening tests and to assign the tasks of organization, supervision and control to the Settlements Offices;

- (d) the proper functioning of the Scheme also requires the introduction of rules and specific parameters governing certain matters, such as, for example, adjustment of the ceilings for the reimbursement of medical expenses, determination of the concept of 'superfluous, non-functional and/or unnecessary expenses', etc.

12.85. Moreover, there are shortcomings in certain aspects of the accounting system (delay in the closure of accounts, unjustified estimates, presentation of the balance sheet, etc.) which the Commission should rectify under the Scheme's new accounting plan which has been in force since 1988.

12.86. The reversal of the Scheme's accounting position from 1983 onwards requires certain practices and principles to be reviewed and changed and a return made to financial equilibrium. Closer supervision of the Scheme's finances is essential (speeding-up of the final closure of accounts, taking, if possible, immediate measures to redress the situation, possible introduction of a short and medium-term budgetary system, etc.). It should be stressed here that the measures envisaged should be taken progressively, in order to avoid a transition from a deficit situation to one of increasing surpluses. Thus priority should be given to the setting of standards in respect of the Scheme's finances (level and extent of the medical treatment to be reimbursed, existence of working capital, etc.) in order to reach the stage where financial equilibrium is achieved solely by the parallel adjustment (reduction or increase) of the rates of contribution.

THE EUROPEAN SCHOOLS

Introduction

12.87. It should be pointed out that the European Schools' Board of Governors has adopted a new Financial Regulation applicable to the general budget of the Schools, which it has decided shall enter into force on 1 January 1989. Its text incorporates to a large extent observations made by the Court on several occasions in the past in respect of the situation existing under the old Financial Regulation. At this transitional stage, the Court has concentrated its auditing activities on the sickness insurance system applied to the teachers at the Schools, together with a parallel examination of the sickness insurance Scheme for officials of the European Communities (paragraphs 12.38 to 12.86).

The Schools' financial situation

12.88. As *Tables 12.4* and *12.5* reveal, the Schools' overall revenue during 1988 amounted to 87,8 Mio ECU. The Commission's contributions accounted for 68,4 % of this revenue, whilst the contributions of the Member States, in the form of the teaching staffs' national salaries, accounted for 21,4 %, and miscellaneous revenue, that is to say, school fees, contributions from bodies which have entered into financial agreements with the Schools, interest on investments, the crisis levy, etc, accounted for 10,2 %.

12.89. Actual revenue amounted to 0,87 Mio ECU, or 1 %, less than the budgetary forecast. The Schools' overall expenditure amounted to 87 Mio ECU and represented 99 % of revenue. Seven of the Schools showed a surplus on their accounts at the end of the financial year, whilst two Schools were obliged to conclude the financial year with a deficit.

The Schools' social security scheme

Sickness insurance for teachers and equivalent staff

12.90. Under Article 31 (2) of the Regulations for teaching staff, full-time teachers who have been seconded by their governments must contribute to the sickness

insurance fund set up by the Board of Governors of the European Schools.

12.91. Part-time teachers may also join this sickness insurance scheme on condition that their total working time amounts to at least the equivalent of half the normal working hours. The representative of the Board of Governors and certain members of the administrative staff of the Schools also contribute to the fund.

12.92. At the same time as being members of the Schools' sickness insurance scheme, the teaching staff are still affiliated to their national social security systems. Under the terms of the Regulations for teaching staff, personal contributions to these national systems are reimbursed by the Schools to the teachers, who, in return, are bound to declare any reimbursements of expenses, either received or to which they are entitled under these national sickness insurance schemes.

12.93. In 1975 the Schools' Board of Governors adopted regulations establishing the conditions upon which reimbursements and other benefits were to be granted by its scheme. The Commission agreed, at that time, that the Settlements Offices of the sickness insurance Scheme for officials of the European Communities should take on responsibility for managing the Schools' scheme.

12.94. It is clear, however, that this scheme does not work very satisfactorily. The Board of Governors' rules governing the teachers' sickness insurance have never been implemented. Neither the Settlements Offices nor the teachers themselves have any knowledge of these rules. As a result, illness risk cover has from the beginning

Table 12.4 — Budgetary estimates and actual revenue of the Schools for the financial year 1988

(1 000 ECU)

Schools	Budgetary estimates	Actual revenue				Total revenue
		Commission's contribution	Member States' contribution	Other revenue		
				Interest, school fees, financing agreements, crisis levy	European Patent Office's contribution	
Luxembourg	15 964,1	11 721,3	3 620,4	529,5	—	15 871,2
Brussels I	18 776,5	14 134,1	3 977,1	899,4	—	19 010,6
Brussels II	12 803,4	9 286,1	2 772,7	458,8	—	12 517,6
Mol	6 855,9	4 643,6	1 457,9	485,9	—	6 587,4
Varese	9 604,3	6 509,0	2 388,0	483,5	—	9 380,5
Karlsruhe	6 972,8	4 733,2	1 764,2	340,4	—	6 837,8
Bergen	5 250,9	3 764,0	1 314,4	212,8	—	5 291,2
Culham	4 917,8	3 195,7	1 474,2	196,6	—	4 866,5
Munich	5 734,1	475,0	13,2	292,7	4 859,2	5 640,1
Office of the representative of the Board of Governors	1 825,6	1 632,7	47,8	44,9	108,2	1 833,6
Total	88 705,4	60 094,7	18 829,9	3 944,5	4 967,4	87 836,5

Table 12.5 — The Schools' expenditure for the financial year 1988*(1 000 ECU)*

Schools	Payments	Carryovers to the financial year 1989	Total	Surplus or deficit
Luxembourg	15 540,5	129,9	15 670,4	200,8
Brussels I	18 641,5	103,4	18 744,9	265,7
Brussels II	12 472,9	13,9	12 486,8	30,8
Mol	6 326,0	88,1	6 414,1	173,3
Varese	9 126,2	127,0	9 253,2	127,3
Karlsruhe	6 872,8	38,6	6 911,4	- 73,6
Bergen	5 201,8	27,6	5 229,4	61,8
Culham	4 862,9	18,6	4 881,5	- 15,0
Munich	5 564,4	19,1	5 583,5	56,6
Office of the representative of the Board of Governors	1 741,3	68,0	1 809,3	24,3
Total	86 350,3	634,2	86 984,5	852,0

been governed exclusively by the Rules on sickness insurance for officials, although no appropriate legal basis has been negotiated for this purpose by the Board of Governors and the Commission.

12.95. This irregular situation would not be likely to be of any consequence for the settlement of expenses if the provisions of the two sets of rules were similar. It turns out, however, that there are certain differences, which create unjustified advantages and disadvantages for the teachers. Moreover, the absence of any formal delegation of powers by the Board of Governors to the Commission does not enable the Settlements Offices to manage the Schools' scheme appropriately.

12.96. Although, as stated under paragraph 12.92 above, the complementarity between the national reimbursements and those of the Schools' sickness insurance scheme is obligatory, few teachers (less than 10 %) declare reimbursements of medical expenses received from their national schemes and the known reimbursements represent no more than 5 % of the benefits granted by the Settlements Offices.

12.97. These reimbursements by national schemes, like payments of personal contributions to these schemes, are not entered into separate accounts by the Schools. It is therefore impossible to effect a cost-benefit analysis of the system.

Relationship between the Schools and the sickness insurance Scheme of the European Communities

12.98. Along with the Commission, all the other institutions contribute to some extent to the Settlements

Offices' management costs, depending on the number of their members. The Schools, on the other hand, which represent 5,5 % of the persons managed by the three Settlements Offices of the joint Scheme, have not hitherto made any attempt to follow suit, even though the task of managing their staff is rather tedious, given the lack of coordination between the Schools and the Settlements Offices.

12.99. The rules on sickness insurance for the teaching staff stipulate that the payments of sickness benefits are to be controlled by the Commission, in accordance with its Financial Regulation. This control should thus extend to the legality and regularity of revenue and expenditure (eligibility of the members and beneficiaries, length of membership, complementarity of reimbursements) and the soundness of the financial management. However, the Schools have not as yet established a procedure for enrolling members in their scheme which can provide, on a regular and comprehensive basis, all the information required to monitor their eligibility effectively. The Financial Controller should confine his activities to a purely material check of the Settlements Offices' payment operations.

The financial situation of the Schools' sickness insurance scheme

12.100. In 1988, revenue received by the sickness insurance scheme for the European Schools from contributions, to the exclusion of other revenue, amounted to 80,9 Mio BFR and expenditure amounted to 76,3 Mio BFR, with a surplus of 4,6 Mio BFR. The accumulated surpluses since the scheme was set up amounted to 347,3 Mio BFR as at 31 December 1988. This surplus is the result of the age structure of the

teaching staff, and particularly of the fact that the regulations for teaching staff do not provide for any Community pension schemes. As a result, the Schools' sickness insurance scheme is not obliged to bear the higher health expenditure of the old.

12.101. Article 22 of the regulations governing the teachers' social security scheme states that 'once surpluses accumulated over a period of three years have reached an amount equivalent to 20 % of the arithmetical average of the cumulative expenditure of these same three years, the Board of Governors may decide to reduce the Schools' and the members' contributions'. However, even if this Article has not been implemented in practice, the Board of Governors ought to have examined the situation in 1988 in the interest of sound financial management.

12.102. In fact, for the years 1985, 1986 and 1987, the cumulative expenditure amounted to 220,8 Mio BFR, which corresponded to an arithmetical average of 73,6 Mio BFR, and the surpluses amounted to 89,9 Mio BFR, that is to say 122 % of this average. Since the threshold that could have triggered off the abovementioned re-examination had been considerably exceeded, the Board of Governors should have taken the initiative to act as required by this Article.

12.103. In addition, it should be noted that, unlike the funds paid into the Community sickness insurance Scheme, which are the property of the joint Scheme for Community officials and which the Commission enters on the liabilities side of its financial balance sheet, the assets of the teachers' scheme are a part of the Schools' assets. These assets are not, however, included in the Schools' financial statements. In addition, they are not included amongst the accounts which are submitted for the discharge which the Board of Governors grants in respect of the execution of the Schools' budgets.

Sickness insurance scheme of the European University Institute in Florence

12.104. On 20 May 1975, the European University Institute in Florence (EUIF) drew up the staff regulations for its staff. In the area of social security, these regulations stipulate that certain categories of the EUIF's staff and retired staff are to contribute to an autonomous social security system. Given that originally the number of staff who were meant to be covered by this system amounted to only 57 persons, the Schools' Board of Governors agreed to admit these members of staff to its sickness insurance scheme, without any specific agreement being negotiated, whilst handing over the management of their claims to the Commission's Settlements Offices.

12.105. This solution, which was originally a temporary one, has since been retained, the number of EUIF teachers affiliated to the Schools' sickness insurance scheme having meanwhile risen to 142 members and 412

beneficiaries. As in the case of the Schools, which are themselves in an irregular situation *vis-à-vis* the Communities' Scheme (see paragraph 12.94), the medical expenses of EUIF staff are reimbursed by the joint Scheme without any appropriate legal basis.

12.106. Although Article 16 of the Schools' sickness insurance Regulations stipulates that the employers' and the employed persons' contributions are to be paid over to the Settlements Offices once a month, the EUIF pays them only once a quarter. These contributions are entered in separate accounts and are managed, as are the Schools' sickness insurance assets, by the Commission.

12.107. In 1988 the revenue recorded by the Settlements Offices in respect of the EUIF was 8,9 Mio BFR and the expenditure 7,4 Mio BFR, with a surplus for 1988 of 1,5 Mio BFR. Total surpluses since the admission to the scheme of the EUIF teaching staff in 1975 amounted to 46,8 Mio BFR at 31 December 1988.

12.108. The failure to implement the Schools' sickness insurance regulations, which is discussed under paragraph 12.94, has had considerable effects on the legal status of EUIF staff. The fact is that they have no regulations of their own and their pension scheme, which provides for an independent sickness insurance scheme, is not covered by the Schools' scheme.

12.109. Just like the Schools, the EUIF does not contribute to the joint Scheme's management expenses and other expenditure.

Conclusions on the management of the European Schools' sickness insurance scheme

12.110. As can be seen from the observations set out in the preceding paragraphs, the Schools' social security system is largely ignored, both by the authorities who set it up and by its beneficiaries. It is having disadvantageous effects on the Schools' budget, which is obliged to bear the cost of personal contributions to national schemes without benefiting from reimbursements from these same schemes, and it depends exclusively on the collaboration of the Commission's Settlements Offices and other departments for its day-to-day operations.

12.111. This being so, it is essential that the responsible bodies, both at the Schools and at the EUIF and at European Community level, should get together in order to devise a framework for the system for covering health risks at the Schools which will be legally valid.

Relations between the Varese European School and the Italian Government

12.112. Under the terms of the Agreement which was signed in 1963 with the Board of Governors, the Italian Government, following the example of the other Member States which are host to a European School, undertook to be responsible for the day-to-day maintenance of the buildings that had been made available to the Varese school and to supply the furniture and scientific equipment, to the extent that they were needed by the School.

12.113. In a letter annexed to this Agreement, the Italian Government said that it would honour this undertaking by making a single payment of 6,3 Mio LIT for furniture and equipment and an annual contribution of 5 Mio LIT for the maintenance of buildings. Since then, this amount of 5 Mio LIT, which at the time corresponded to 0,4 Mio BFR and at present corresponds to 0,2 Mio BFR, has not been amended.

12.114. In view of the serious deterioration of the fabric of the School's buildings, the Italian Government made

supplementary grants, at the end of 1986, of 36 Mio LIT for 1987 and 45 Mio LIT for 1988 and 1989, over and above the agreed annual contribution of 5 Mio LIT. However, this aid has proved inadequate since, as from 1988, inevitable repair costs amounted to 1 500 Mio LIT (45 Mio BFR). Finally, the Italian Government undertook *vis-à-vis* the Varese School to take responsibility for the cost of repairing the buildings, subject to the agreement being ratified by the Italian Parliament. This procedure has not yet been completed.

12.115. Meanwhile, the European School is obliged to continue to meet the greater part of these expenses from its own appropriations. The expenditure which it has incurred in this way since 1982 amounts to 1 579,6 Mio LIT or 50,4 Mio BFR.

12.116. From the above, it is clear that there is a vital need for the Commission and the Schools' Board of Governors to intervene with the Italian authorities so as to activate a solution designed to make the necessary funds available to the European School at Varese without further delay.

CHAPTER 13

Loans, borrowings and interest-rate subsidies

13.0. TABLE OF CONTENTS	Paragraph reference
Introduction	13.1 — 13.4
Summary of financial information	13.5
Observations on the balance sheets and revenue and expenditure accounts of the New Community Instrument and Euratom mechanisms	13.6
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Observations on legality and sound financial management	13.9 — 13.29
Control of borrowings	13.9 — 13.20
Interest subsidies provided under Article 772 of the general budget	13.21 — 13.29

INTRODUCTION

13.1. This chapter deals with New Community Instrument (NCI) loans and interest subsidies, European Atomic Energy Community loans (Euratom loans), balance-of-payments loans (BP loans) and the borrowings contracted by the Communities in order to finance these three loan mechanisms. It also looks at interest subsidies for small and medium-sized enterprises (SMEs) in Portugal.

13.2. As part of the annual budget procedure, the budgetary authority includes the sum of interest subsidies in the general budget and decides whether to include the budgetary guarantee for borrowing transactions in the form of token entries.

13.3. Community loans and borrowings are set out in the balance sheet of Community assets and liabilities. Interest subsidies relating to NCI loans, along with EIB loans from the EIB's own resources for reconstruction

measures in areas of Greece and Italy which have been devastated by earthquake, are included in Chapter 69 of the general budget of the Communities, whilst interest subsidies relating to a pilot project for Portuguese SMEs and interest subsidies relating to cooperation with Mediterranean countries are set out in Chapters 77 and 96 respectively.

13.4. The Commission has a direct legal obligation to service and repay borrowings contracted by it on behalf of the Community. For this purpose the following Articles, which represent the budgetary guarantee for the above-mentioned Community borrowing mechanisms, are included in the budget as a precaution against any possible default by beneficiaries of the primary loans and guarantees:

- (a) Article 830, 'EEC guarantee for Community loans raised for balance-of-payments support';
- (b) Article 831, 'EEC guarantee for Euratom loans raised';

- (c) Article 832, 'EEC guarantee for loans raised to promote investment in the Community'.
- (d) Article 833, 'EEC guarantee for Community borrowings and for EIB loans to finance large-scale infrastructure projects of Community interest'.

In addition, Article 969 of the budget includes a guarantee for loans granted by the EIB to non-Member States.

SUMMARY OF FINANCIAL INFORMATION

13.5. *Tables 13.1* and *13.2* give a summary of the various borrowing and lending mechanisms and the evolution of loans and borrowings during the financial year 1988.

OBSERVATIONS ON THE BALANCE SHEETS AND REVENUE AND EXPENDITURE ACCOUNTS OF THE NEW COMMUNITY INSTRUMENT AND EURATOM MECHANISMS

13.6. The Court examined the NCI and Euratom balance sheets as at 31 December 1988 and the revenue and expenditure accounts relating to the two mechanisms for the financial year 1988. The management of the accounting for that year did not call for any specific observations.

AGREEMENT REGARDING THE AUDITING OF NCI LOANS IN THE MEMBER STATES

13.7. The situation regarding the Court's on-the-spot audits as described in paragraphs 1.38 to 1.46 and 11.7 to 11.19 of the Court's annual report concerning the financial year 1987 had not changed as at 31 December 1988.

13.8. However, in June 1989 an agreement was concluded between the Commission, the EIB and the Court, which comprises the main aspects of the procedure

outlined by the Court in paragraph 11.13 of its report on the financial year 1987 and also meets the budgetary authority's requirements.

OBSERVATIONS ON LEGALITY AND SOUND FINANCIAL MANAGEMENT

Control of borrowings

Introduction

13.9. The Court has reviewed the system for the control of borrowings contracted by the Commission in order to provide loans under the NCI, Euratom and ECSC instruments. This activity is administered on an extra-budgetary basis, the budgetary guarantees for NCI and Euratom borrowings being represented by token entries in the 'Commission' section of the general budget.

13.10. A systems-based approach was adopted to this review. The systems for controlling the initiation, consideration and authorization of borrowing action were identified and their adequacy assessed. Controls were tested by means of a representative sample of borrowings contracted over the years 1985 to 1988 and which still had balances outstanding at 31 December 1988. The number and financial value of borrowings over the relevant period are shown in *Table 13.3* and the balances outstanding in *Table 13.2*. The results of the Court's review and recommendations for action are set out in the following paragraphs.

Findings concerning the structure of the system

13.11. Apart from the provisions of the various Treaties and the terms of the authority delegated to the Member of the Commission responsible, the only rules which apply to this area of activity are the internal rules of the Directorate-General responsible for the administration of loans and borrowings. These consist of a set of basic rules dating from 1985, supplemented from time to time by notes on particular aspects signed by officers up to Director-General level. This framework covers not only operational procedures but at least one subject which seems more appropriate for decision at Commission level, i.e. the level of the margin to be charged on loans. The

Table 13.1 — Principal characteristics of the systems employed in connection with NCI, Euratom, balance of payments, ECSC and EIB loans and interest subsidies for new investments, in particular those aimed at creating jobs, as at 31 December 1988

System	Legal base	Source of funds	Type of intervention	Method of management	Financial volume (Mio ECU)
NCI	EEC Treaty Article 235; Council decisions; EEC budget	Community borrowings contracted by the Commission on the financial market	Loan	The Commission decides whether projects qualify; loans are granted and managed by the EIB as the agent of the Commission and at the latter's risk	5 650 ⁽¹⁾
		Commission budgetary appropriations	Budgetary guarantee		p.m.
		Commission budgetary appropriations	Subsidies in the form of interest rebates		1 000 ⁽²⁾
NCI earthquake	EEC Treaty Article 235; Council decisions; EEC budget	Community borrowings contracted by the Commission on the financial market	Loan	The Commission decides whether projects qualify; loans are granted and managed by the EIB as the agent of the Commission and at the latter's risk	1 000 ⁽³⁾ 80 ⁽³⁾
		Commission budgetary appropriations	Budgetary guarantee		p.m.
		Commission budgetary appropriations	Subsidies in the form of interest rebates		170 ⁽⁴⁾
EIB earthquake	EEC Treaty Article 130; EIB Statute	EIB own resources	Loan	Commission opinion; EIB autonomy	1 000 ⁽³⁾ 80 ⁽³⁾
	Council decisions; EEC budget	Commission budgetary appropriations	Subsidy in the form of interest rebates		Granted by the Commission by way of an opinion; paid via EIB
Euratom	EAEC Treaty Article 172; Council decisions; EEC budget	Community borrowings contracted by the Commission on the financial market.	Loan	Loans are granted by the Commission and managed by the EIB under an agency agreement with the Commission	3 000 ⁽¹⁾
		Commission budgetary appropriations	Budgetary guarantee		p.m.
Balance of payments	EEC Treaty Article 235; Council Regulation; EEC budget	Community borrowings contracted by the Commission on the financial market	Loan	Loans are granted by the Council and the EMCF takes the necessary steps to see they are managed	8 000 ⁽¹⁾
		Commission budgetary appropriations	Budgetary guarantee		p.m.
EIB	EEC Treaty Articles 129 and 130; EIB Statute	EIB own resources	Loan	Commission opinion; EIB autonomy	36 456 ⁽⁶⁾
	EEC Treaty Article 235; Council decision; EEC budget	Commission budgetary appropriations	Subsidies in the form of interest rebates		Granted by the Commission, paid via the EIB
ECSC	ECSC Treaty Articles 54 and 56	Community borrowings contracted by the Commission on the financial market	Loan	Granted and managed by the Commission	6 727 ⁽⁷⁾
		ECSC operating budget	Subsidy in the form of interest rebate		
Budget heading 772 ⁽⁸⁾	EEC Treaty, Article 235; EEC budget	Commission budgetary appropriations	Interest rebates	Granted and managed by the Commission	10

(1) Ceiling set by the Council.

(2) Interest subsidy on NCI and EIB loans for projects in Ireland and Italy, maximum 1 000 Mio ECU. Ceiling set by the Council and applicable to NCI and EIB loans.

(3) Ceiling set by the Council for the whole operation. It also applies to NCI and EIB loans.

(4) Interest subsidies for NCI and/or EIB loans.

(5) Interest subsidies for EIB loans.

(6) Loans outstanding, including 750 Mio ECU from EIB own resources under NCI IV.

(7) Loans outstanding.

(8) Interest subsidies for Portuguese SMEs.

Table 13.2 — Borrowing and lending operations during the financial year 1988

(Mio ECU)

System	Claims in respect of loans and borrowing commitments outstanding as at 31.12.1987		Operations carried out in 1988 ⁽¹⁾		Claims in respect of loans and borrowing commitments outstanding as at 31.12.1988 ⁽¹⁾
	At the ECU exchange rate of 31.12.1987	At the ECU exchange rate of 31.12.1988	New loans or borrowings	Repayment or amortization	
	(1)	(2)	(3)	(4)	(5) = (2) + (3) - (4)
Loans:					
NCI	4 869,9	4 950,0	285,2	459,6	4 775,6
Euratom	2 373,0	2 398,5	—	253,2	2 145,3
BP	2 226,7	2 313,4	—	204,7	2 108,7
ECSC ⁽²⁾	6 768,1	6 792,8	907,8	869,0	6 831,6
Total loans	16 237,7	16 454,7	1 193,0	1 786,5	15 861,2
Borrowings:					
NCI	5 229,5	5 349,9	945,5 ⁽³⁾	802,3	5 493,1
Euratom	2 499,9	2 540,3	92,8 ⁽⁴⁾	469,1	2 164,0
BP	2 226,7	2 313,4	648,5 ⁽⁵⁾	503,2	2 458,7
ECSC ⁽²⁾	6 688,8	6 792,1	880,0 ⁽⁶⁾	944,7	6 727,4
Total borrowings	16 644,9	16 995,7	2 566,8	2 719,3	16 843,2

⁽¹⁾ At the ECU exchange rate of 31.12.1988.

⁽²⁾ See separate annual report by the Court.

⁽³⁾ Of which 607,9 Mio ECU for refinancing.

⁽⁴⁾ Of which 92,8 Mio ECU for refinancing.

⁽⁵⁾ Of which 648,5 Mio ECU for refinancing.

⁽⁶⁾ Of which 80,0 Mio ECU for refinancing.

Table 13.3 — Borrowings raised 1985-88

Instrument	1985		1986		1987		1988		Total	
	No	Amount Mio ECU ⁽¹⁾	No	Amount Mio ECU ⁽¹⁾	No	Amount Mio ECU ⁽¹⁾	No	Amount Mio ECU ⁽¹⁾	No	Amount Mio ECU
NCI	15	843,6	9	541,4	12	611,2	16	945,5	52	2 941,7
Euratom	13	344,2	14	488,1	12	853,5	2	92,8	41	1 778,6
ECSC	54	1 264,7	65	1 517,3	80	1 487,0	57	880,0	256	5 149,0
Total	82	2 452,5	88	2 546,8	104	2 951,7	75	1 918,3	349	9 869,3

⁽¹⁾ ECU rate at 31 December of the relevant year.

standing of these rules and the supplementary notes is unclear but no evidence could be found of formal Commission approval of the basic rules, far less the occasional notes. In effect, therefore, the relevant department is in a position to determine its own rules. As a matter of principle, the Court considers that every activity undertaken in the name of the Commission should be governed by rules approved at Commission level and that no individual department should be free to prescribe and change the rules on its own.

13.12. The Court discovered arithmetical and methodological errors even in documents bearing the visa of senior officers and the Internal Control Service. The frequency of such errors demonstrates the need for more effective controls in the system.

13.13. Although the Commission has been involved in borrowing, at least in the capacity of the High Authority of the ECSC, since 1954, no clear methodology has been devised for processing the various types of borrowing operations. As a result, it appears that each borrowing, apart from those which are strictly back-to-back, is treated as a unique operation. In particular, the Court noted by no means negligible variations in the methodology adopted when assessing the merits of refinancing opportunities, i.e. the premature redemption of existing borrowings in order to take advantage of better market conditions through replacement borrowings. Certain elements included in one calculation were excluded or accorded different treatment in other calculations. In these circumstances, the Court was unable to satisfy itself that calculations were either consistent or produced reliable results.

13.14. Since borrowings are conducted on international financial markets, the processes are necessarily subject to a tight time-table. Accordingly, formal Commission approval of borrowing proposals is obtained under emergency procedures, supplemented by the internal rules of the Directorate-General concerned. These provide that a weekly list of borrowings under negotiation should be transmitted to the Member of the Commission responsible. In the absence of any intervention from the Member, the department responsible is authorized to conclude a borrowing agreement, provided a telex containing the essential features of the transaction is sent to the Member of the Commission and the Secretary-General within 24 hours thereafter. The Court's examination indicates that the information provided in the weekly list is not sufficiently detailed and is submitted at too late a stage to allow a proper assessment of the borrowing requirement. Furthermore, the telex procedure does not constitute a control since the Commission is effectively bound by the relevant department's prior acceptance of the terms of an offer. The Court also found that, in some cases, the information in the weekly lists and the telex was less than full and frank as to the justification and reasons for the departments' actions.

Implementation of rules

13.15. It is fundamental to the three instruments that borrowings are contracted only to meet the demand for loans. Indeed, the authority delegated by the Commission to the Member of the Commission responsible is framed in such terms. However, the Court discovered a number of cases where borrowings were contracted for reasons other than loan demands. It was also observed that in cases of refinancing, the Borrowings Directorate appeared to act autonomously and merely notified the Loans Directorate, a posteriori, of the revised conditions, which, in appropriate cases, included the suppression, unilaterally, of the early repayment clause in the original agreements.

13.16. The rules prescribe that every borrowing contract should bear the visa of the Legal Service. However, none of the 32 contracts examined by the Court exhibited such a visa. Neither could the Court find evidence that the Legal Service had even approved a standard form of contract.

13.17. The rules for the management of borrowings provide that, in seeking the best conditions on the market, the relevant department should, as far as possible, observe the principle of competition. The Court has reviewed the extent to which this policy is applied, particularly in the light of its observations on this matter in paragraphs 14.27 to 14.30 of its annual report on the financial year 1984. This review reveals the following:

- (a) many of the negotiations in this type of operation are conducted over the telephone and under pressure of time. As a consequence, it is sometimes not possible to trace the progress of negotiations or identify the justifications for certain decisions from the relevant files. The rules accordingly provide for a note to be prepared for each case summarizing the principal features and justifying the course of action adopted. The Court found that these notes (*notes de synthèse*) were, in practice, inadequate for their intended purpose. They were, in general, extremely brief and did not clarify the actions taken. In particular, they did not attempt to justify the type of borrowing (public issue, private placement, etc.) adopted in cases where a choice seemed possible;

- (b) following the Court's criticism in its annual report on the financial year 1984, the responsible department at the Commission announced that its practice of placing particular types of borrowing with established banking syndicates would be discontinued from 1985 in favour of ad hoc syndicates. The Court found during its review that many operations of this type in its sample were still being placed with 'traditional syndicates' or 'established lead-managers in this type of operation' without competition from ad hoc syndicates;
- (c) it is not obvious that calls for tenders have achieved their objective, namely to ensure the best possible conditions. The Court observed that the degree of competition sometimes seemed too low for the sums concerned, or that the tendering procedures did not appear to be transparent enough as a result of the fact that tenders were submitted on varying bases and on different dates. In some cases, because of errors of evaluation or in the absence of due justification, the tender which was apparently the most favourable was not selected, or ill-judged decisions were taken.

Effects of system weaknesses

13.18. The shortcomings described above have the effect of weakening the effectiveness of the checks on borrowing decisions which the Commission is required to carry out. An effective system of checks should make it impossible for certain parts of operations to be carried out without prior authorization; nor should it allow the Commission, or even individual Communities, to be committed to transactions and their resulting costs by unilateral decisions taken by the departments concerned. Furthermore, the system ought to ensure that all decisions are taken on the basis of accurate and relevant assessments of the facts of the case. The deficiencies noted by the Court highlight the pressing need for the Commission to adopt appropriate measures to achieve this end.

Conclusions and recommendations

13.19. In the Court's opinion, the relevant department, in its borrowing operations, enjoys a degree of autonomy granted to few other departments. The Court acknowledges that, in this type of operation, a certain degree of autonomy cannot be avoided but it considers that the findings of this review indicate that stricter control is required both externally and internally. It is true that apparent losses incurred on a borrowing operation may be recovered or absorbed through charges

levied on loans. The Court, however, considers that this does not absolve the Commission of the obligation to aim for maximum efficiency in the borrowing operation, nor is it consistent with the objectives of the various instruments to provide maximum advantage to the final beneficiaries.

13.20. The Court accordingly recommends:

- (a) that comprehensive rules for the conduct of borrowings should be established and approved at Commission level;
- (b) that compliance with these rules should be checked by officers external to the relevant department;
- (c) that, as a matter of urgency, controls should be established within the relevant department to ensure that decisions are based on sound and valid information;
- (d) that, if there is no alternative to the emergency procedure, steps must be taken to ensure that all facts relevant to borrowing proposals are disclosed at the earliest possible stage in order to allow intervention at Commission level, if necessary;
- (e) that refinancing operations should not be undertaken without the prior approval of the Loans Directorate or before the contractual due dates for early repayment of the initial borrowings.

Interest subsidies provided under Article 772 of the general budget

Introduction

13.21. At the initiative of the European Parliament, an amount of 10 Mio ECU for the purpose of providing interest subsidies in favour of new investments aimed at increasing employment was introduced under Article 772 of the general budget for the financial year 1986.

13.22. In May 1986, the Commission decided to utilize these resources by providing, as a pilot project, interest subsidies on loans granted by certain banks in Portugal for investments by small and medium-sized enterprises in Portugal aimed at the expansion of existing, or the creation of new, economic activities whilst increasing employment.

13.23. To this end the Commission concluded in the autumn of 1986 global interest-subsidy agreements with seven Portuguese banks to provide interest subsidies on loans made by the banks at their own financial risk. The subsidy should be fixed as two years' worth of interest at a reference rate defined in the agreement.

13.24. Interest subsidies up to 100 000 ECU could be approved on behalf of the EEC by the banks themselves. Where the subsidy exceeded this amount prior approval by the Commission was required. The final date for approval of projects both by the bank and the Commission was 1 November 1988.

13.25. The funds reserved were earmarked for some 110 projects approved under this initiative and an amount of 7,9 Mio ECU had been issued by the end of 1988 to the intermediaries for disbursement to final beneficiaries.

Observations

13.26. An audit visit to Portugal carried out by the Court in association with the Commission brought the following problem to the Court's attention.

13.27. In response to an enquiry from the banks, the Commission has confirmed that interest subsidies from Article 772 may be combined with loans provided to the

banks by the EIB and it was noted during the mission in March 1989 that one of the banks intended to finance three loans, attracting interest subsidies to an amount of \pm 170 000 ECU, from funds provided by an EIB global loan.

13.28. The Court questions whether loans from the EIB's own resources should be subsidized by means of interest subsidies from the Community budget without a special decision being taken by the legislative authority, that is, the budgetary authority. In this context, the Court observes that a scheme providing interest subsidies on NCI — as well as on EIB — loans to projects in two Member States operated in the years 1979 to 1983 ⁽¹⁾ and that a Commission proposal ⁽²⁾ to continue the scheme for a further two years has never been adopted by the Council. The Court points furthermore to the far-reaching consequences of the Commission's decision in the event that the pilot project should be followed up by similar measures of a more general nature.

13.29. On 28 December 1988, the Commission transmitted the second tranche of subsidies, amounting to 3,9 Mio ECU, to the Portuguese Central Bank for allocation to the seven participating banks. However, the funds did not reach the individual banks until 2 February 1989. This delay on the part of the Central Bank entails a loss of interest of \pm 20 000 ECU to the Commission.

(1) Council Regulation (EEC) No 1736/79 of 3.8.1979, OJ L 200, 8.8.1979.

(2) OJ C 163, 22.6.1983.

PART TWO

The European Development Funds

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INTRODUCTION

1. Within the framework of the European Development Funds (EDFs), the Community has a policy of cooperation with 66 countries in Africa, the Caribbean and the Pacific (ACP States). The EDFs' resources, which are separate from those of the general budget of the European Communities, are financed by contributions from the Member States. The implementation of each EDF is governed by a specific financial regulation. The following observations relate to the financial management of the EDFs which are being implemented in 1988 and to the design and implementation of the programming of the sixth EDF.

2. *Table 1* shows the utilization of the fourth, fifth and sixth EDFs at 31 December 1988. The amount of aid granted per recipient State is shown in the second part of Annex II. For the three Lomé Conventions currently being implemented, the new commitments and payments

for the financial year 1988 amounted to 1 607,6 Mio ECU and 1 196,3 Mio ECU respectively.

OBSERVATIONS ON THE FINANCIAL MANAGEMENT

Rate of implementation of the EDFs in progress at 31 December 1988

3. At 31 December 1988, 2 999 Mio ECU, i.e. 95,2 % of the initial allocation, had been disbursed under the fourth EDF (thirteenth year of implementation); over the last three financial years, 3,4 %, 2,2 % and 1,2 % respectively of the initial allocation have been paid out, whilst the amounts of new commitments are even lower. Bearing in mind the rate of utilization of appropriations under the fourth EDF, the periods of time which are bound to elapse between the commitment and the winding-up in

Table 1 — Use of the 4th, 5th and 6th EDFs at 31 December 1988

Resources and use	(Mio ECU)		
	4th EDF Lomé I (Expiry: 1980)	5th EDF Lomé II (Expiry: 1986)	6th EDF Lomé III (Expiry: 1990)
Initial allocations	3 150,0	4 636,0	7 500,0
Resources collected (including sundry resources and transfers)	3 248,1	4 549,1	295,4
Resources still to be collected from the Member States	—	392,1	7 560,0
Transfer of resources to other EDFs	(66,5)	(111,8)	—
Net resources	3 181,6	4 829,4 ⁽¹⁾	7 855,4
Payments prior to 1988	2 960,6	3 071,8	469,3
1988 payments	38,4	350,2	807,7
Commitment decisions still to be cleared	135,9	1 178,5	3 385,1
Use	3 134,9	4 600,5	4 662,1
Balance available for new uses	46,7	228,9	3 193,3

⁽¹⁾ Of which 6,4 Mio ECU correspond to proceeds from resources of the fifth EDF which were not assigned to the allocation of one of the EDFs in the process of implementation at 31 December 1988.

the accounts of new operations and the cost of operating an accounting system which no longer shows more than a small number of operations, the Court considers that the provisions for closing the accounts of an EDF which has expired should be re-examined. In any case, it would seem desirable to speed up the operations of the fourth EDF so that it can be wound up before the next Convention comes into force.

4. At the end of the financial year 1988 (eighth year of implementation of the fifth EDF), nearly 74 % of the amount of the initial allocation had been disbursed. If the rates of implementation of the fourth and fifth EDFs are compared, it is clear that, at the end of the fourth year, they had both reached the same rate of disbursement (31,4 %), whereas, at the end of the eighth year, the rate of disbursement for the fifth EDF is nearly five points lower than that for the fourth EDF. Measured against a rate which could reasonably be called optimum and could be obtained by means of an effective implementation of expenditure during the period of application of the Convention, the rate of implementation is almost five years behind. This being so, and in the absence of measures to speed up the implementation of operations, the Second Lomé Convention would have to be implemented over an even longer period than the preceding Convention.

5. For the sixth EDF, at 31 December 1988 (third year of implementation) the level of disbursement (1 277 Mio ECU, i.e. 17 % of the initial allocation) is comparable

with that attained by the preceding EDFs only by virtue of the size of the Stabex expenditure (92,5 % of the initial funding reserved for Stabex has already been used), whereas for the programmable aid expenditure there is a significant delay: 5,6 % as against 10,7 % for the fourth EDF and 11,8 % for the fifth EDF by the end of the third year of implementation. It must be noted that, despite the presence on the spot of Commission delegations, the successive Conventions are not being executed any more quickly and there are still delays affecting their starting-up, even though it would seem possible and desirable to initiate the specification study and the preparation of the projects in such a way that they can actually be implemented more rapidly after the signing of the Convention.

Commitments of expenditure

6. According to Article 17 of the Financial Regulation applicable to the sixth EDF ⁽¹⁾, 'all measures which may give rise to expenditure payable by the EDF must be preceded by a proposal for commitment of expenditure from the Authorizing Officer'. It is also stipulated that 'decisions taken by the Commission in accordance with the provisions authorizing it to grant financial aid from the EDF shall constitute commitments of expenditure'.

⁽¹⁾ Financial Regulation of 11 November 1986, OJ L 325, 20.11.1986.

7. In its financial statements, the Commission presents its commitments under two separate headings: a list of decisions, which corresponds to the signed agreements (primary commitments) and a list of delegated appropriations, corresponding to the contracts and estimates made and showing the contractual commitments entered into with third parties (secondary commitments).

8. There are differences in the way in which the EDF's financial instruments are implemented, which reflect the fact that the way in which the notion of commitment is entered in the accounts varies according to the nature of the instrument:

(a) following the granting of a subsidy, commitments are first of all recorded under the 'decisions' heading within the limit of the overall funding defined by the financing agreement. Subsequently, the commitments are recorded under the heading 'Situation regarding delegated appropriations' as and when the contracts or estimates necessary for carrying out the projects are made. This second series of commitments thus reflects the EDF's obligations with regard to third parties and corresponds to the entries in the 'contract cards' on the basis of which the payments made to the co-contractors are monitored;

(b) by contrast, where emergency aid is granted, the commitment is very often recorded all at once for the total amount of the aid decided, even though its implementation may be governed by various contracts staggered over a period of time.

9. The latter procedure has three consequences:

(a) the fact that, for emergency aid, the decision is deemed in accounting terms to be the equivalent of the award of a contract or the conclusion of a contract leads, for the operations in question, to the actual state of progress of the files being anticipated and to the critical phase of negotiation with the suppliers being considered completed at a time when it may not yet have been started. The decision in reality reflects no more than the EDF's intention to implement, eventually, a given total appropriation for a specific aim;

(b) moreover, the fact that it is considered possible to commit at one time all the appropriations granted for an operation on the basis of one sole allocation decision substantially reduces the practical scope of Article 203(8) (a) of the Third Lomé Convention, which stipulates that 'funds provided under emergency aid must be committed within six months of the implementing arrangements being established, unless otherwise stipulated';

(c) finally, the EDF's financial statements do not give a true picture of the real state of the operations since they thus combine situations which are at different stages of implementation. For example, the monitoring in the accounts of commitments entered into with regard to third parties is difficult and lacks transparency. This lack of consistency in the way in which EDF commitments are dealt with in the accounts stems in part from the first and second paragraphs of Article 17 of the Financial Regulation applicable to the sixth EDF. The clarity and the monitoring of operations in progress would be much improved if certain global decisions ceased to be treated as contracts and if all expenditure paid to a co-contractor were based on a commitment which was separate and identifiable as such in the EDF accounts. The Court considers that the Commission should not delay any longer in laying down consistent rules on the handling in the accounts of the various commitment decisions.

Procedures for paying expenditure

10. In general, the payments made by the EDF fall into two categories: those subject to the Financial Controller's prior approval and those subject to *ex post facto* approval.

(a) Payments subject to prior approval

This category basically covers payments made in ECU or in a European currency. These are payments wholly made by the Commission's central departments (direct payments) and payments 'authorized' in the ACP States in a European currency or in ECU by means of a power delegated to a national authorizing officer but which cannot be made until they have been 'authorized' a second time by the EDF's main authorizing authority (the Commission's central departments, semi-direct payments).

(b) Payments subject to *ex post facto* approval

These payments are authorized in the ACP country by the national authorizing officer, in general the Minister for the Plan or for Financial Affairs, and effected by the paying agent, after prior approval has been given by the Commission delegation in the ACP State. They are included in the EDF accounts following final clearance by the Commission departments, in accordance with the provisions of the various Lomé Conventions. The Financial Controller acts *ex post facto* at the time of this final clearance. Almost all the transactions effected in local currency fall into this category of payments.

Final clearance of the payments made in local currency

11. Article 227.4 of the Third Lomé Convention stipulates that 'the national authorizing officer shall clear and authorize expenditure within the limits of the funds assigned to this. He shall remain financially liable until the Commission gives final clearance for the operations for the execution of which he is responsible'. The national authorizing officers are also subject to the stipulations of the Financial Regulation applicable to the sixth EDF (Article 39).

12. Thus, apart from the conditions under which they are implemented, local payments are governed by the same provisions and are subject to the same checks as payments made by Commission staff in Brussels. They must be finally cleared, i.e. integrated in the EDF accounts, under conditions which offer the same guarantees of regularity and respect of the provisions of the Financial Regulation as the other payments.

13. In practice, local payments are frequently not finally cleared until several months or even more than half a year after the actual payment of the services by the paying agent. In the course of its checks on payments cleared by the Commission, the Court found the following anomalies:

- (a) certain successive stages of progress of the works were finally cleared and entered into the accounts in non-chronological order, and sometimes even in the absence of adequate supporting documents. Where, in a contract, a stage of work is cleared before one or more previous stages, the minimum control, i.e. one which makes it possible for previous stages to be taken account of in detail, is not carried out;
- (b) in other cases, local payments were authorized and disbursed before the secondary commitment of the corresponding appropriations by the Commission departments had taken place, or else they were in excess of the amount of the initial commitment made in local currency.

14. In this respect, it must be pointed out that these payments may be authorized and disbursed only up to the amount of the commitment expressed in local currency. Any depreciation of the local currency against the ECU which may occur between the initial commitment and the payments actually being made must not result in increases in the amounts of the payments in local currency but in a downwards adjustment of the amount of the commitment expressed in ECU.

New procedure for semi-direct payments

15. The very recent introduction of a pilot procedure for semi-direct payments which excludes any prior intervention by the Commission's central departments prompts the following observations:

(a) in terms of legal regularity:

- (i) there is no provision in the Lomé Convention which expressly grants the national authorizing officer the general power to make payments from the EDF's central bank accounts;
- (ii) Article 27 of the Financial Regulation applicable to the sixth EDF stipulates that 'payment orders shall be sent to the Financial Controller for prior approval'. If the trend is towards a more widespread use of a system of semi-direct payments which also excludes prior intervention by the Commission's central departments, the vast majority of the payments to be made as programmable aid will escape prior approval by the Financial Controller, in addition to the 15 % to 20 % of the present annual expenditure corresponding to local payments. This procedure does not comply with the Financial Regulation as it stands at present;

(b) in practical terms:

- (i) setting up a direct payment circuit (national authorizing officer — delegation — European bank responsible for making the payment) inevitably makes it more difficult to manage the European bank accounts. In view of the observation made in this respect in paragraph 32 below, such a procedure gives rise to reservations regarding the sound management of EDF funds;
- (ii) implementing this procedure has the effect of making the Commission bank accounts show debits without the corresponding supporting documents actually being available in the Commission departments in Brussels. The accounts entitled 'unsettled items' for payments made in the ACP States already showed a balance of some 28 Mio ECU at 31 December 1988 and introducing a payment procedure of this kind is bound to result in an increase in this balance, given the present state of the accounting.

16. To conclude, given the present state of the legal rules in force and of DG VIII's accounting, the Court considers that it is inadvisable to envisage introducing a payment procedure of this kind which excludes any prior intervention by the Commission central departments.

Availability of supporting documents

17. Whereas the Financial Regulation, which governs all the payments made, closely links the operations of validation and authorization, stages which are normally separated only by a reasonable time-lag, the action of delegating powers to the authorizing officers of the central departments makes it possible for all the operations to be validated by a department which is separate from that responsible for authorization. The resultant dispersal in the Commission departments of the files for the administrative and accounting monitoring of these payments is made even worse by the lack of precise accounting instructions on the supporting documents to be submitted and on the checks to be carried out for the various categories of payments and has consequences for the final clearance of local payments, for the operations carried out by the European Association for Cooperation (EAC) and for the accounting corrections.

Final clearance of payments

18. As was observed in paragraph 10 of the second part of the annual report for the financial year 1987, a significant number of transactions led to payments, even though the contractual documentation, which is the only way in which the validity of the sums to be paid can be checked, could not be produced.

Operations of the European Association for Cooperation

19. The payments made by the EAC on behalf of the EDF are shown in the Commission's accounts without any payment orders or any documents in support of the expenditure. The Commission's argument that these supporting documents can be consulted in the Association's accounts does not comply with the agreements governing relations between the Commission and the EAC, which expressly stipulate that originals or copies of supporting documents must be handed in every quarter⁽²⁾. In view of the recent changes in the role and tasks of the EAC, the Court considers that the EDF accounts should include all the supporting documents relating to the expenditure which the accounts reflect and that these same documents should back up payment orders in due form.

(2) Article 15 of the Convention of 13.7.1965 between the Commission and the EAC; Article 38 of the financial protocol concerning the management of the EAC's expenditure and revenue.

Accounting corrections

20. Lastly, in the interests of the clarity and transparency of the accounts, the final clearance and corrections of accounting entries (payments transferred under another accounting number, payment certificate split into two payment orders, drawing up of a duplicate of a payment order which has been damaged or lost, etc.) must be supported by accurate and explicit documents, which is only rarely the case. These documents are, however, absolutely necessary in order to ascertain that the procedures to which they have given rise are regular.

21. The Court considers it the job of the Commission to lay down unequivocal rules for validating payments at the time when the transactions are executed or finally cleared in the accounts; this should apply whatever kind of payment is concerned. In order to achieve this objective, all the relevant supporting documents need to be available to the authorizing department and there need to be instructions specifying the conditions for applying Article 22 of the Financial Regulation applicable to the sixth EDF, which stipulates that 'the Commission shall lay down the nature and the contents of the supporting documents to be enclosed with the payment orders'.

Implementation of the general conditions for contracts

22. The Financial Regulation of the fifth EDF, like that of the sixth EDF, stipulates that tenders for works contracts and for technical assistance service contracts must be drawn up in the currency of the recipient ACP State⁽³⁾. These same Regulations allow part of the amounts relating to these contracts to be paid in local currency and allow the balance to be paid in ECU or in a European currency on the basis of the conversion rate fixed in relation to the date set for the opening of tenders. These provisions give rise to the following observations:

- (a) the justification for the proportions payable in local currency and in a European currency is very often missing from the files;
- (b) in certain cases, despite the contractual provisions, all the amounts due to the co-contractor are paid in a European currency (without any part in local currency);
- (c) by stipulating that contracts be drawn up in the national currency and that they include, where necessary, exchange-rate guarantee clauses, the

(3) Financial Regulation of the fifth EDF, Article 47(2); Financial Regulation of the sixth EDF, Article 48(2).

regulations very much complicate the administrative and accounting monitoring of contracts and increase the risks of errors.

23. In accordance with the general provisions of the EDF, the successful tenderer for a contract may receive an advance provided that he lodges a bank guarantee. In many cases, these guarantees are granted by the banks for a limited period. It thus frequently happens that bank guarantees expire before the contractor has fulfilled his contractual obligations or before the advance granted has been wholly charged against the part-payments due to the co-contractor. Such a situation constitutes a risk for the security of EDF funds and the Court has found cases of default by co-contractors who had received advance payments and whose bank guarantees had expired. For this reason, co-contractors should be required to provide bank guarantees securing the advance payment until it is charged in full against the part-payments paid to the co-contractor or until the provisional acceptance.

24. The advances for which a guarantee has been lodged are paid, as specified in the contract, partly in local currency and partly in a European currency on the basis of separate guarantees. In cases where the local currency depreciates rapidly and the contract is based on a fixed rate of conversion for the local currency, the bank guarantee relating to the part of the advance paid in local currency should specify the rate of conversion fixed in the contract in order to act as a security for the initial value of the advance granted on EDF funds during the whole period of validity of the guarantee.

25. With regard to the price-variation clauses, the previous observations⁽⁴⁾ remain relevant and the proportions of the European and ACP parameters used in the price-variation formulae should not diverge from the distribution between the currencies of payment which was laid down by the contract, this being in order to avoid the co-contractor making windfall profits from a devaluation of the local currency. Such a provision is no more than the logical counterpart of fixing a contractual conversion rate between the local currency and the European currency.

26. In certain operations, especially emergency aid, the co-contractor is given the task of acquiring goods and supplies and receives a commission corresponding to the services thus rendered. For the goods and supplies which he purchases, the contractor receives an advance and is supposed to be reimbursed on the basis of supporting documents. In fact, the co-contractor does no more than submit a summary statement of the invoices which he has paid, accompanied, in some cases, not by the invoices but solely by order forms. The Court considers that this procedure does not comply with the contractual clauses and that it is indispensable for the Commission to obtain

from its co-contractor accurate and valid supporting documents for the amounts actually paid. In fact:

- (a) since almost all the supplies are purchased in Europe, the fact that invoices are not submitted makes it impossible to ascertain that VAT exemption on the goods in question has been obtained. According to Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities, no tax is due on these supplies;
- (b) regular commercial practice followed in the Member States very often leads to the purchaser receiving a discount for payments made in cash. Where an advance has been paid to the co-contractor, the Commission must make sure that he has taken the necessary steps to receive the discounts offered to him in order to reduce the sums needing to be claimed back from the EDF.

Cash management

Rate of replenishments and payments

27. During the financial year 1988 there were substantial variations in the EDF cash resources (which are separate from those of the Commission), which was indicative of a mismatch between the rate of calls for contributions and actual cash requirements⁽⁵⁾. Thus, during the first eight months, the low level of payments was reflected in a surplus of cash resources (over 250 Mio ECU between April and August 1988), which peaked at 330 and 466 Mio ECU at the end of May and at the end of July respectively, to cover annual disbursements of 1 015 Mio ECU. By contrast, from September 1988 onwards, because of an accumulation of Stabex payments, the volume of cash resources contracted markedly. One third of the total annual expenditure was disbursed in about 60 Stabex payments, half of which were made at the end of the third quarter of the financial year. More account should be taken of this phenomenon, which also occurred in the financial year 1987, in the rate of call on Member States' contributions.

28. To a lesser extent, management of cash resources is also affected by the failure to respect estimates. On scrutiny, it was found that half the Member States'

⁽⁴⁾ Annual report on the financial year 1987, paragraph 7, OJ C 316, 12.12.1988.

⁽⁵⁾ Article 6(3) of the Internal Agreement on the financing and administration of Community aid of 19 February 1985 explicitly provides for a total or partial reduction of the calls for Member States' contributions, OJ L 86, 31.3.1986.

contributions were paid late, often by as much as 10 to 30 days, which is a considerable delay in terms of cash management. Some of these delays may be as long as two months or more (Belgium: additional contributions and last normal contribution for 1988). In the case of the European Investment Bank, over-optimistic expenditure estimates may lead to inflated forecasts of cash resources. In order to remedy this, the Commission should demand an estimated schedule of expenditure per project and should enquire why the previous estimates could not be complied with.

29. An examination of the accounts of the paying agents in the ACP States often showed levels of cash resources representing several quarters of the year's expenditure, even though, for most of these countries, transfers of funds take only about a week. In order to make the delegations more aware of the need for sound management of funds, consideration should be given to implementing a differentiated system of varying the rate of replenishment in terms of time-limits inherent in the banking operations and the volume of actual disbursements recorded for each paying agent.

30. To conclude, sound management of cash resources should hinge upon reliable estimates making it possible to draw up for the whole financial year profiles of the quarterly payments to be made, and then to adjust the calls for contributions to these profiles, bearing in mind the need for a minimum cash balance to be determined in the light of experience. An approach such as this would require the close collaboration of the authorizing departments, which would be made truly responsible for their estimates of expenditure.

Operating conditions of bank accounts

31. In its annual report on the accounts for the financial year 1987, the Court mentioned disparities in the rates of interest paid on bank deposits. In 1988 the situation remained unchanged and in December the minimum and maximum rates of return on ECU accounts still showed considerable, unwarranted fluctuations. Moreover, certain banks do not present any proof of the calculation of the interest paid (scales). In order to allow these calculations to be checked, the Commission departments must ask for proof to be submitted. Of the 19 bank accounts that have been opened in the EDF's name in Europe, in addition to the 10 special accounts, there are still some on which there is little or no movement. This practice places an unnecessary burden on management and leads to a dispersal of assets which affects the interest received. Against this background, the preferential use of one single bank account for the majority of Stabex payments in 1988 simplified the management and led to an increase in the interest received.

32. For the months of September and October 1988, the EDF made several payments to the EIB with a retroactive value date. Following these payments, one bank account was overdrawn and the EDF had to pay the bank interest amounting to 49 733 ECU. In the EDF's accounting entries, this sum was off-set by interest received elsewhere. This operation prompts two observations:

- (a) there was no reason to make this off-setting between the interest payable to this bank and the interest received from other banks because the accounts are supposed to show all expenditure and revenue (Article 36 of the Financial Regulation applicable to the sixth EDF);
- (b) when the accounting officer gives a bank a retroactive payment order, he should make sure that the funds are available at the value dates ⁽⁶⁾.

33. It is clear from the preceding observations that the Commission should challenge the practice of retroactive operations for the EIB's benefit since the agreements between the two partners require reciprocal information from the very beginning of the operations planned, which means that requests for payment can be made early enough for the time-limit of 21 days specified in Articles 52.3 and 54.4 of the Financial Regulation applicable to the sixth EDF to be respected without recourse to retroactive value-dating, which may well result in accounts being overdrawn.

34. Lastly, the Commission's bank accounting system rarely contains documents giving a definite date for the payment orders sent to banks and for their execution by the latter. This being so, it is seldom possible to establish whether the delays experienced are due to transmission difficulties originating in the accounting department or to the bank's management.

The financial statements at 31 December 1988

35. In order to overcome the conversion difficulties posed by operations not denominated in ECU, the EDF's payments are recorded on the basis of statements of account sent by the banks to the Commission. An examination of the operations of the financial year 1988 shows that there is such a backlog in the transcribing of the bank statements into the EDF accounts that the accounts lose all value as an instrument of management. For example, a bank may in fact be unable to carry out payment orders even though, according to the Com-

⁽⁶⁾ Financial Regulations: Article 30(2) for the sixth EDF and Article 29(2) for the fifth EDF.

mission's books, the account appears to be well in the black. The actual bank assets and the EDF's records may differ by as much as several million ECU.

36. Although at the end of the financial year the value of the bank assets shown on the assets side of the balance sheet is supposed, according to the EDF's accounting practice, to correspond exactly to the amounts actually held by the banks, the backlog in the accounting entries was not made up and at 31 December 1988 payments made but not yet entered in the accounts represented about 51 Mio ECU. This practice:

- (a) disregards Articles 35, 36 and 66.1 of the Financial Regulation applicable to the sixth EDF;
- (b) is contrary to the accounting principles laid down in the notes to the EDF's financial statements (notes 2.2 and 2.3) at 31 December 1988;
- (c) does not give a faithful picture of the situation at 31 December 1988, because it means that the balance sheet presented by the Commission shows neither the actual payments made nor the actual amounts collected during the financial year.

37. Furthermore, according to Annex 1 to the balance sheet as at 31 December 1988, part of the contribution of one Member State (Italy 5,57 Mio ECU) was not collected until 1989 whereas, in reality, the bank account had been credited on 14 December 1988 and the EDF itself had used almost all this payment before the end of the financial year 1988. This indication also affects the picture which the financial statements give of the collection of revenue for the financial year.

38. The assets side of the fifth EDF's balance sheet at 31 December 1988 shows a sum of 28 Mio ECU which is supposed to correspond to expenditure paid out but still awaiting final clearance. Several observations need to be made concerning this entry:

- (a) generally accepted accounting principles require that operations which have nothing to do with real assets should not be shown in the balance sheet as they stand. They should be balanced on the liabilities side by provisions in order to show unequivocally their lack of value in balance sheet terms;
- (b) there are very long delays affecting the clearance of certain operations, for example, 3,6 Mio ECU corresponded to expenditure disbursed prior to 1 January 1988;
- (c) the off-setting which has been carried out under this heading between expenditure and revenue to be cleared adversely affects the clarity of the accounting entries.

39. Finally, the Court considers that the build-up of delays in entering operations in the accounts and in clearing them is such that the validity of the year-end accounts is thereby considerably affected. The operations thus omitted from the EDFs' revenue and expenditure accounts represent about 7,5 % of the amount of annual disbursements. In the interests of sound management, old operations should be cleared without delay and clear accounting instructions should be drawn up so that the accounts can be kept truly up to date and the financial statements provided for in Articles 66 and 67 of the Financial Regulation applicable to the sixth EDF can reflect the true state of the operations carried out.

Final observation

40. Bearing in mind what has been said above, and in particular the shortcomings concerning the control of the execution of payments, the cash management and the reliability of the balance sheet drawn up at 31 December, the Court considers that the Commission should reflect on this matter in order to guarantee the security of management which would result from an actual separation of the functions and duties of the authorizing officer and of the accounting officer. In this respect, it has not been shown that the coexistence of these functions within one Directorate-General is the best way of achieving this objective. If the accounting officer and the authorizing officers of the EDF were put under separate hierarchical responsibilities, the internal control of operations concerning the revenue, expenditure and cash resources of the EDF would be considerably strengthened and the prescriptions of the Financial Regulation could be followed more closely.

OBSERVATIONS ON THE PROGRAMMING OF AID UNDER THE THIRD LOMÉ CONVENTION (SIXTH EDF)

Introduction

41. The task of checking the soundness of the financial management⁽⁷⁾, which is one of the various tasks entrusted to the Court, requires it to check the means used by the administrator in order to achieve on the best conditions as regards economy, efficiency and effectiveness the objectives set by the Community's decision-taking authorities as regards the main strategic aims. As the resources are mobilized by specific procedures, it is up to the Court to ensure that the systems selected and used are such as to achieve the desired results.

⁽⁷⁾ Article 206(a)(2) of the EEC Treaty.

42. The audit approach is the same, whether the operations are financed under the structural Funds (and budgetized) or from the EDF's own resources (and not budgetized). As regards the latter, the first stage of the process of implementation of financial and technical cooperation is that of programming, as defined in the Third Lomé Convention ⁽⁸⁾. The Court therefore decided to concentrate its attention on this aspect in particular. Thus, during its most recent audit visits ⁽⁹⁾ the Court examined the roles played by the ACP States and their Community partner in the task of programming the aid. In doing so, it attempted to evaluate the extent to which the indicative programmes of the sixth EDF made it possible for development measures to be implemented effectively.

The legal framework

43. Articles 215 and 216 of the Third Lomé Convention describe how operations for programming aid allocated to each ACP beneficiary State are to be carried out ⁽¹⁰⁾. Reading between the lines, it is clear that the intention is to consider the Community contribution as complementary to the ACP States' own efforts and to channel programmable aid towards the priority objectives which have been decided on in the relevant national or regional plans. Since the appearance of the notion of an 'indicative programme', in the fourth EDF, the process of programming the aid has gradually been transformed from drawing up a list of often unrelated projects into a forecasting exercise included in a series of codified steps, at the end of which the signing of an indicative programme seals the mutual obligations binding the partners (the Community and the beneficiary State) and backs the whole enterprise up with a timetable for the completion of the project. Generally speaking, the programming stage comes between the date the Convention is signed and the date on which it takes effect.

44. To sum up, the fixing of the financial package granted to each country by the Commission must constitute the first stage in the process (see **Table 2** for the

diagram) of programming. Once each country has been informed of the size of its programmable package, the next stage is the filing, by the Commission delegations, of a report on the major constraints affecting each beneficiary country. This report, backed up with previous experience and available economic studies, must make it possible for the Commission's central departments to draft 'guidance notes' setting out the main themes of priority action to be negotiated with the governments of the ACP States concerned.

45. Once this negotiation is over, a pre-programming document is drafted in liaison with the EIB in order to establish an outline of the partners' mutual obligations. It is then up to the ACP beneficiary State to propose a 'draft indicative programme' setting out the priority development objectives and the 'concentration sectors' for the aid in relation to the national or regional aid programmes. 'Programming visits' to each ACP State by staff of the Commission and the EIB must then lead to a final negotiation of the terms of the indicative programme before it is signed by the contracting parties. The contents of this programme must establish the objectives and priority development themes, the mutual obligations of the partners and the timetable for the execution of the projects. Each indicative programme is usually accompanied by an annex concerning measures envisaged by the EIB and ultimately has to be submitted to the EDF programming committee for observations, which, because of the very nature of the programmes, must mean that the options that have been selected can only be called into question in exceptional cases.

Observations on how the process of programming the sixth EDF is carried out

46. The programming instructions confer decisive importance on the initial stages of the new process laid down for the sixth EDF, that is to say, compiling the report on the main constraints in the beneficiary countries and the guidance notes. These documents must afford a considered view of the socio-economic situation in the country, as reflected through the experience of the delegation, and justify the options selected, particularly regarding the concentration sector, the keystone of the programming of Lomé III. For this reason, the Court of Auditors considers that the Commission, in accordance with the terms of Article 70 of the Financial Regulation of the sixth EDF of 11 November 1986 ⁽¹¹⁾, should have been prepared to disclose these notes and reports, on which all future guidelines and decisions depended, instead of vetoing disclosure.

⁽⁸⁾ Chapter 4 of Title III, Articles 215 *et seq.*, third ACP-EEC Convention, OJ L 86, 31.3.1986.

⁽⁹⁾ The main countries scrutinized include: four Sahel countries: Senegal, Gambia, Mali and Niger; four countries in Equatorial Africa: Zaire, Rwanda, Burundi and Tanzania; four Pacific countries: Papua New Guinea, the Solomon Islands, Fiji and Tonga.

⁽¹⁰⁾ Programmable aid is the term applied to the overall funding allocated to each recipient State, covering special loans and grants apart from those relating to emergency aid and interest-rate subsidies. The sixth EDF's programmable aid amounts to 5 036 Mio ECU.

⁽¹¹⁾ 'The Commission shall provide the Court of Auditors with all the facilities and give it all the information which the Court may consider necessary for the performance of its tasks'.

Table 2 — Programming procedure for the sixth EDF

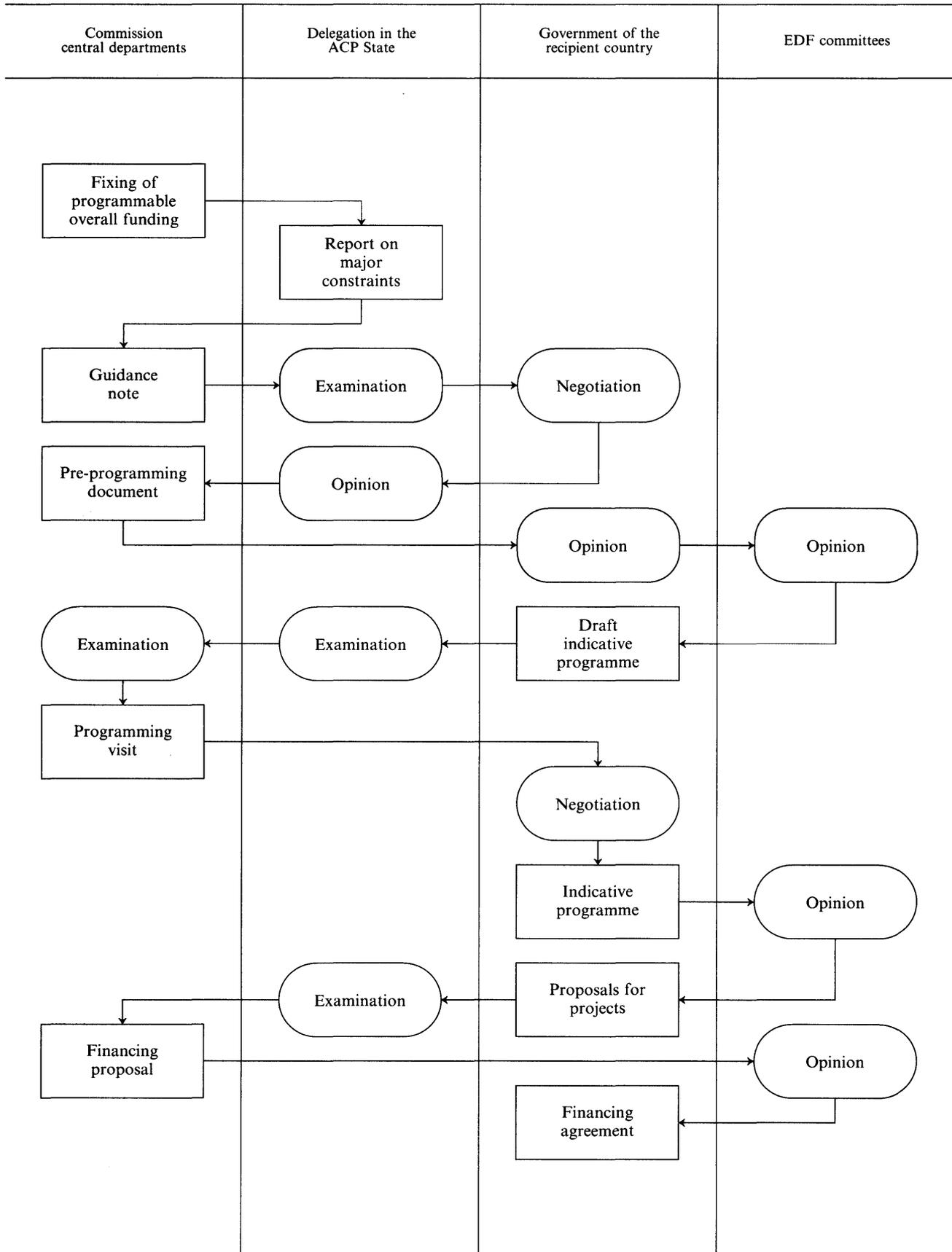


Table 3 — Share of the EDF's and the Member States' aid in total public development aid

		1983/87 Mio USD	EDF/ Public development aid %	Member States/ Public development aid %	EDF + Member States/ Public development aid %
Burundi	EDF	53,38	6,6	37,13	43,76
	MS	298,56			
	PDA	804,20			
Fiji	EDF	22,52	12,93	12,22	25,15
	MS	21,28			
	PDA	174,17			
Gambia	EDF	26,25	7,50	36,79	44,29
	MS	128,82			
	PDA	350,15			
Mali	EDF	118,88	7,20	42,75	49,95
	MS	705,98			
	PDA	1 651,36			
Niger	EDF	102,42	7,91	35,75	43,65
	MS	463,08			
	PDA	1 295,47			
Papua New Guinea	EDF	108,57	7,24	2,63	9,87
	MS	39,36			
	PDA	1 499,33			
Rwanda	EDF	75,84	7,99	37,21	45,21
	MS	353,07			
	PDA	948,77			
Senegal	EDF	181,57	8,28	39,03	47,31
	MS	856,20			
	PDA	2 193,59			
Solomon Islands	EDF	36,15	23,35	21,23	44,58
	MS	32,87			
	PDA	154,81			
Sudan	EDF	267,96	5,88	23,33	29,21
	MS	1 063,48			
	PDA	4 558,75			
Tanzania	EDF	159,35	4,98	37,46	42,44
	MS	1 199,19			
	PDA	3 201,38			
Tonga	EDF	10,01	11,96	8,31	20,27
	MS	6,96			
	PDA	83,71			
Zaire	EDF	149,45	7,40	46,94	54,34
	MS	948,32			
	PDA	2 020,34			
Sub-total	EDF	1 312,35	6,93	32,30	39,23
	MS	6 117,17			
	PDA	18 936,03			
Total-ACP	EDF	3 683,07	7,39	35,19	42,57
	MS	17 546,12			
	PDA	49 865,86			

Identifying the concentration sectors

47. First of all, it should be remembered that, in the case of many countries, Community aid, on an annual basis, represents no more than about 7 % of the total external public aid received, as can be seen from a comparison between the volumes of public aid contributed by the Community, the Member States and all other donors (see **Table 3**, which was drawn up from material supplied by the SOEC/Cronos over the period 1983-1987). Moreover, it should be pointed out that these figures include all Community aid, which means that more often than not the volume of programmable aid accounts for an average percentage of less than 5 %. In the case of small countries, where fewer donors are involved, this percentage may be higher: 12,93 % of annual external aid, for example, in the case of Fiji, or 11,96 % in the case of Tonga.

48. This leads to the observation that consultation with other donors is indispensable because without it concentrating Community aid on a particular sector would involve the risk of not reaching the threshold necessary to achieve a real momentum effect. Although concentrating aid is, in principle, an option worth considering, implementing it usually calls for genuine coordination or the adoption of a joint strategy with other bodies that are involved in development aid.

49. The special interest devoted to a particular concentration sector within the meaning of the Third Lomé Convention is to be seen as a commitment to concentrate aid which is guaranteed for a period of five years only. Allowing for the time taken to appraise and implement the various aid programmes, there is a high risk that the priority given to a particular sector will be amended even before the projects committed have got into top gear. The notion of a 'concentration sector', though it can be seen to be contractual as regards the Commission, does not offer an adequate guarantee that the beneficiary State will have the same priorities. The decision to concentrate aid on one region, such as Kivu in Zaire and Vava'u in Tonga (to quote only two examples), is something that may well be called into question if policies change.

50. The sectoral approach is interesting, but would benefit from preciser definition. In fact, in many cases, the idea of a sector, which appeared to suggest the idea of an economic branch or branch of production, has drifted towards the idea of 'an area of concentration', usually limited to a preference expressed in geographical terms (the choice of a region or the contrast between rural and urban areas).

51. In this connection, in the case of some countries, the choice of concentration sector was dictated by the need to continue existing projects. This was especially the case in Rwanda, where the support programme for the food strategy (SPFS) was basically a continuation of develop-

ment projects which began with the fifth EDF in the prefecture of Butare and on the Zaire-Nile watershed. It also appears to be true of Tanzania, where it turns out that the programming of the sixth EDF was for the most part conceived in order to justify continuing programmes financed under the fifth EDF (the coffee programme, the regional development programme in Iringa and the Tanzanian Railways Corporation programme). Of course, continuing measures or programmes financed under previous EDFs may be fully justified and the Court is not in a position to condemn such options. However, it would look clearer and more logical if the continuation of an already existing operation were justified by setting out a detailed inventory of achievements and new needs.

Negotiation of indicative programmes

52. The general impression which emerges from the pre-programming documents as a whole is that the guidelines proposed do not result in the quantification of any specific objective. Thus, in the case of Niger, the development of irrigated agriculture must be achieved by the creation and renovation of existing developments, which may either be carried out in the valley of the river or on the basis of surface reservoirs or wells and bore-holes; in the case of Rwanda, the Community must concentrate its efforts on attempting to achieve security of food supply, both nationally and regionally, in particular by intensifying agriculture, agricultural research and training agricultural advisers and by setting up an agricultural credit system adapted to the problems of the peasant farmers. Reading the pre-programming documents for other countries (Tanzania, Zaire, Papua New Guinea, Solomon Islands and Fiji in particular) confirms this difficulty in settling on specific objectives.

53. In the absence of any clear statement of the commitments conditioning the success or the failure of development programmes, and especially in the absence of any recourse to indicators of quantitative achievement, it is difficult, if not impossible, to evaluate the future effects of a particular measure, programme or project. It is regrettable that the Commission, as manager of the EDF, has not made use of management indicators for the purpose of identifying the elements that make for success or failure.

54. As a consequence of the preceding, both the measures that are to be undertaken and the commitments entered into by the beneficiary States remain very vague and are not quantified either in physical terms (production objectives to be achieved, for example) or in financial terms. A reading of the indicative programmes of the countries examined by the Court shows that they are all similar in this respect. Certain examples, taken from various indicative programmes, are fairly clear. In the case of Senegal, the agricultural development objective is concerned with the improvement of the living standards of the populations and preventing the encroachment of

the desert; in the case of Tanzania, the agricultural policy objectives consist of reducing food imports, increasing the profitability of exports and improving the marketing system. In the case of Fiji the aim is to give technical and financial assistance so as to help the government in its efforts to stimulate the rural economy. The Niger indicative programme, based on better information in this respect, shows, if there is a need for such a demonstration, that progress is possible and that the definition of the objectives may at the least go as far as identifying the sub-objectives.

55. This being so, *ex post facto* control and evaluating the discrepancy between what has been achieved and what was forecast continues to be extremely difficult, at whatever stage of execution of the programme. Similarly, blaming a particular body for inadequate management is impossible. The deadlines for completion of the projects are equally vague and are often located at a point in the future which is only just identifiable.

56. In the Senegal pre-programming document, it is explained that recent measures regarding irrigated crops in the area of the Senegal River have made it possible to achieve a form of intervention (small irrigated village areas) which is satisfactory⁽¹²⁾, even though the results in terms of production have continued to be mediocre and can only arouse concern regarding the successful execution of comparable operations under the sixth EDF. Thus, the project concerning irrigated village areas in Podor (phase I), where there are 1 030 ha. of usable land capable of two or three crop cycles a year, resulted in only 736 ha. being cultivated in 1986 and 562 ha. in 1987 (total for all crop cycles). In the case of phase II, the total developed area was reduced from 600 ha. to 370 ha., to a large extent because of the lack of motivation on the part of the local population. Similarly, the project concerned with gum-tree plantations⁽¹³⁾ failed over more than 50 % of the surface area. This being so, it seems risky to propose that the struggle against desertification should be extended on the basis of an integrated agricultural, forestry and pastoral system, which is to be applied bearing in mind the results obtained from the 'green poles' test operation carried out in the valley of the river, when the results of this experiment have been disappointing.

57. Another significant example concerns, in the case of Zaire, the Bukavu-Kisangani trunk road. This project has been receiving finance since the days of the third EDF, and was once again entered under the sixth EDF. It goes across a region of very dense virgin forest, which is uninhabited and therefore devoid of any form of economic activity. The volume of traffic that may be expected on this road would appear to be very limited and it is hard to see what economic advantages it is intended to bring.

⁽¹²⁾ Quoted on p. 5 of the Senegal pre-programming document.

⁽¹³⁾ Quoted on p. 12 (*idem*).

58. In the case of Tanzania, the continuation of the Iringa project glosses over the difficulties encountered on this project in the past, in particular the problem of recovering loans made to farmers.

59. One of the ideas on which the programming of the sixth EDF is based is the idea of the division of development effort between the Community and the beneficiary countries. In the indicative programmes, this is represented by the entering into of mutual commitments. But though the Community's commitment may be clearly measured in financial terms, the beneficiaries' commitments often continue to be extremely vague. Thus, in the case of Senegal, the commitments entered into by the State consist of a definition of the hydro-agricultural component, an attempt to awaken the peasant farmers' sense of responsibility or implementation of the various components of the aid package. In other cases, the notion of commitment is replaced by the notion of 'a measure coming under the authority of the State', and, in the case of Mali, the pursuit of a policy of attractive agricultural prices, even though, two years later, this policy had still not seen the light of day. In the case of the Solomon Islands, any idea of commitment has disappeared; at the most, all that was left was the notion of supplying information on measures undertaken by the State in the rural sector.

60. In numerous cases, important commitments, entered into by the countries concerned, are in fact indispensable for the proper execution of the projects. Forgetting these commitments may be a serious matter, not only because it means dishonouring obligations, but also because, most usually, it prevents the proper execution of the operations. Thus, feet-dragging by the beneficiary State is most usually followed by serious consequences as regards the subsequent development of measures which have been undertaken. This is true of problems concerning agricultural prices and marketing structures for all agricultural production operations, or problems arising from the making available of facilities (land, buildings, working capital, etc.) when the aim is to set up technical installations and, more generally, the problems of the execution of numerous vital administrative measures. Commitments mentioned in the indicative programmes are too often considered as non-binding, or may be reduced to mere indications, whereas, in fact, as from this stage they condition the effective use of the aid granted.

61. It is rare for a minimum level of completion to be required before the programmes that have been decided upon are undertaken. Of the 12 countries looked at, it was only in Niger that a case was noted where the Commission suspended payment on a request for finance (the large irrigation programme of 63,5 Mio ECU) as long as assurances as to the proper functioning of the rice cultivating sector had not been given by the national authorities.

62. More generally, the indicative programmes understate the endemic constraints on the beneficiary States. The ACP States' determination to be fully responsible for their own development would require the draft indicative programmes to state the actual resources available to the authorities concerned for the purpose of meeting their commitments. However, the serious weaknesses of the beneficiary States' administrations can be seen as early as the programming stage as an obstacle to the proper implementation of the aid and affects the extent to which the beneficiary States can really be involved in the adoption of reliable strategies or forecasts.

Final considerations

Better definition and quantification of objectives

63. In the case of the objectives to be achieved, the new approach may well make it impossible, in the absence of quantitative indications in the indicative programmes, to measure success or failure in any way, except in equally vague and equally uninformative terms. It is in fact very hard to decide whether objectives have been achieved if they are neither precise nor quantified, nor even quantified in terms of intermediate sub-objectives. Quantification of objectives, as well as the appointment of the institutions responsible for the measures, were, however, part of the recommendations made by the Commission's central departments.

64. Most often, in fact, great difficulties have been observed in defining the sub-objectives and in quantifying them. And yet these intermediate stages are the ones which, if they are properly identified up to the stages which are closest to the operational measures, define and guide any steps to support development and subsequently make it possible to carry out genuine checks on them. In the absence of better defined and better quantified objectives, the concept of sectoral strategy can only continue to be a vague, theoretical one, which is difficult to grasp for national administrations which are often ill equipped for such tasks.

Providing for continuity of operations

65. Continuing the operations carried out under the successive EDFs is a matter of great importance. The decision to concentrate the aid in a single sector, or in a single region, must not be allowed to result in the absence of any financial back-up from another donor or in less attention being paid to the outcome of certain viable projects which have received aid during previous EDFs.

Granting greater priority to the productive sector

66. The key role of productive sectors should also be stressed, because, for many countries, the source of economic wealth, and therefore of development, is to be found in the productive economy. If a policy of concentration on the rural sector is to lead to significant results in terms of production, care must be taken to ensure that the subsidies paid out are not mainly absorbed by the numerous bodies responsible for the administrative supervision of productive activities or distribution, the running costs of which are rarely kept under control.

67. Giving such priority to the productive sectors requires the rules of the economic game to be applied in fact, and not simply stated. There can be no significant progress in agricultural production so long as producer prices are artificially low as a result of clandestine imports, often due to a lack of coordination in the regulations concerning agricultural markets in neighbouring countries and concerning the greater part of the various foodstuffs consumed in the country. This is also the case when the prices of certain products of local origin, which are kept deliberately very low for budgetary reasons, result in farmers losing interest in producing these particular products. It is thus necessary to counter the attitude of the authorities, who, either for reasons of indecisiveness or because they have adopted contradictory guidelines, effectively stymie the normal functioning of the rules of the market and consequently make it impossible to achieve the economic options set out in the programming documents.

Need to cover recurrent costs

68. The problem of recurrent costs, that is to say the problem of financing the operation of the investments (a problem which decides the future success of any development operation), is rarely tackled. Even when recurrent costs are mentioned, they are not quantified and possible sources of financing to cover them are not specified, in spite of the almost universal precariousness of the beneficiary States' budgets. The problem of managing and setting up the operations is ignored. Concern for the management aspect of the operations is too often absent and an analysis of many past experiences shows that the consequences are serious. The cost of the failure of previous projects, due to inadequate maintenance, poor management and negligence of every kind, results, for these countries, in the syphoning off, in the guise of 'rehabilitation measures', of sums which are often sizeable and which, under the right conditions, could have been devoted to new measures.

69. The Court strongly recommends that, when defining measures, locally available economic factors should be used wherever possible. Apart from the possible resulting leverage effect on the local economy, an approach of this kind can only reduce the volume of recurrent costs which have to be financed in strong currencies (purchase of spare parts or heavy maintenance equipment imported from abroad).

Benefiting from past experience

70. There is still no notion of accumulated experience in the development field. Regardless of evaluations of individual past development projects or measures, the lessons learned from this or that type of operation, or in this or that field of activity, should be more clearly brought to the fore, if only in order to emphasize the absolute need for certain commitments, whenever it is clear that failures are due to shortcomings or omissions on the part of the administrations concerned.

71. For each country, an inventory and an analysis of previous experiences should be an integral part of the pre-programming document, and this should be so on a measure-for-measure basis, rather than in the form of incidental remarks, as is too often the case at the moment. In order to ensure that a type of project which has ended in unequivocal failure in one country is not tried out again in another, these country-by-country inventories and analyses should result in regional or global syntheses of development experience acquired during previous EDFs.

72. The imbalance between the objectives proclaimed throughout the programming process and the results obtained so far, which, all things considered, are modest, is evidence of the difficulty that most ACP countries experience when they try to adopt a genuine development strategy. In the absence of genuinely quantified programming in which deadlines are established at national level, the Commission ought to make an even greater effort to optimize the effects of Community aid by ensuring, along with the release of EDP appropriations, that the ACP States stand by their commitments as set out in the indicative programmes and financing agreements.

*ANNEX I***Reports and opinions adopted by the Court of Auditors during the last five years**

The Court of Auditors is required by the terms of the Treaties to produce an annual report. It is also required, by the Treaties and other regulations, to produce annual reports on certain Community bodies and activities. The Treaties further give the

Court the power to submit observations on specific questions and to deliver opinions at the request of one of the institutions. The reports and opinions adopted by the Court during the last five years are listed below.

Title	Date of adoption	Publication (1)
Seventh annual report concerning the financial year 1983	22 November 1984	OJ C 348, 31. 12. 1984
Report (Annex to the 1983 ECSC annual report) on the accounting and financial management of the ECSC	13 December 1984	Not published in OJ
Special report No 5/84 on the system of aid for liquid skimmed milk used as animal feed	13 December 1984	OJ C 91, 12. 4. 1985
Special report No 1/85 on the common organization of the market in olive oil	25 April 1985	OJ C 134, 3. 6. 1985
Opinion No 1/85 on a proposal for a Council Regulation (EEC) on the application of the agreement in the form of an exchange of letters between the EEC and the Portuguese Republic concerning the implementation of specific financial aid for improving agricultural and fisheries structures in Portugal	2 May 1985	OJ C 138, 6. 6. 1985
Opinion No 2/85 on a proposal for a Council Regulation (EEC, Euratom, ECSC) extending the terms of validity of Council Regulation (EEC, Euratom, ECSC) No 2892/77 implementing in respect of own resources accruing from value-added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources	26 June 1985	OJ C 261, 12. 10. 1985
Report on the financial statements of the European Coal and Steel Community as at 31 December 1984	26 June 1985	OJ C 360, 31. 12. 1985
Special report No 2/85 on the system for the payment of refunds on agricultural exports (Audit of the export of agricultural products)	26 June 1985	OJ C 215, 26. 8. 1985
Special report No 3/85 on certain aspects of technical cooperation financed by Community development aid	12 July 1985	Not published in OJ

(1) Requests concerning the availability of documents not published in the OJ may be sent to the Court's Documentation Department.

Title	Date of adoption	Publication (1)
Report on the accounts of the European Schools for the financial year 1983	17 July 1985	Not published in OJ
Report on the 1984 accounts of the Euratom Supply Agency	17 July 1985	Not published in OJ
Report on the 1984 JET financial statements	17 July 1985	Not published in OJ
Opinion on the treatment of irregularities in the context of the discharge procedure	10 October 1985	Not published in OJ
Opinion on the cash deficit at the Members' Cash Office	10 October 1985	Not published in OJ
Report on the 1984 accounts of the European Centre for the Development of Vocational Training (Berlin)	17 October 1985	Not published in OJ
Report on the 1984 accounts of the European Foundation for the Improvement of Living and Working Conditions (Dublin)	17 October 1985	Not published in OJ
Reflections on perspectives for the common agricultural policy (Commission Green Paper)	30 October 1985	Not published in OJ
Report (Annex to the 1984 ECSC annual report) on the accounting and financial management of the ECSC	19 November 1985	Not published in OJ
Eighth annual report concerning the financial year 1984	19 November 1985	OJ C 326, 16. 12. 1985
Special report No 4/85 on the common organization of the market in fishery products	28 November 1985	OJ C 339, 31. 12. 1985
Special report No 5/85 on the Community contribution towards schemes concerning developing countries carried out by non-governmental organizations	12 December 1985	Not published in OJ
Opinion No 3/85 on the draft amendments to certain articles of the draft Commission Regulation laying down detailed rules for the implementation of certain provisions of the Financial Regulation of 21 December 1977 (not translated into English)	12 December 1985	Not published in OJ
Opinion No 4/85 on the proposal for a Council Regulation (EEC) amending Regulation (EEC) No 2681/74 on Community financing of expenditure incurred in respect of the supply of agricultural products as food aid	12 December 1985	OJ C 357, 31. 12. 1985
Opinion No 5/85 on the draft Financial Regulation applicable to the Sixth European Development Fund	12 December 1985	OJ C 361, 31. 12. 1985
Special report No 1/86 on the contract measures for the expansion of markets for milk and milk products financed by proceeds of the co-responsibility levy	20 February 1986	OJ C 127, 26. 5. 1986
Opinion 1/86 on the proposal for a Council Regulation amending Regulation (EEC) No 1883/78 on the general rules for the financing of interventions by the European Agricultural Guidance and Guarantee Fund, Guarantee Section	6 March 1986	OJ C 80, 9. 4. 1986

(1) Requests concerning the availability of documents not published in the OJ may be sent to the Court's Documentation Department.

Title	Date of adoption	Publication (1)
Report on the 1985 accounts of the Euratom Supply Agency	29 May 1986	Not published in OJ
Report on the financial statements of the European Coal and Steel Community	17 June 1986	OJ C 208, 19. 8. 1986
Special report No 2/86 on the ERDF's specific Community regional development measures (non-quota measures)	10 July 1986	OJ C 262, 20. 10. 1986
Special report No 3/86 on the subsidy system for oilseeds	10 July 1986	Not published in OJ
Report on the accounts of the European Schools for the financial year 1984	25 September 1986	Not published in OJ
Report on the 1985 accounts of the European Centre for the Development of Vocational Training (Berlin)	23 October 1986	Not published in OJ
Report on the 1985 accounts of the European Foundation for the Improvement of Living and Working Conditions (Dublin)	11 November 1986	Not published in OJ
Opinion No 2/86 on a draft Financial Regulation on the application of the Financial Protocols concluded with Algeria, Morocco, Tunisia, Egypt, Lebanon, Jordan, Syria, Malta and Cyprus	11 November 1986	OJ C 302, 27. 11. 1986
Report on the 1985 JET financial statements	19 November 1986	Not published in OJ
Report (Annex to the 1985 ECSC annual report) on the accounting and financial management of the ECSC	19 November 1986	Not published in OJ
Ninth annual report concerning the financial year 1985	19 November 1986	OJ C 321, 15. 12. 1986
Special report No 4/86 on financial and technical cooperation with India	4 December 1986	OJ C 75, 23. 3. 1987
Opinion No 1/87 on the Council's proposal for a Regulation amending Regulation (EEC) No 1883/78 laying down general rules for the financing of interventions by the European Agricultural Guidance and Guarantee Fund, Guarantee Section	18 February 1987	OJ C 59, 7. 3. 1987
Opinion No 2/87 on the Commission proposal for a Council Regulation (EEC) on the monitoring of the payment of the amounts granted on export of agricultural products	14 May 1987	OJ C 147, 5. 6. 1987
Evaluation by the Court of Auditors of the report by Deloitte, Haskins & Sells on the ECSC reserves	14 May 1987	Not published in OJ
Special report No 1/87 on the quality of food aid. The extent to which food aid products comply with the applicable rules as regards quality, quantity, packaging, time and place	27 May 1987	OJ C 219, 17. 8. 1987

(1) Requests concerning the availability of documents not published in the OJ may be sent to the Court's Documentation Department.

Title	Date of adoption	Publication (1)
Opinion No 3/87 on a proposal for a Council Regulation amending Regulation (EEC) No 729/70 on the financing of the common agricultural policy with regard to the system of advances in the Guarantee Section of the European Agricultural Guidance and Guarantee Fund	10 June 1987	OJ C 175, 3. 7. 1987
Report on the financial statements of the European Coal and Steel Community at 31 December 1986	25 June 1987	OJ C 228, 26. 8. 1987
Report on the 1986 accounts of the Euratom Supply Agency	25 June 1987	Not published in OJ
Special report No 2/87 on the quota/additional levy system in the milk sector	15 July 1987	OJ C 266, 5. 10. 1987
Special report No 3/87 on the common organization of the market in raw tobacco	15 July 1987	OJ C 297, 6. 11. 1987
Special report No 4/87 on Community wine distillation measures	17 September 1987	OJ C 297, 6. 11. 1987
Special report No 5/87 on Community aid for the acceleration of agricultural development in Greece	7 October 1987	Not published in OJ
Special report No 6/87 on food aid supplied to India between 1978 and 1985 (Flood II operation)	29 October 1987	OJ C 31, 4. 2. 1988
Opinion No 4/87 on a proposal for a Council Regulation (Euratom, ECSC, EEC) derogating temporarily from Regulation (EEC) No 2891/77 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources	29 October 1987	OJ C 337, 16. 12. 1987
Opinion No 5/87 on a proposal for a Council Regulation (Euratom, ECSC, EEC) amending the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities	29 October 1987	OJ C 337, 16. 12. 1987
Report on the 1986 accounts of the European Centre for the Development of Vocational Training (Berlin)	4/5 November 1987	Not published in OJ
Report on the 1986 accounts of the European Foundation for the Improvement of Living and Working Conditions (Dublin)	4/5 November 1987	Not published in OJ
Report on the accounts of the European Schools for the financial years 1985 and 1986	4/5 November 1987	Not published in OJ
Report (Annex to the 1986 ECSC annual report) on the accounting and financial management of the ECSC	10/11 November 1987	Not published in OJ
Tenth annual report concerning the financial year 1986	10/11 November 1987	OJ C 336, 15. 12. 1987

(1) Requests concerning the availability of documents not published in the OJ may be sent to the Court's Documentation Department.

Title	Date of adoption	Publication (1)
Opinion No 6/87 on a proposal for a Council Regulation (Euratom, ECSC, EEC) provisionally amending the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities	19 November 1987	OJ C 337, 16. 12. 1987
Opinion No 7/87 on a second amendment of the proposal for a Council Regulation (Euratom, ECSC, EEC) amending the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities	26 November 1987	OJ C 339, 17. 12. 1987
Opinion No 8/87 on a third amendment of the proposal for a Council Regulation (Euratom, ECSC, EEC) amending the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities	27 November 1987	OJ C 339, 17. 12. 1987
Special report No 7/87 on the management of counterpart funds in respect of food aid	27 November 1987	OJ C 31, 4. 2. 1988
Report on the 1986 JET financial statements	10 March 1988	Not published in OJ
Special report No 1/88 on national and Community systems and procedures relating to the management of the European Social Fund	10 March 1988	OJ C 126, 16. 5. 1988
Special report No 2/88 on the integrated approach to Community financing of structural measures	18 May 1988	OJ C 188, 18. 7. 1988
Special report No 3/88 on the common organization of the market in fishery products in Spain and Portugal	18 May 1988	OJ C 188, 18. 7. 1988
Special report No 4/88 on regional cooperation financed under the Lomé Conventions	18 May 1988	OJ C 188, 18. 7. 1988
Opinion No 1/88 on a proposal for a Council Regulation (ECSC, EEC, Euratom) amending the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities	19 May 1988	OJ C 166, 25. 6. 1988
Opinion No 2/88 on a proposal for a Council Regulation amending Council Regulation (EEC) No 1883/78 laying down general rules for the financing of interventions by the European Agricultural Guidance and Guarantee Fund, Guarantee Section	19 May 1988	OJ C 166, 25. 6. 1988
Opinion No 3/88 on a proposal for a Council Regulation amending Regulation (EEC) No 729/70 on the financing of the common agricultural policy, as last amended by Regulation (EEC) No 3183/87 of 19 October 1987 introducing special rules for the financing of the common agricultural policy	1 June 1988	OJ C 166, 25. 6. 1988
Opinion No 4/88 on a proposal to amend the Financial Regulation applicable to the budget of the Joint European Torus (JET), Joint Undertaking	1 June 1988	Not published in OJ

(1) Requests concerning the availability of documents not published in the OJ may be sent to the Court's Documentation Department.

Title	Date of adoption	Publication (1)
Report on the 1987 accounts of the Euratom Supply Agency	15 June 1988	Not published in OJ
Replies delivered by the Court of Auditors, pursuant to Articles 206(a) § 4 and 209 of the EEC Treaty, to the Council's requests for an opinion on a proposal for a decision concerning budgetary discipline	16 June 1988 and 22 June 1988	Not published in OJ
Opinion No 5/88 on a proposal for a Council Regulation (ECSC, EEC, Euratom) on the definitive uniform arrangements for the collection of own resources accruing from value-added tax (VAT)	16 June 1988	OJ C 191, 20. 7. 1988
Report on the financial statements of the European Coal and Steel Community at 31 December 1987	22 June 1988	OJ C 217, 19. 8. 1988
Opinion No 6/88 on a proposal for the amendment of Article 12 of Regulation (EEC) No 2891/77 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources	14 July 1988	OJ C 212, 12. 8. 1988
Special report No 5/88 on management and control of public storage	8 September 1988	OJ C 274, 24. 10. 1988
Opinion No 7/88 on a draft Financial Regulation of the European Schools	22 September 1988	Not published in OJ
Report on the 1987 accounts of the European Centre for the Development of Vocational Training (Berlin)	9 November 1988	Not published in OJ
Report on the 1987 accounts of the European Foundation for the Improvement of Living and Working Conditions (Dublin)	9 November 1988	Not published in OJ
Report (Annex to the 1987 ECSC annual report) on the accounting and financial management of the ECSC	9 November 1988	Not published in OJ
Opinion No 8/88 on a proposal for a Council Regulation (ECSC, EEC, Euratom) implementing the Decision of 24 June 1988 on the system of the Communities' own resources	17 November 1988	OJ C 313 8. 12. 1988
Report on the 1987 JET financial statements	17 November 1988	Not published in OJ
Eleventh annual report concerning the financial year 1987	17 November 1988	OJ C 316, 12.12.1988
Report on the accounts of the European Schools for the financial year 1987	15 December 1988	Not published in OJ
Study on the role of Financial Controller of the Commission	9 February 1989	Not published in OJ
Opinion No 1/89 on a proposal for a general revision of the Council Regulation (ECSC, EEC, Euratom) amending the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities	9 February 1989	OJ C 72, 20.3.1989

(1) Requests concerning the availability of documents not published in the OJ may be sent to the Court's Documentation Department.

Title	Date of adoption	Publication (1)
Special report No 1/89 on the agrimonetary system	30 March 1989	OJ C 128, 24.5.1989
Special report No 2/89 on the organization of the markets in fresh and processed fruit and vegetables	30 March 1989	OJ C 128, 24.5.1989
Report on the 1988 accounts of the Euratom Supply Agency	25 May 1989	Not published in OJ
Report on the financial statements of the European Coal and Steel Community at 31 December 1988	20-21 June 1989	OJ C 226, 2.9.1989
Study on the financing of social measures in the steel sector	20-21 June 1989	Not published in OJ
Report on the 1988 accounts of the European Centre for the Development of Vocational Training (Berlin)	9 November 1989	Not published in OJ
Report on the 1988 accounts of the European Foundation for the Improvement of Living and Working Conditions (Dublin)	9 November 1989	Not published in OJ
Report (Annex to the 1988 ECSC annual report) on the accounting and financial management of the ECSC	9 November 1989	Not published in OJ
Report on the accounts of the European Schools for the financial year 1988	9 November 1989	Not published in OJ
Report on the 1988 JET financial statements	9 November 1989	Not published in OJ
Twelfth annual report concerning the financial year 1988	9 November 1989	In this edition

(1) Requests concerning the availability of documents not published in the OJ may be sent to the Court's Documentation Department.

ANNEX II

**Financial information relating
to the general budget of the European Communities
and
to the European Development Funds
(1988)**

Preliminary remarks

1. Source of financial data

The financial data in this Annex have been drawn from the revenue and expenditure accounts and the balance sheets of assets and liabilities of the European Communities ⁽¹⁾ and of the European Development Funds and from other financial records provided by the Commission.

2. Monetary unit

All the financial data are presented in millions of ECU (Mio ECU), rounded to one decimal place.

3. Nomenclature

For each financial year the Court uses the budgetary nomenclature corresponding to that financial year for the presentation of the historic data. It should be pointed out that there has been a significant change in the nomenclature for the financial year 1988 compared with previous financial years: costs incurred in the collection of own resources are no longer shown as expenditure but as negative revenue. This should be taken into account when comparing the various financial years.

⁽¹⁾ For the financial year 1988: revenue and expenditure account and balance sheet of assets and liabilities relating to operations under the 1988 budget (Doc. COM(89) 229-233).

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
BFR	Belgian franc
DKR	Danish crown
DM	German mark
DR	Greek drachma
ESC	Portuguese escudo
FF	French franc
HFL	Dutch guilder
IRL	Irish pound
LFR	Luxembourg franc
LIT	Italian lira
PTA	Spanish peseta
UKL	Pound sterling
u.a.	Unit of account (until 1977)
EUA	European unit of account (from 1978 to 1980)
ECU	European currency unit (as from 1 January 1981)
Mio ECU	Millions of European currency units
DA	Differentiated appropriations
NDA	Non-differentiated appropriations
CA	Commitment appropriations
PA	Payment appropriations
AFC	Appropriations for commitment
AFP	Appropriations for payment
B	Belgium
DK	Denmark
D	Federal Republic of Germany
GR	Greece
E	Spain
F	France
IRL	Ireland
I	Italy
L	Luxembourg
NL	Netherlands
P	Portugal
UK	United Kingdom
EUR 10/12	Total of the 10 or 12 Member States of the European Communities
EDF	European Development Fund
ACP	African, Caribbean and Pacific States
OCT	Overseas countries and territories
FOD	French overseas departments
Stabex	Stabilization of export earnings
Sysmin	System of stabilization of export earnings from mining products
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
§	Sections referring within this annex to texts, diagrams and tables

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Part I: General budget of the European Communities

§ 1. Background information on the general budget

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 administrative budget, the EEC budget and the Euratom operating budget. The Euratom research and investment budget was incorporated in the general budget as from 1971 by the Treaty of Luxembourg ⁽²⁾ (Article 10).

1.2. Legal basis

The general budget is governed by the financial provisions of the Treaties of Paris ⁽³⁾ (Article 78 ECSC) and Rome ⁽⁴⁾ ⁽⁵⁾ (Articles 199 to 209 EEC and Articles 171 to 183 Euratom). The Financial Regulation ⁽⁶⁾ governs the procedure for establishing and implementing the budget and for presenting and auditing the accounts. It 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 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-assignment). All items of Community revenue and expenditure 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 (universality). There are some exceptions to these general principles.

1.4. Content and structure of the general budget

The general budget comprises the estimates of the ECSC's administrative expenditure and corresponding revenue, the EEC's revenue and expenditure and Euratom's revenue and expenditure.

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 budget headings (titles, chapters, articles and items) according to their type or the use to which they are to be applied.

1.5. Monetary unit of the general budget

The budget is established and implemented in **European currency units (ECU)**. The ECU is a unit based on a basket of national currencies. For 1984-1988 1 ECU = 0,719 DM + 0,0878 UKL + 1,31 FF + 140,0 LIT + 0,256 HFL + 3,71 BFR + 0,14 LFR + 0,219 DKR + 0,00871 IRL + 1,15 DR.

The rates of conversion at 31 December 1988 between the ECU and the national currencies were as follows: 1 ECU = 43,5760 BFR = 8,02983 DKR = 2,07781 DM = 172,909 DR = 171,704 ESC = 7,09821 FF = 2,34586 HFL = 0,778450 IRL = 43,5760 LFR = 1531,10 LIT = 132,877 PTA = 0,648551 UKL.

1.6. Financing of the general budget (budgetary revenue)

The general budget is mainly financed by the **own resources of the Communities**: customs duties, agricultural levies, sugar and isoglucose levies and VAT-GNP own resources; for more detailed information see the legislation in force ⁽⁷⁾.

Besides own resources, there are also other smaller sources of revenue (see § 5).

⁽¹⁾ Merger Treaty (8 April 1965): Treaty establishing a Single Council and Single Commission of the European Communities.

⁽²⁾ Treaty of Luxembourg (22 April 1970): Treaty amending certain budgetary provisions of the Treaties establishing the European Communities and of the Merger Treaty.

⁽³⁾ Treaty of Paris (18 April 1951): Treaty establishing the European Coal and Steel Community (ECSC).

⁽⁴⁾ Treaty of Rome (25 March 1957): Treaty establishing the European Economic Community (EEC).

⁽⁵⁾ Treaty of Rome (25 March 1957): Treaty establishing the European Atomic Energy Community (Euratom).

⁽⁶⁾ Financial Regulation of 21 December 1977 (OJ L 356, 31.12.1977).

⁽⁷⁾ Principal legal acts relating to own resources:

— Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (OJ L 94, 28.4.1970).

— Sixth Council Directive of 17 May 1977, common system of VAT: uniform assessment basis (OJ L 145, 13.6.1977).

— Council Regulation (EEC, Euratom, ECSC) No 2891/77 of 19 December 1977 (OJ L 336, 27.12.1977).

— Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 (OJ L 336, 27.12.1977), amended by Council Regulation (ECSC, EEC, Euratom) No 3625/83 of 19 December 1983 (OJ L 360, 23.12.1983) and lastly by Council Regulation (ECSC, EEC, Euratom) No 3735/85 of 20 December 1985 (OJ L 356, 31.12.1985).

— Council Decision 85/257/EEC, Euratom of 7 May 1985 (OJ L 128, 14.5.1985).

— Council Decision 88/376/EEC, Euratom, of 24 June 1988 (OJ L 185, 15.7.1988).

1.7. Types of budget appropriations

To cover estimated expenditure, the following types of budget appropriations are distinguished in the general budget:

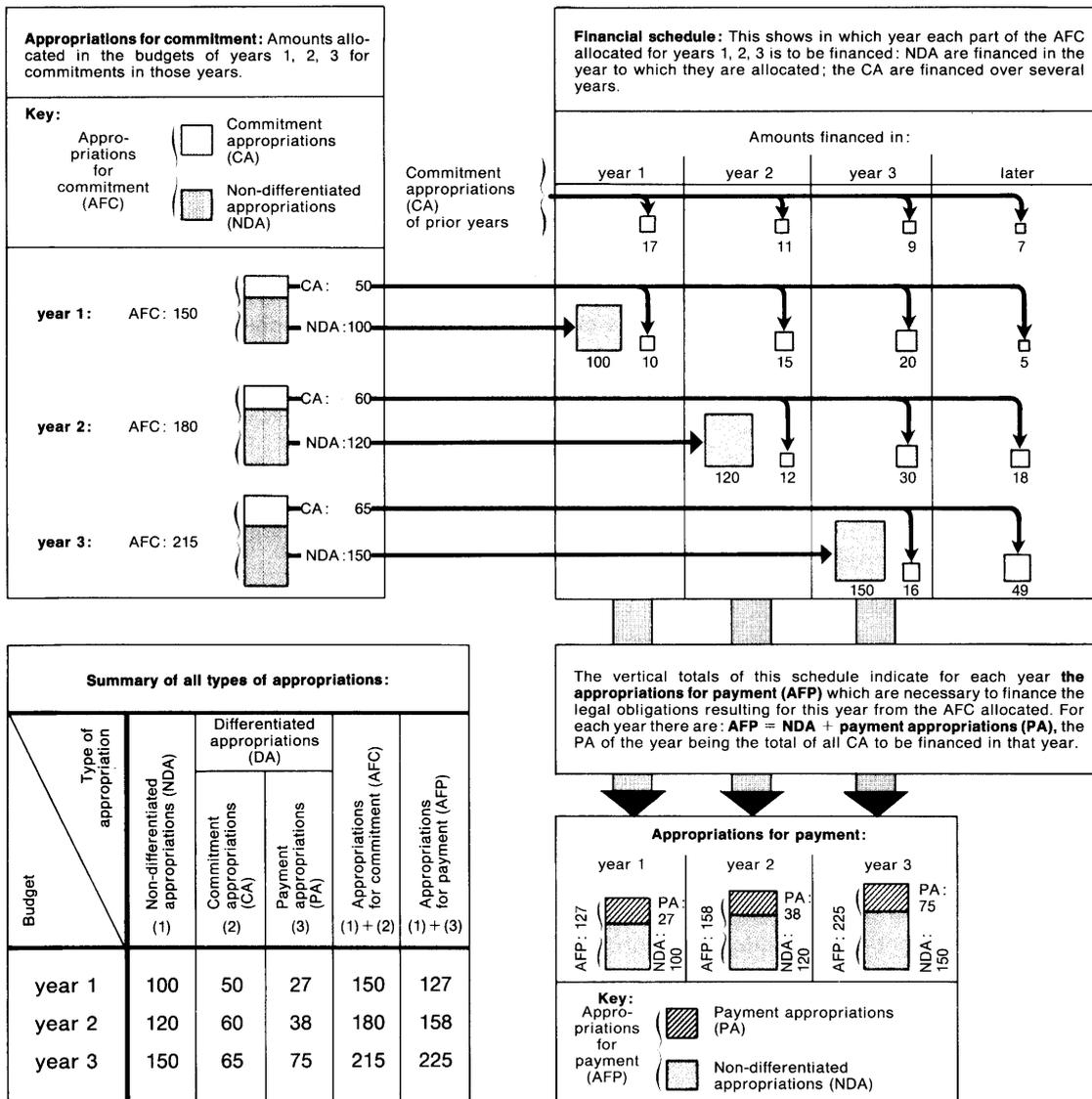
- a) **Differentiated appropriations (DA)** are used to finance multiannual activities in certain sectors. They comprise commitment appropriations and payment appropriations:
 - **commitment appropriations (CA)** cover, for the current financial year, the legal obligations entered into for activities whose implementation extends over several financial years;
 - **payment appropriations (PA)** cover expenditure arising from commitments entered into in the financial year and/or preceding financial years.
- b) **Non-differentiated appropriations (NDA)** cover, for annual activities, both commitments and payments for the same financial year.

Thus it is possible to establish the following two totals for the same financial year:

- the total of **appropriations for commitment (AFC)** ⁽¹⁾ = non-differentiated appropriations (NDA) + commitment appropriations (CA) ⁽¹⁾;
- the total of **appropriations for payment (AFP)** ⁽¹⁾ = non-differentiated appropriations (NDA) + payment appropriations (PA) ⁽¹⁾.

Revenue raised in the budget is to cover the total 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*.

1.8. Establishment of the general budget

Before 1 July of each year each institution draws up estimates of its expenditure for the following financial year (running from 1 January to 31 December). The Commission enters these estimates in a preliminary draft budget, and, not later than 1 September, 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 compulsory expenditure ⁽¹⁾ and make amendments for non-compulsory expenditure; these modifications and amendments are submitted to the Council. For compulsory expenditure the Council takes the final decision. For non-compulsory expenditure Parliament may, within the limits of a statistical maximum rate of increase, make amendments before taking the final decision. 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 ⁽²⁾.

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 ⁽³⁾.

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 ⁽⁴⁾.

The budgetary allocation to a specific budget heading can be modified by transfers ⁽⁵⁾ from other budget headings.

1.9. Implementation of the general 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; it also confers upon the other institutions the requisite powers for the implementation of the sections of the budget relating to them ⁽⁶⁾. The Financial Regulation lays down the implementation procedures and, in particular, the responsibilities of the authorizing officers, accounting officers, administrators of advance funds and financial controllers of the institutions ⁽⁷⁾.

1.9.2. Implementation of revenue

The **estimated revenue** is entered in the budget subject to change by amending and supplementary budgets ⁽⁴⁾.

The budgetary implementation of revenue consists in establishing the entitlements and recovering the revenue due to the Communities (own resources and other revenue); it is governed by special provisions ⁽⁸⁾.

The **actual revenue of a financial year** is defined as the sum of recoveries upon entitlements established during the current financial year and recoveries upon entitlements still to be recovered from previous financial years.

1.9.3. Implementation of expenditure

The **estimated expenditure** is entered in the budget. According to the nature of the legal obligation involved, it is covered by appropriations for commitment or appropriations for payment. The budgetary implementation of expenditure, i.e. the evolution and utilization of appropriations, may be summarized as follows:

a) Appropriations for commitment

- Evolution of appropriations: The appropriations for commitment allocated in the initial budget can undergo certain modifications until the final appropriations for commitment are obtained: final appropriations for commitment = initial budget (NDA and CA) ± amending and supplementary budgets ⁽⁴⁾ + supplementary receipts ⁽⁹⁾ ± transfers ⁽⁵⁾ + commitment appropriations remaining from the preceding financial year ⁽¹⁰⁾ + non-automatic carry-overs ⁽¹¹⁾ from the preceding financial year (uncommitted NDA) + released commitment appropriations from preceding financial years (CA).
- Utilization of appropriations: The final appropriations for commitment are available in the financial year for use in the form of commitments entered into (appropriations for commitment utilized = amount of commitments entered into).
- Appropriations remaining available for the next financial year: Non-differentiated appropriations which have not been committed may be carried over non-automatically to the next financial year after approval by the Council ⁽¹¹⁾. Non-utilized commitment appropriations remain available for the next financial year ⁽¹⁰⁾.
- Cancellation of appropriations: The balance is cancelled.

b) Appropriations for payment of the financial year

- Evolution of appropriations: Appropriations for payment may also undergo modifications leading to the final appropriations for payment: final appropriations for payment = initial budget (NDA and PA) ± amending and supplementary budgets ⁽⁴⁾ + supplementary receipts ⁽⁹⁾ ± transfers ⁽⁵⁾.
- Utilization of appropriations: The final appropriations for payment are available in the financial year for use as payments (utilized appropriations for payment of the financial year = amount of payments made from the appropriations of the financial year).

- Carry-overs of appropriations to the next financial year: Appropriations not paid may be carried over to the next financial year in the form of automatic ⁽¹²⁾ or non-automatic ⁽¹¹⁾ carry-overs.
 - Cancellation of appropriations: The balance is 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. Carry-overs which remain unused during the year are cancelled, except in certain cases where carry-overs can be repeated ⁽¹³⁾. Amounts cancelled in this way are added to the result of the financial year in the consolidated revenue and expenditure account (see 1.9.4.).

With regard to actual expenditure, a distinction is made between:

- **actual expenditure during a financial year** = total payments during the financial year = payments against appropriations for payment of the financial year plus payments against appropriations for payment carried over from the preceding financial year.
- **actual expenditure charged to a financial year** = expenditure charged to the consolidated revenue and expenditure account (see 1.9.4.) = payments against appropriations for payment of the financial year plus appropriations for payment of the financial year carried over to the following financial year.

1.9.4. The consolidated revenue and expenditure account and the balance of the financial year

After the closure of each financial year the consolidated revenue and expenditure account is drawn up. **The balance of the year**, which is to be entered in the budget of the next financial year on the occasion of an amending budget, is determined therein ⁽¹⁴⁾ (see § 10).

1.10. Presenting the accounts

Not later than 1 June of the year following the closure of the financial year, the Commission forwards to Parliament, the Council and the Court of Auditors the accounts of that year: the accounts comprise a revenue and expenditure account and a balance sheet, together with an analysis of the financial management ⁽¹⁵⁾.

1.11. External audit

As from 1977 the external audit of the general budget has been carried out by the **Court of Auditors of the European Communities** ⁽¹⁶⁾. The Court of Auditors examines the accounts of all revenue and expenditure of the general budget, 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 closure of the financial year in question. The audits are performed on the basis of records and, where necessary, on the spot in the institutions of the Communities and in the Member States. The Court of Auditors draws up an annual report for each financial year and may also, at any time, submit observations on specific questions and deliver opinions at the request of one of the institutions of the Communities.

1.12. Discharge and follow-up

As from 1977 the following provisions are applicable ⁽¹⁷⁾: 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 report on the measures taken ⁽¹⁸⁾.

⁽¹⁾ Compulsory expenditure is that resulting necessarily from the Treaties or from acts adopted in accordance with them.

⁽²⁾ For details concerning the budgetary procedure see Articles 78 ECSC, 203 EEC and 177 Euratom.

⁽³⁾ Article 8 of the Financial Regulation.

⁽⁴⁾ Article 1 (5) of the Financial Regulation.

⁽⁵⁾ Article 21 of the Financial Regulation.

⁽⁶⁾ Articles 78d ECSC, 205 EEC, 179 Euratom and Article 18 (2) of the Financial Regulation.

⁽⁷⁾ Articles 17 to 49 and 68 to 72 of the Financial Regulation.

⁽⁸⁾ Articles 23 to 31 of the Financial Regulation; Council Regulations (EEC, Euratom, ECSC) Nos 2891/77 and 2892/77 of 19 December 1977 (OJ L 336, 27.12.1977).

⁽⁹⁾ Article 87 of the Financial Regulation and Article 91 (2) of the modified Financial Regulation.

⁽¹⁰⁾ Articles 6 (2) (a) and 88 (3) of the Financial Regulation.

⁽¹¹⁾ Article 6 (1) (b) of the Financial Regulation.

⁽¹²⁾ Articles 6 (1) (c), 6 (2) (b) and 88 (4) of the Financial Regulation.

⁽¹³⁾ Articles 6 (4) and 108 (3) (a, b) of the Financial Regulation.

⁽¹⁴⁾ Article 27 of the Financial Regulation and Articles 15 and 16 of Council Regulation (EEC, Euratom, ECSC) No 2891/77 (OJ L 336, 27.12.1977).

⁽¹⁵⁾ Articles 73 to 77 of the Financial Regulation.

⁽¹⁶⁾ Articles 78e, 78f ECSC, 206 and 206a EEC, 180 and 180a Euratom and Articles 78 to 84 of the Financial Regulation.

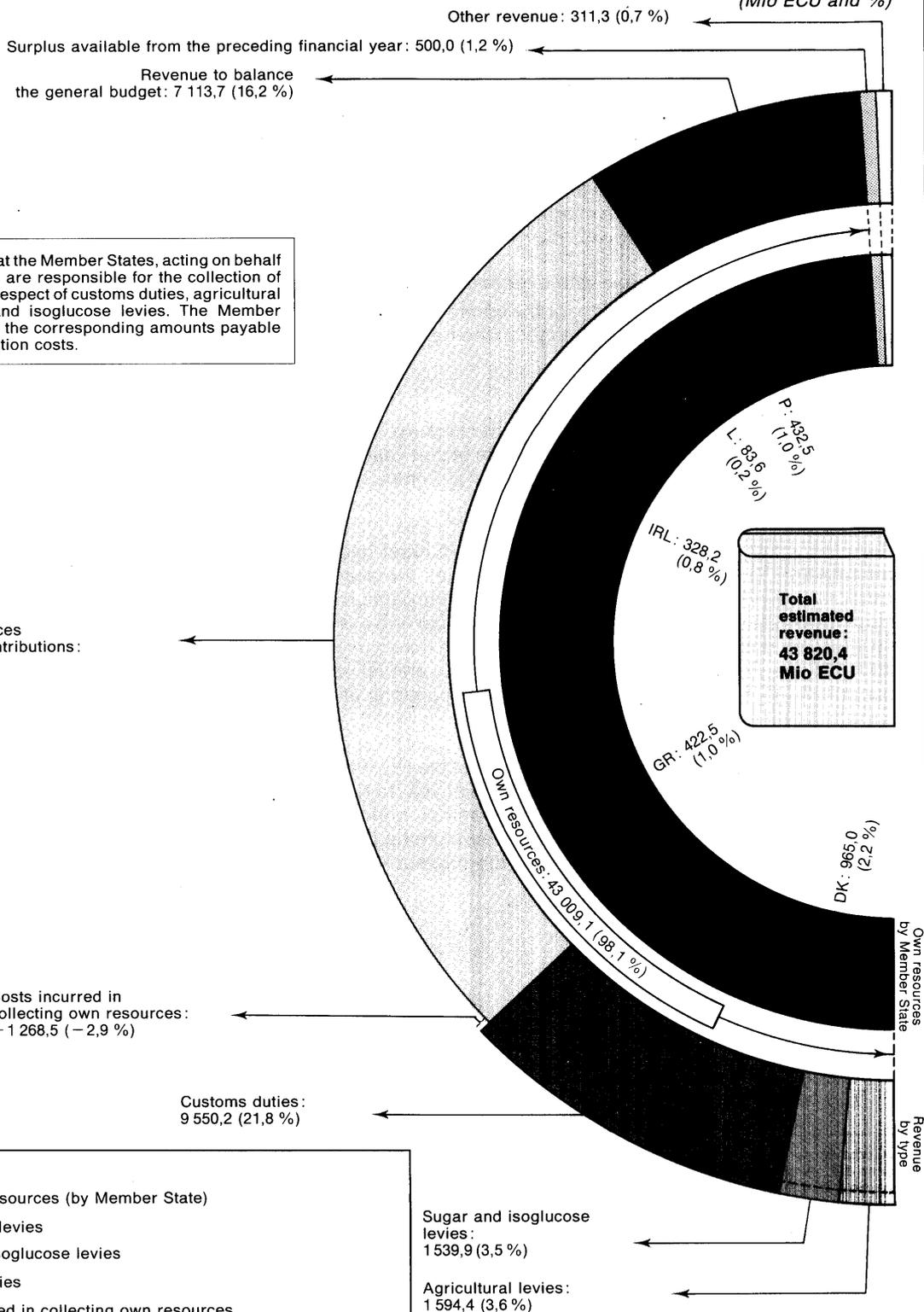
⁽¹⁷⁾ Articles 78g ECSC, 206b EEC, 180b Euratom.

⁽¹⁸⁾ Article 85 of the Financial Regulation.

§ 2. General budget 1988: estimated revenue

(after supplementary and amending budget No. 1;
for more detailed information: see § 5)

(Mio ECU and %)



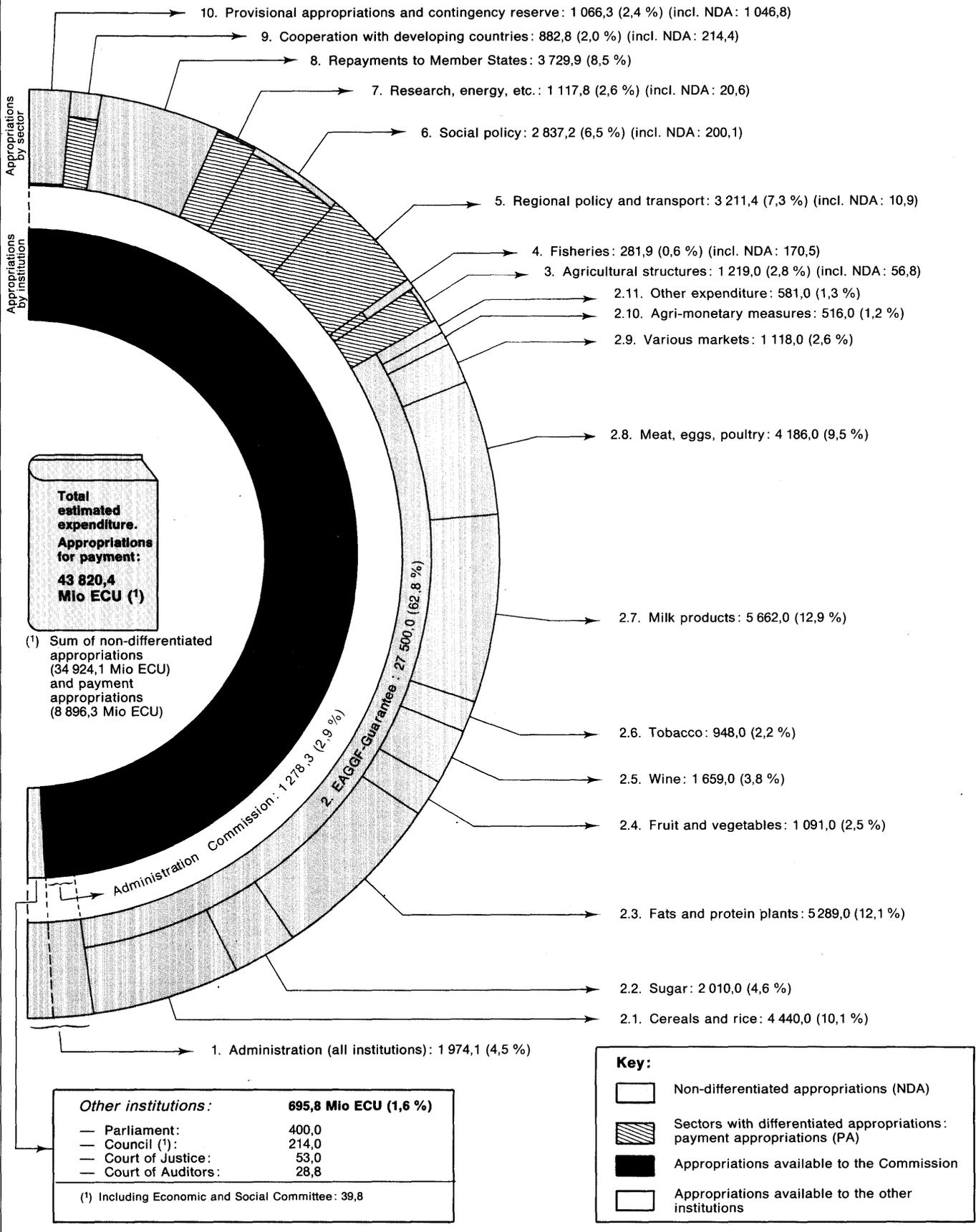
Key:

- Total own resources (by Member State)
- Agricultural levies
- Sugar and isoglucose levies
- Customs duties
- Costs incurred in collecting own resources
- VAT own resources and financial contributions
- Revenue to balance the general budget
- Surplus available from the previous financial year
- Other revenue

§ 3. General budget 1988: estimated expenditure — appropriations for payment

(after supplementary and amending budget No. 1;
for more detailed information: see § 7, column 3)

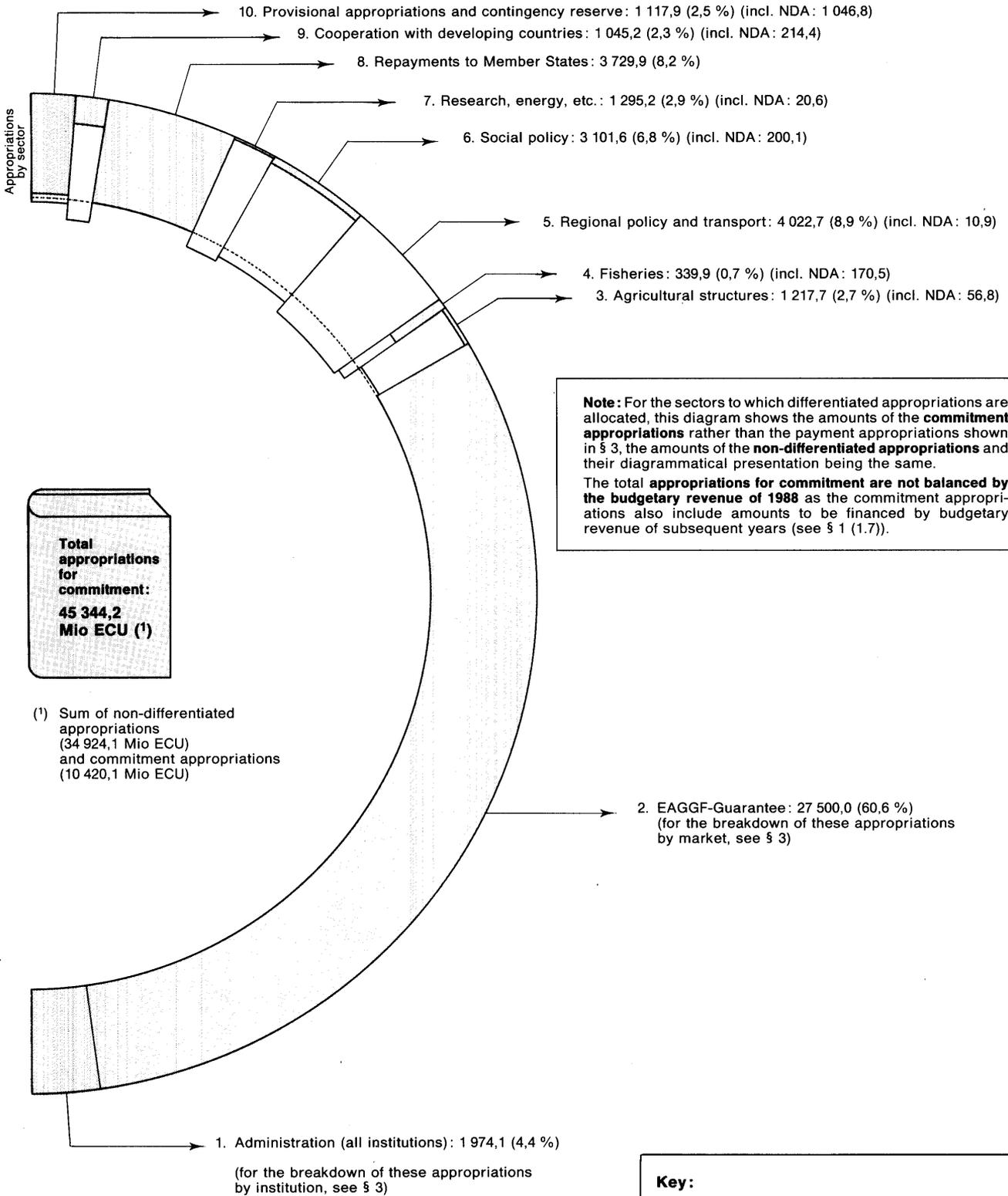
(Mio ECU and %)



§ 4. General budget 1988: appropriations for commitment

(after supplementary and amending budget No. 1;
for more detailed information: see § 6, column 3)

(Mio ECU and %)



Note: For the sectors to which differentiated appropriations are allocated, this diagram shows the amounts of the **commitment appropriations** rather than the payment appropriations shown in § 3, the amounts of the **non-differentiated appropriations** and their diagrammatical presentation being the same.
The total **appropriations for commitment are not balanced by the budgetary revenue of 1988** as the commitment appropriations also include amounts to be financed by budgetary revenue of subsequent years (see § 1 (1.7)).

Total appropriations for commitment:
45 344,2
Mio ECU (1)

(1) Sum of non-differentiated appropriations (34 924,1 Mio ECU) and commitment appropriations (10 420,1 Mio ECU)

Key:

- Non-differentiated appropriations (NDA)
- Sectors with differentiated appropriations: commitment appropriations (CA)

§ 5. Estimated and actual revenue in 1988

A. Estimated and actual revenue in 1988:

Type of revenue (the Titles (T) or Chapters (Ch) corresponding to the budgetary nomenclature for 1988 are given in brackets)	Revenue as estimated in the 1988 budget (after supplementary & amending budget No. 1)		Actual revenue in 1988 (revenue collected during the financial year)	
	Mio ECU	%	Mio ECU	%
1. Own resources:				
— agricultural levies (Ch 10)	1 594,4	3,6	1 504,6	3,6
— sugar and isoglucose levies (Ch 11)	1 539,9	3,5	1 390,7	3,3
— customs duties (Ch 12)	9 550,2	21,8	10 344,7	24,7
— costs incurred in collecting own resources (Ch 19) ⁽¹⁾	-1 268,5	-2,9	-1 325,0	-3,1
— VAT own resources (Ch 13)	23 917,8	54,6	23 927,6	57,2
— financial contribution (GNP) Portugal (Ch 20)	211,6	0,5	211,4	0,5
— balances and adjustments prior to 1988 of VAT own resources and financial contributions (Ch 31)	350,0	0,8	383,6	0,9
— revenue to balance the general budget (Ch 21)	7 113,7	16,2	4 445,8	10,6
Total own resources	43 009,1	98,1	40 883,4	97,7
2. Surplus available from the preceding financial year (Ch 30)	500,0	1,2	500,0	1,2
3. Other revenue (T 4-9)	311,3	0,7	460,0	1,1
Total revenue	43 820,4	100	41 843,4	100

⁽¹⁾ The Member States keep 10 % of the amounts payable in respect of Chapters 10, 11 and 12 to cover their collection costs.

B. Estimated and actual own resources in 1988 by Member State:

Note: It should be noted that the Member States, acting on behalf of the Communities, are responsible for the collection of the amounts due in respect of customs duties, agricultural levies and sugar and isoglucose levies.

(Mio ECU)

Type of resource	B	DK	D	GR	E	F	IRL	I	L	NL	P	UK	EUR 12
Agricultural levies:													
— estimated	230,0	13,5	156,6	25,0	224,5	125,0	6,0	388,3	0,2	128,7	73,6	223,0	1 594,4
— actual	144,2	18,6	186,4	18,5	199,8	110,9	3,1	403,8	0,2	109,3	41,0	268,8	1 504,6
Sugar and isoglucose levies:													
— estimated	108,0	46,2	398,2	12,0	76,4	485,0	18,5	177,2	—	123,8	0,1	94,5	1 539,9
— actual	94,8	41,8	348,4	8,6	94,4	430,8	16,9	154,7	—	110,5	0,1	89,7	1 390,7
Customs duties:													
— estimated	544,0	202,1	2 795,2	103,6	449,4	1 298,3	120,9	922,0	7,5	848,6	101,2	2 157,4	9 550,2
— actual	616,0	217,0	2 990,4	119,2	415,7	1 378,3	133,6	992,6	8,0	946,6	105,7	2 421,6	10 344,7
Costs incurred in collecting own resources:													
— estimated	-88,2	-26,2	-335,0	-14,1	-75,0	-190,8	-14,5	-148,8	-0,8	-110,1	-17,5	-247,5	-1 268,5
— actual	-85,4	-27,8	-352,3	-14,6	-71,3	-192,2	-15,4	-154,7	-0,8	-116,4	-14,7	-279,4	-1 325,0
VAT own resources/financial contributions ⁽¹⁾/⁽²⁾:													
— estimated	836,3	559,6	6 933,6	213,4	1 984,1	6 177,0	155,5	4 061,2	62,7	1 429,8	212,8	1 853,4	24 479,4
— actual	850,2	559,6	6 900,8	227,6	2 039,5	6 150,1	154,4	4 030,4	62,3	1 441,6	214,9	1 891,2	24 522,6
Revenue to balance the general budget:													
— estimated	250,0	169,8	1 728,7	82,6	498,6	1 438,1	41,8	1 371,9	14,0	354,3	62,3	1 101,6	7 113,7
— actual	213,7	146,5	1 461,1	70,6	—	1 217,5	35,6	—	11,9	304,0	52,9	932,0	4 445,8
Total own resources:													
— estimated	1 880,1	965,0	11 677,3	422,5	3 158,0	9 332,6	328,2	6 771,8	83,6	2 775,1	432,5	5 182,4	43 009,1
— actual	1 833,5	955,7	11 534,8	429,9	2 678,1	9 095,4	328,2	5 426,8	81,6	2 795,6	399,9	5 323,9	40 883,4

⁽¹⁾ Portugal paid a financial contribution based on its GNP.

⁽²⁾ Including balances and adjustments prior to 1988.

**§ 6. Appropriations for commitment available in 1988 and their utilization,
by sector and by institution**

(Mio ECU)

Sector and institution (the Sections (S), Titles (T) and Chapters (Ch) corresponding to the 1988 budgetary nomen- clature are shown in brackets)	Type of appropriations: - non-differentiated appropriations (NDA); - commitment appropria- tions (CA)	Evolution of appropriations			Utilization of appropriations				
		Initial budget 1988	Final budget 1988 (after supplementary and amending budget No. 1)	Final appropriations available in 1988 (1)	Commitments entered into in 1988		Appropriations remaining available for 1989		Cancellations
					Amount	Rate (%)	Non-automatic carry-overs (NDA) to 1989	CA remaining at close of 1988	
		(1)	(2)	(3)	(4)	(5)	(5a) = (5/4)	(6)	(7)
1. Administration (all institutions)	NDA	1 974,1	1 974,1	1 994,0	1 943,0	97,4	4,1	—	46,9
1.1. Commission (S III, Part A)	NDA	1 278,3	1 278,3	1 298,2	1 284,3	98,9	—	—	13,9
1.2. Other institutions (S I, II, IV, V)	NDA	695,8	695,8	695,8	658,7	94,7	4,1	—	33,0
2. EAGGF-Guarantee (T 1-2)	NDA	27 500,0	27 500,0	27 500,0	26 400,3	96,0	—	—	1 099,7
2.1. Cereals and rice (Ch 10)	NDA	4 440,0	4 440,0	4 540,0	4 337,3	95,5	—	—	202,7
2.2. Sugar (Ch 11)	NDA	2 010,0	2 010,0	2 135,0	2 081,8	97,5	—	—	53,2
2.3. Fats and protein plants (Ch 12-13)	NDA	5 289,0	5 289,0	4 734,0	4 606,1	97,3	—	—	127,9
2.4. Fruit and vegetables (Ch 15)	NDA	1 091,0	1 091,0	792,0	708,2	89,4	—	—	83,8
2.5. Wine (Ch 16)	NDA	1 659,0	1 659,0	1 659,0	1 545,6	93,2	—	—	113,4
2.6. Tobacco (Ch 17)	NDA	948,0	948,0	1 028,0	966,1	94,0	—	—	61,9
2.7. Milk products (Ch 20)	NDA	5 662,0	5 662,0	5 987,0	5 915,1	98,8	—	—	71,9
2.8. Meat, eggs, poultry (Ch 21-24)	NDA	4 186,0	4 186,0	4 370,0	4 179,2	95,6	—	—	190,8
2.9. Various markets (Ch 14, 18, 25)	NDA	1 118,0	1 118,0	1 153,0	1 116,3	96,8	—	—	36,7
2.10. Agri-monetary measures (Ch 27-28)	NDA	516,0	516,0	581,0	569,5	98,0	—	—	11,5
2.11. Other expenditure (Ch 29)	NDA	581,0	581,0	521,0	375,1	72,0	—	—	145,9
3. Agricultural structures (T 3) (of which: non-differentiated appropriations)	NDA + CA (NDA)	1 217,7 (56,8)	1 217,7 (56,8)	1 261,8 (48,3)	1 237,7 (47,7)	98,1 (98,8)	(—)	(—)	23,7 (0,6)
3.1. EAGGF-Guidance (Ch 30-33)	CA	1 130,7	1 130,7	1 202,5	1 179,7	98,1	—	—	22,8
3.2. Specific measures (Ch 38)	NDA + CA	87,0	87,0	59,3	58,0	97,8	—	0,4	0,9
4. Fisheries (T 4) (of which: non-differentiated appropriations)	NDA + CA (NDA)	339,9 (170,5)	339,9 (170,5)	343,8 (195,5)	324,7 (187,4)	94,4 (95,9)	(—)	(—)	19,1 (8,1)
4.1. Common organization of the market (Ch 40)	NDA	30,0	30,0	55,0	46,9	85,3	—	—	8,1
4.2. Other measures (Ch 41-42, 44-47)	NDA + CA	309,9	309,9	288,8	277,8	96,2	—	—	11,0
5. Regional policy and transport (T 5) (of which: non-differentiated appropriations)	NDA + CA (NDA)	4 022,7 (10,9)	4 022,7 (10,9)	4 311,2 (10,8)	4 286,4 (9,3)	99,4 (86,1)	(—)	(—)	2,4 (1,5)
5.1. Regional Fund (Ch 50-51)	CA	3 684,0	3 684,0	3 837,9	3 827,0	99,7	—	—	10,9
5.2. Transport (Ch 58)	NDA + CA	71,1	71,1	70,9	70,6	99,6	—	—	0,3
5.3. Other measures (Ch 54-56)	NDA + CA	267,6	267,6	402,4	388,8	96,6	—	2,4	11,2
6. Social policy (T 6) (of which: non-differentiated appropriations)	NDA + CA (NDA)	3 101,6 (200,1)	3 101,6 (200,1)	3 138,2 (196,9)	3 107,2 (195,3)	99,0 (99,2)	(—)	(—)	31,0 (1,6)
6.1. Social Fund (Ch 60-61)	CA	2 865,6	2 865,6	2 899,2	2 870,6	99,0	—	—	28,6
6.2. Other measures (Ch 62-67, 69)	NDA + CA	236,0	236,0	239,0	236,6	99,0	—	—	2,4
7. Research, energy, etc. (T 7) (of which: non-differentiated appropriations)	NDA + CA (NDA)	1 295,2 (20,6)	1 295,2 (20,6)	1 456,3 (15,9)	1 437,7 (14,6)	98,7 (91,8)	(—)	10,9 (—)	7,7 (1,3)
7.1. Energy (Ch 70)	NDA + CA	125,9	125,9	141,8	141,6	99,9	—	—	0,2
7.2. Research and investment (Ch 73)	CA	1 037,2	1 037,2	1 186,2	1 172,1	98,8	—	10,8	3,3
7.3. Industry and internal market (Ch 77)	NDA + CA	93,9	93,9	93,1	91,5	98,3	—	—	1,6
7.4. Other measures (Ch 71, 74-76, 78-79)	NDA + CA	38,2	38,2	35,2	32,5	92,3	—	0,1	2,6
8. Repayments to Member States (T 8)	NDA	3 688,3	3 729,9	3 729,9	3 347,6	89,8	382,0	—	0,3
8.1. Depreciation of agricultural stocks (Ch 81)	NDA	1 240,0	1 240,0	1 240,0	1 240,0	100	—	—	—
8.2. Other repayments (Ch 80, 83-87)	NDA	2 448,3	2 489,9	2 489,9	2 107,6	84,7	382,0	—	0,3
9. Cooperation with developing countries (T 9) (of which: non-differentiated appropriations)	NDA + CA (NDA)	1 045,2 (214,4)	1 045,2 (214,4)	1 286,1 (165,8)	1 257,8 (163,0)	97,8 (98,3)	(—)	(—)	11,5 (2,8)
9.1. Food aid (Ch 92)	NDA + CA	421,8	421,8	567,3	567,0	99,9	—	—	0,3
9.2. Financial aid (Ch 90-91, 93-99)	NDA + CA	623,4	623,4	718,8	690,8	96,1	—	11,5	16,5
10. Prov. approp. and contingency res. (Ch 100-102) (of which: non-differentiated appropriations)	NDA + CA (NDA)	1 117,9 (1 046,8)	1 117,9 (1 046,8)	1 066,4 (1 045,7)	— (—)	— (—)	(—)	(—)	1 066,4 (1 045,7)
Total operating appropriations (S III, B) (of which: non-differentiated appropriations)	NDA + CA (NDA)	43 328,5 (32 908,4)	43 370,1 (32 950,0)	44 093,7 (32 908,8)	41 399,4 (30 365,2)	93,9 (92,3)	382,0 (382,0)	25,2 (—)	2 287,1 (2 161,6)
Grand total	NDA + CA NDA CA	45 302,6 34 882,5 10 420,1	45 344,2 34 924,1 10 420,1	46 087,7 34 902,8 11 184,9	43 342,4 32 308,2 11 034,2	94,0 92,6 98,7	386,1 386,1 —	25,2 — 25,2	2 334,0 2 208,5 125,5
Parliament (S I)	NDA	400,0	400,0	400,0	380,1	95,0	4,1	—	15,8
Council (S II)	NDA	214,0	214,0	214,0	202,9	94,8	—	—	11,1
(of which: Economic and Social Committee)	(NDA)	(39,8)	(39,8)	(39,8)	(38,6)	(97,0)	(—)	(—)	(1,2)
Commission (S III)	NDA + CA	44 606,8	44 648,4	45 391,9	42 683,7	94,0	382,0	25,2	2 301,0
(of which: non-differentiated appropriations)	(NDA)	(34 186,7)	(34 228,3)	(34 207,0)	(31 649,5)	(92,5)	(382,0)	(—)	(2 175,5)
Court of Justice (S IV)	NDA	53,0	53,0	53,0	48,9	92,3	—	—	4,1
Court of Auditors (S V)	NDA	28,8	28,8	28,8	26,8	93,1	—	—	2,0
Grand total	NDA + CA	45 302,6	45 344,2	46 087,7	43 342,4	94,0	386,1	25,2	2 334,0

(1) Budget appropriations amended after taking account of commitment appropriations remaining from 1987, appropriations corresponding to receipts for services performed on behalf of outside bodies and transfers between budget headings; not including non-automatic carry-overs from 1987.

§ 7. Appropriations for payment available in 1988 and their utilization, by sector and by institution

(Mio ECU)

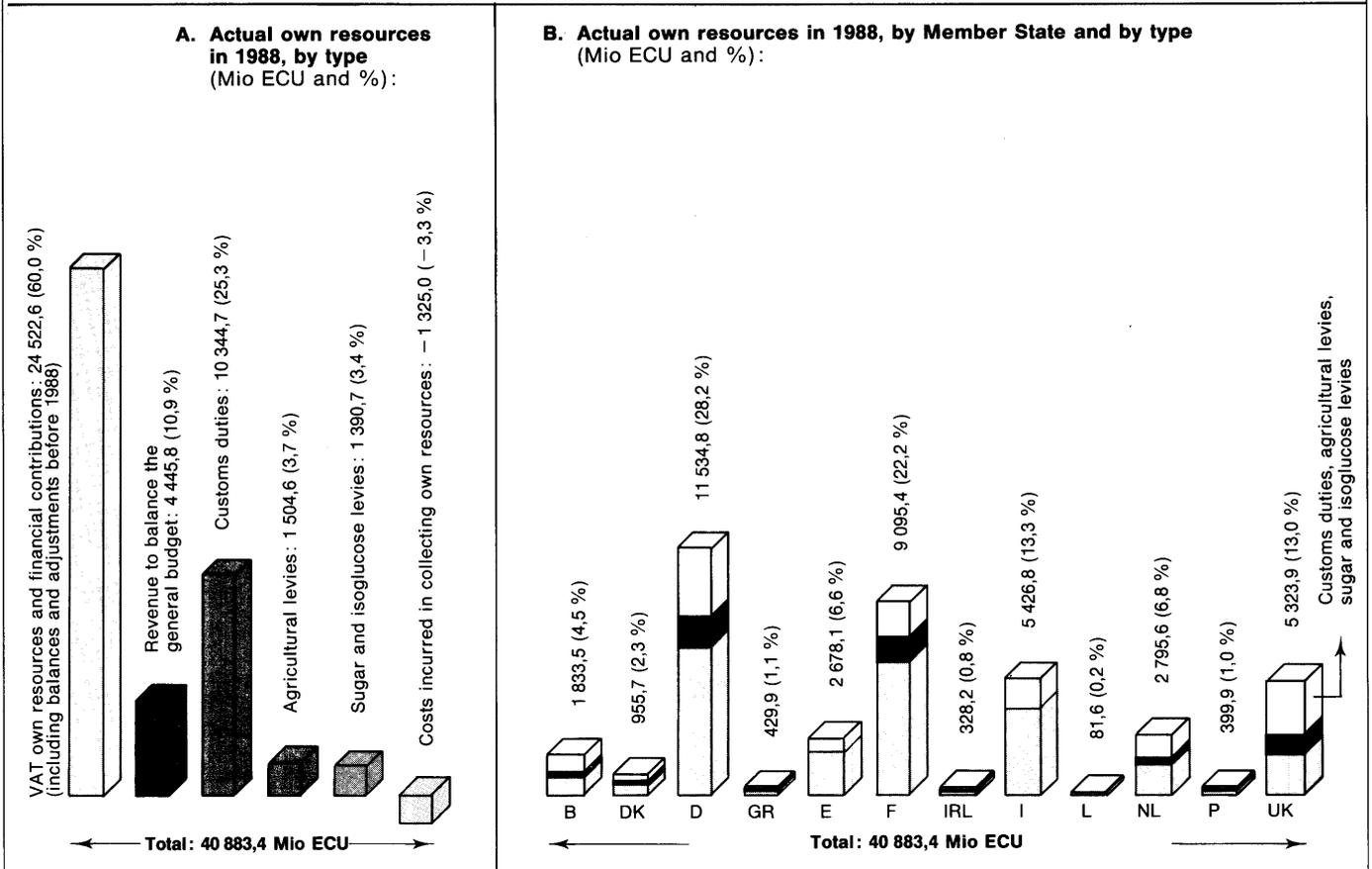
Sector and institution (for the corresponding terms and budget headings see § 6)	Type of appropriations: - non-differentiated appropriations (NDA): - payment appropriations (PA)	A. Appropriations of the financial year 1988						B. Carry-overs from 1987				C. Total appropriations available and payments in 1988			
		Evolution of appropriations			Utilization of appropriations			Appropriations carried over from 1987 (after transfers)	Utilization of appropriations			Total appropriations available in 1988	Total payments made in 1988		
		Initial budget 1988	Final budget 1988 (after supplement- ary and amend- ing budget No. 1.)	Final appro- priations 1988 (1)	Payments made in 1988	Carry-overs to 1988 (2)	Cancellations		Payments made in 1988	Carry-overs to 1989	Cancellations		Amount	Rate (%)	
															(1)
1. Administration	NDA	1 974,1	1 974,1	1 994,0	1 779,9	167,2	46,9	136,3	119,9	—	16,4	2 130,3	1 899,8	89,2	
1.1. Commission	NDA	1 278,3	1 278,3	1 298,2	1 179,5	104,8	13,9	81,9	74,3	—	7,6	1 380,1	1 253,8	90,9	
1.2. Other institutions	NDA	695,8	695,8	695,8	600,4	62,4	33,0	54,4	45,6	—	8,8	750,2	646,0	86,1	
2. EAGGF-Guarantee	NDA	27 500,0	27 500,0	27 500,0	26 389,1	11,2	1 099,7	0,7	0,5	—	0,2	27 500,7	26 389,6	96,0	
2.1. Cereals and rice	NDA	4 440,0	4 440,0	4 540,0	4 337,3	—	202,7	—	—	—	—	4 540,0	4 337,3	95,5	
2.2. Sugar	NDA	2 010,0	2 010,0	2 135,0	2 081,8	—	53,2	—	—	—	—	2 135,0	2 081,8	97,5	
2.3. Fats...	NDA	5 289,0	5 289,0	4 734,0	4 600,5	5,6	127,9	0,3	0,1	—	0,2	4 734,3	4 600,6	97,2	
2.4. Fruit and vegetab.	NDA	1 091,0	1 091,0	792,0	708,2	—	83,8	—	—	—	—	792,0	708,2	89,4	
2.5. Wine	NDA	1 659,0	1 659,0	1 659,0	1 545,6	—	113,4	—	—	—	—	1 659,0	1 545,6	93,2	
2.6. Tobacco	NDA	948,0	948,0	1 028,0	966,1	—	61,9	—	—	—	—	1 028,0	966,1	94,0	
2.7. Milk products	NDA	5 662,0	5 662,0	5 987,0	5 909,7	5,4	71,9	—	—	—	—	5 987,0	5 909,7	98,7	
2.8. Meat...	NDA	4 186,0	4 186,0	4 370,0	4 179,2	—	190,8	—	—	—	—	4 370,0	4 179,2	95,6	
2.9. Various markets	NDA	1 118,0	1 118,0	1 153,0	1 116,1	0,2	36,7	0,4	0,4	—	—	1 153,4	1 116,5	96,8	
2.10. Agri-monetary...	NDA	516,0	516,0	581,0	569,5	—	11,5	—	—	—	—	581,0	569,5	98,0	
2.11. Other expenditure	NDA	581,0	581,0	521,0	375,1	—	145,9	—	—	—	—	521,0	375,1	72,0	
3. Agricultural structures (of which: NDA)	NDA + PA (NDA)	1 219,0 (56,8)	1 219,0 (56,8)	1 210,5 (48,3)	1 174,6 (24,7)	23,4 (23,0)	12,5 (0,6)	26,6 (23,5)	20,0 (18,0)	— (—)	6,6 (5,5)	1 237,1 (71,8)	1 194,6 (42,7)	96,8 (59,5)	
3.1. EAGGF-Guidance	PA	1 152,6	1 152,6	1 152,6	1 140,9	—	11,7	2,2	1,3	—	0,9	1 154,8	1 142,2	98,9	
3.2. Specific measures	NDA + PA	66,4	66,4	57,9	33,7	23,4	0,8	24,4	18,7	—	5,7	82,3	52,4	63,7	
4. Fisheries (of which: NDA)	NDA + PA (NDA)	281,9 (170,5)	281,9 (170,5)	287,0 (195,5)	237,3 (167,0)	20,4 (20,4)	29,3 (8,1)	38,9 (20,8)	22,7 (20,4)	— (—)	16,2 (0,4)	325,9 (216,3)	260,0 (187,4)	79,8 (86,6)	
4.1. Com. organ...	NDA	30,0	30,0	55,0	46,9	—	8,1	—	—	—	—	55,0	46,9	85,3	
4.2. Other measures	NDA + PA	251,9	251,9	232,0	190,4	20,4	21,2	38,9	22,7	—	16,2	270,9	213,1	78,7	
5. Regional policy... (of which: NDA)	NDA + PA (NDA)	3 211,4 (10,9)	3 211,4 (10,9)	3 209,5 (10,8)	3 159,3 (1,8)	32,8 (7,5)	17,4 (1,5)	199,2 (8,0)	189,2 (7,3)	— (—)	10,0 (0,7)	3 408,7 (18,8)	3 348,5 (9,1)	98,2 (48,4)	
5.1. Regional Fund	PA	2 980,0	2 980,0	2 980,0	2 979,8	—	0,2	115,2	113,0	—	2,1	3 095,2	3 092,8	99,9	
5.2. Transport	NDA + PA	71,1	71,1	70,9	43,7	21,9	5,3	4,4	2,9	—	1,5	75,3	46,6	61,9	
5.3. Other measures	NDA + PA	160,3	160,3	158,6	135,8	10,9	11,9	79,6	73,3	—	6,3	238,2	209,1	87,8	
6. Social policy (of which: NDA)	NDA + PA (NDA)	2 837,2 (200,1)	2 837,2 (200,1)	2 833,5 (196,9)	2 440,0 (117,7)	80,3 (77,6)	313,2 (1,6)	113,2 (71,3)	61,3 (60,4)	— (—)	51,9 (10,9)	2 946,7 (288,2)	2 501,3 (178,1)	84,9 (66,4)	
6.1. Social Fund	PA	2 600,0	2 600,0	2 600,0	2 298,7	—	301,3	32,4	0,1	—	32,3	2 632,4	2 298,8	87,3	
6.2. Other measures	NDA + PA	237,2	237,2	233,5	141,3	80,3	11,9	80,8	61,2	—	19,6	314,3	202,5	64,4	
7. Research, etc. (of which: NDA)	NDA + PA (NDA)	1 117,8 (20,6)	1 117,8 (20,6)	1 164,3 (15,9)	1 060,6 (6,5)	30,8 (8,1)	72,9 (1,3)	164,0 (20,7)	135,8 (16,5)	2,0 (—)	26,2 (4,2)	1 328,3 (36,6)	1 196,4 (23,0)	90,1 (62,8)	
7.1. Energy	NDA + PA	107,0	107,0	132,0	129,9	1,3	0,8	1,0	0,9	—	0,1	133,0	130,8	98,4	
7.2. Research...	PA	907,0	907,0	931,5	849,5	22,7	59,3	119,3	113,4	2,0	3,9	1 050,8	962,9	91,6	
7.3. Industry...	NDA + PA	69,6	69,6	71,6	57,7	4,3	9,6	35,7	18,9	—	16,8	107,3	76,6	71,4	
7.4. Other measures	NDA + PA	34,2	34,2	29,2	23,5	2,5	3,2	8,0	2,6	—	5,4	37,2	26,1	70,2	
8. Repayments...	NDA	3 688,3	3 729,9	3 729,9	3 347,6	382,0	0,3	99,8	99,8	—	—	3 829,7	3 447,4	90,0	
8.1. Depreciat. stocks...	NDA	1 240,0	1 240,0	1 240,0	1 240,0	—	—	—	—	—	—	1 240,0	1 240,0	100	
8.2. Other repayments	NDA	2 448,3	2 489,9	2 489,9	2 107,6	382,0	0,3	99,8	99,8	—	—	2 589,7	2 207,4	85,2	
9. Cooperation... (of which: NDA)	NDA + PA (NDA)	882,8 (214,4)	882,8 (214,4)	866,1 (165,8)	713,5 (92,4)	70,9 (70,6)	81,7 (2,8)	581,8 (162,0)	327,8 (123,2)	— (—)	254,0 (38,8)	1 447,9 (327,8)	1 041,3 (215,6)	71,9 (65,8)	
9.1. Food aid	NDA + PA	352,4	352,4	363,3	317,1	22,5	23,7	360,8	263,9	—	96,9	724,1	581,0	80,2	
9.2. Financial aid	NDA + PA	530,4	530,4	502,8	396,4	48,4	58,0	221,0	63,9	—	157,1	723,8	460,3	63,6	
10. Prov. approps... (of which: NDA)	NDA + PA (NDA)	1 066,3 (1 046,8)	1 066,3 (1 046,8)	1 050,1 (1 045,7)	— (—)	— (—)	1 050,1 (1045,7)	— (—)	— (—)	— (—)	— (—)	1 050,1 (1 045,7)	— (—)	— (—)	
Total operating approps. (of which: NDA)	NDA + PA (NDA)	41 804,7 (32 908,4)	41 846,3 (32 950,0)	41 850,9 (32 908,8)	38 522,0 (30 146,8)	651,8 (600,4)	2 677,1 (216,6)	1 224,2 (406,8)	857,1 (346,1)	2,0 (—)	365,1 (60,7)	43 075,1 (33 315,6)	39 379,1 (30 492,9)	91,4 (91,5)	
Grand total	NDA + PA NDA PA	43 778,8 34 882,5 8 896,3	43 820,4 34 924,1 8 896,3	43 844,9 34 902,8 8 942,1	40 301,9 31 926,7 8 375,2	819,0 767,6 51,4	2 724,0 2 208,5 515,5	1 360,5 543,1 817,4	977,0 466,0 511,0	2,0 — 2,0	381,5 77,1 304,4	45 205,4 35 445,9 9 759,5	41 278,9 32 392,7 8 886,2	91,3 91,4 91,1	
Parliament	NDA	400,0	400,0	400,0	341,1	43,1	15,8	35,6	28,8	—	6,8	435,6	369,9	84,9	
Council	NDA	214,0	214,0	214,0	190,1	12,8	11,1	15,1	13,6	—	1,5	229,1	203,7	88,9	
(of which: ESC)	(NDA)	(39,8)	(39,8)	(39,8)	(37,3)	(1,3)	(1,2)	(0,8)	(0,7)	—	(0,1)	(40,6)	(38,0)	(93,6)	
Commission	NDA + PA	43 083,0	43 124,6	43 149,1	39 701,5	756,6	2 691,0	1 306,1	931,4	2,0	372,7	44 455,2	40 632,9	91,4	
(of which: NDA)	(NDA)	(34 186,7)	(34 228,3)	(34 207,0)	(31 326,3)	(705,2)	(2175,5)	(488,7)	(420,4)	—	(68,3)	(34 695,7)	(31 746,7)	(91,5)	
Court of Justice	NDA	53,0	53,0	53,0	44,7	4,2	4,1	2,2	1,9	—	0,3	55,2	46,6	84,2	
Court of Auditors	NDA	28,8	28,8	28,8	24,5	2,3	2,0	1,5	1,3	—	0,2	30,3	25,8	85,2	
Grand total	NDA + PA	43 778,8	43 820,4	43 844,9	40 301,9	819,0	2 724,0	1 360,5	977,0	2,0	381,5	45 205,4	41 278,9	91,3	

(1) Budget appropriations amended after taking account of transfers between budget headings and receipts for services performed on behalf of outside bodies.

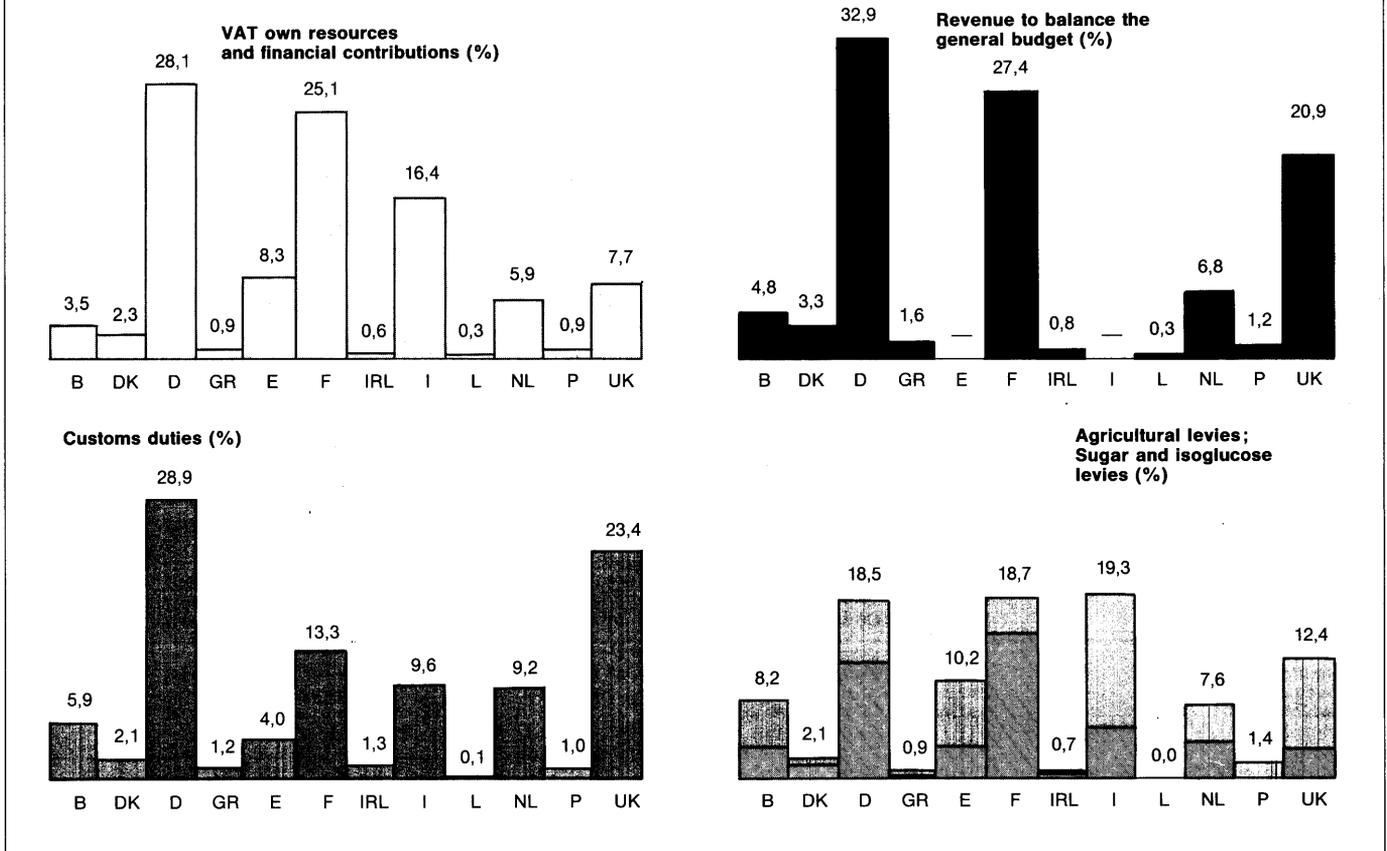
(2) Automatic and non-automatic carry-overs.

§ 8. Actual own resources in 1988

(for basic figures, see § 5)



C. Types of own resources, by Member State:



§ 9. Rate of utilization of appropriations available in 1988, by sector

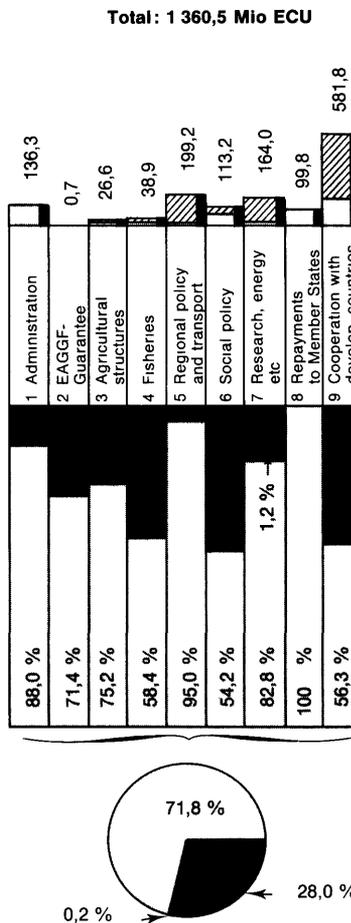
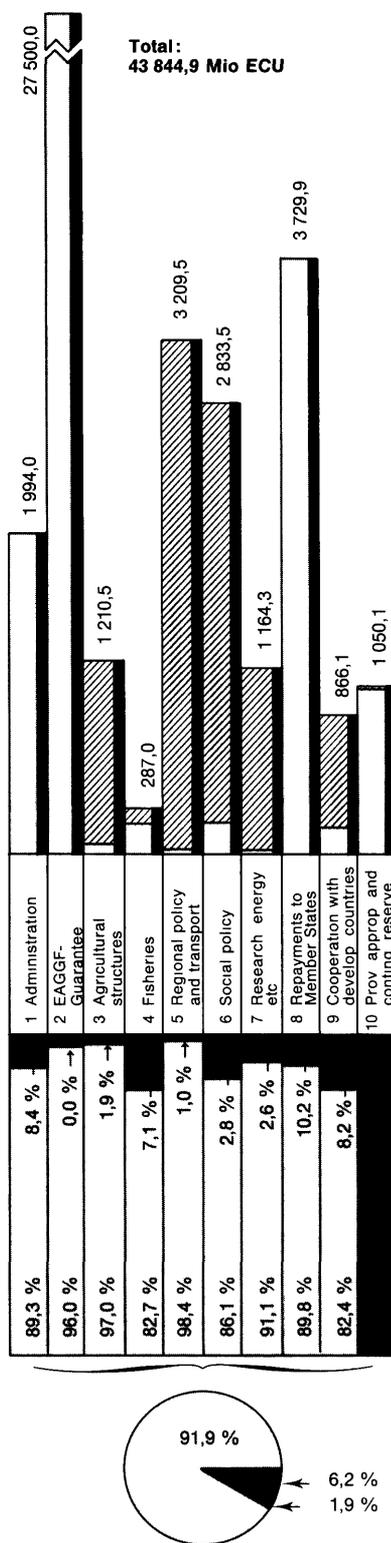
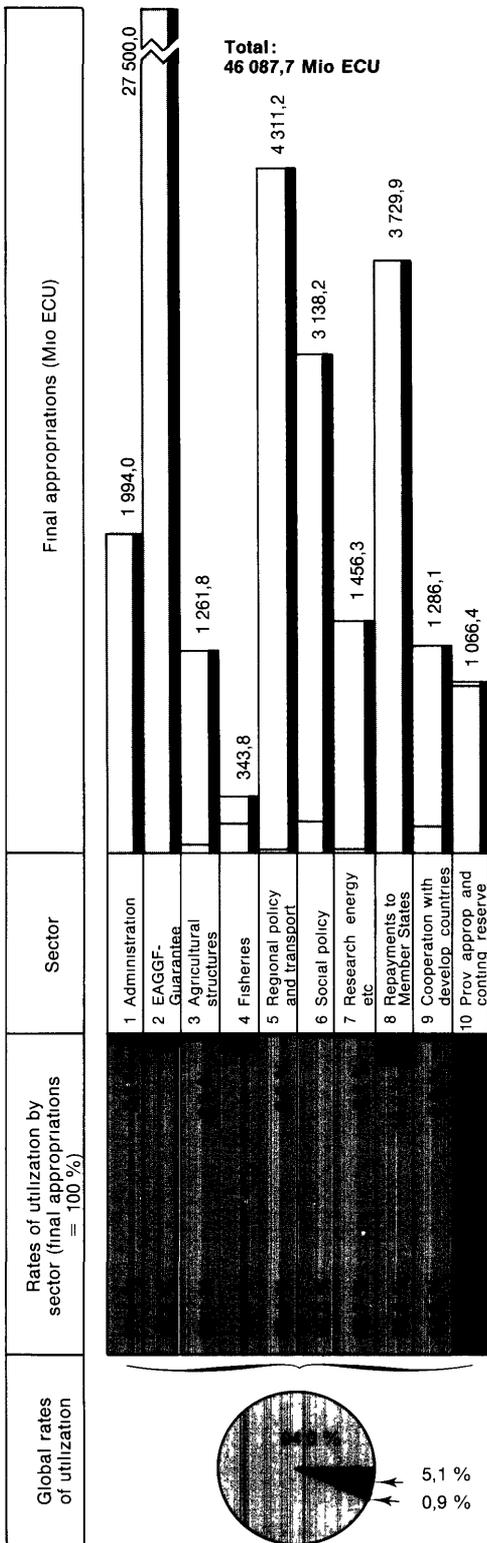
I. Final appropriations for commitment in 1988
(for basic figures, see § 6, columns 4 to 8)

II. Final 1988 appropriations for payment
(for basic figures, see § 7, columns 4 to 7)

Key:

- Non-differentiated appropriations
- Commitment appropriations
- Payment appropriations
- Rate of commitment
- Rate of payment
- Rate of unused appropriations remaining available for 1988 (appropriations remaining and/or carried over)
- Cancellations

III. Appropriations for payment carried over from 1987
(for basic figures, see § 7, columns 8 to 11)



§ 10. The consolidated revenue and expenditure account and the balance of the financial year 1988
 (Application of Article 15 of Council Regulation (EEC, Euratom, ECSC) No 2891/77)

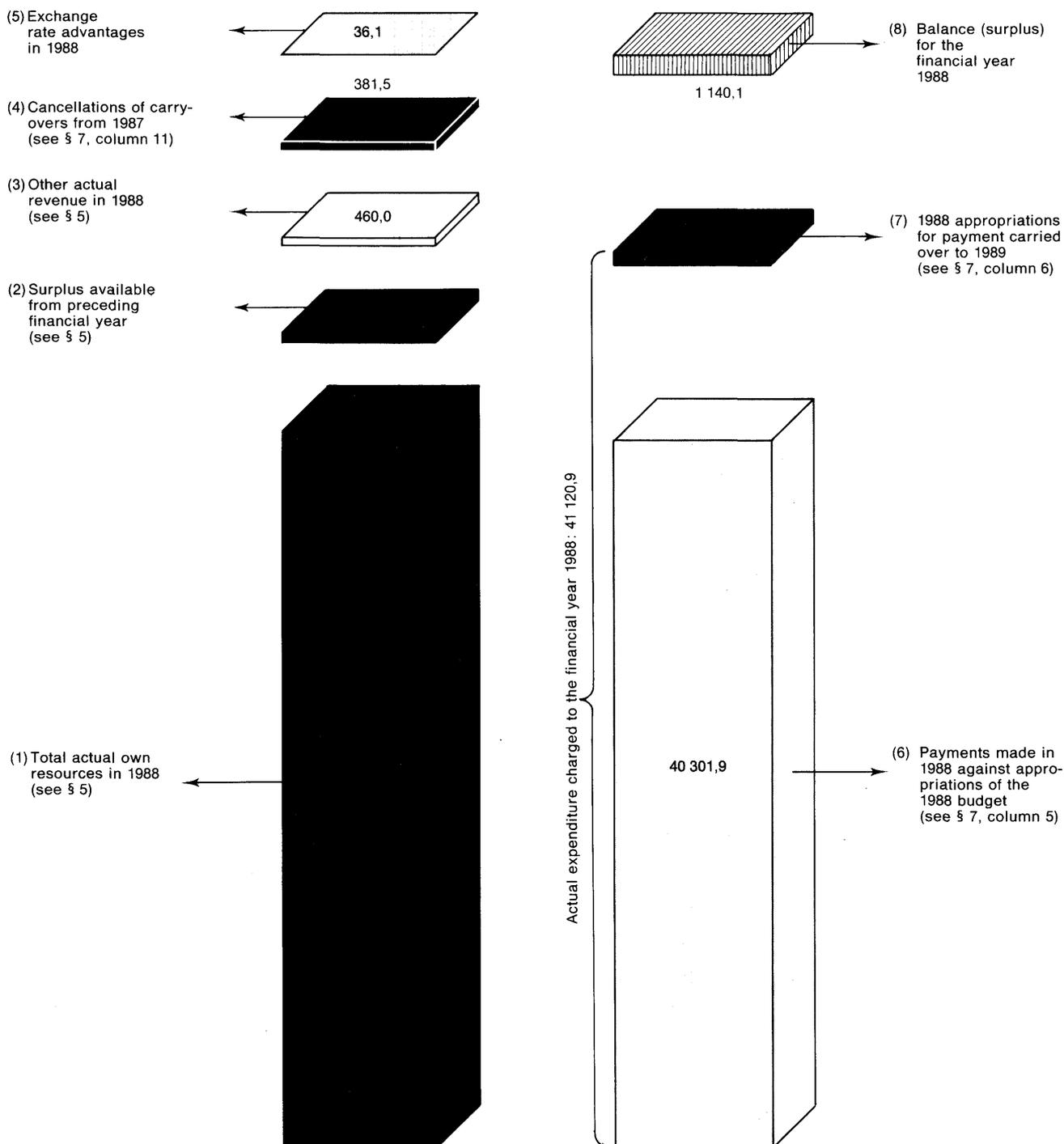
Revenue:
 Funds actually available for the financial year 1988

Total:
42 261,0 Mio ECU

Expenditure:
 Use made of funds available for the financial year 1988

Total:
42 261,0 Mio ECU

(Mio ECU)

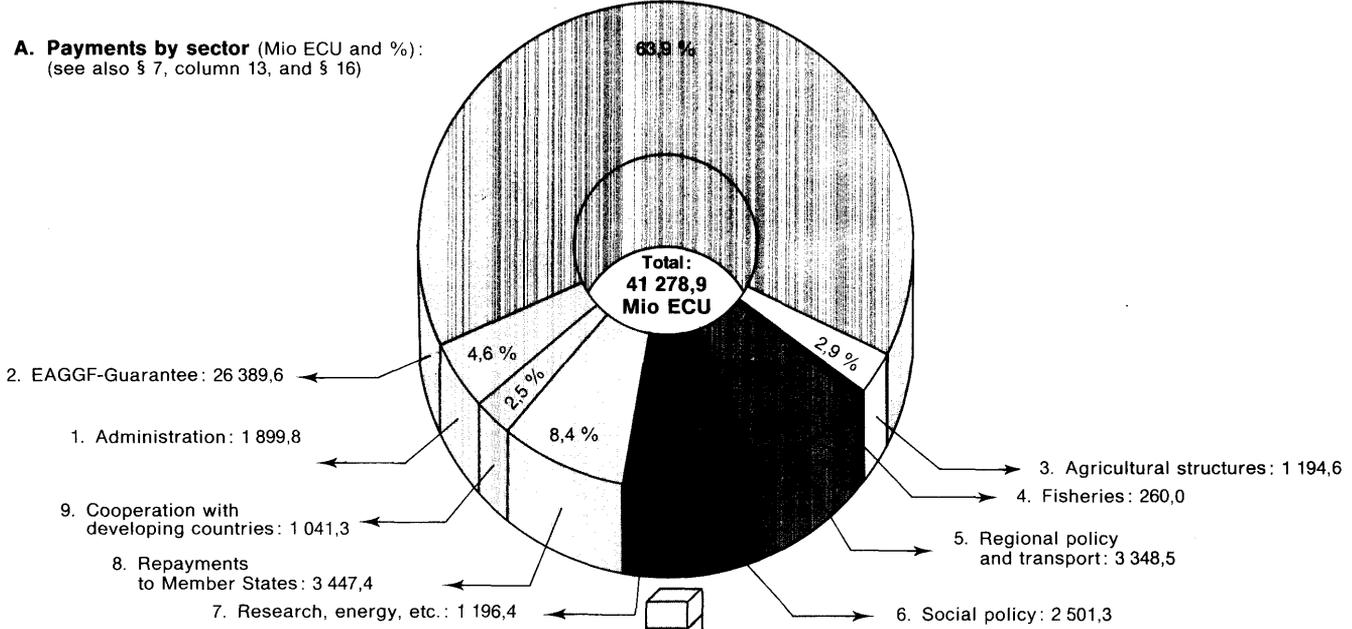


Note: The result for the financial year 1988, defined as (1) + (2) + (3) - (6) - (7), is 722,5 Mio ECU.

§ 11. Payments made in 1988, by sector and by recipient Member State

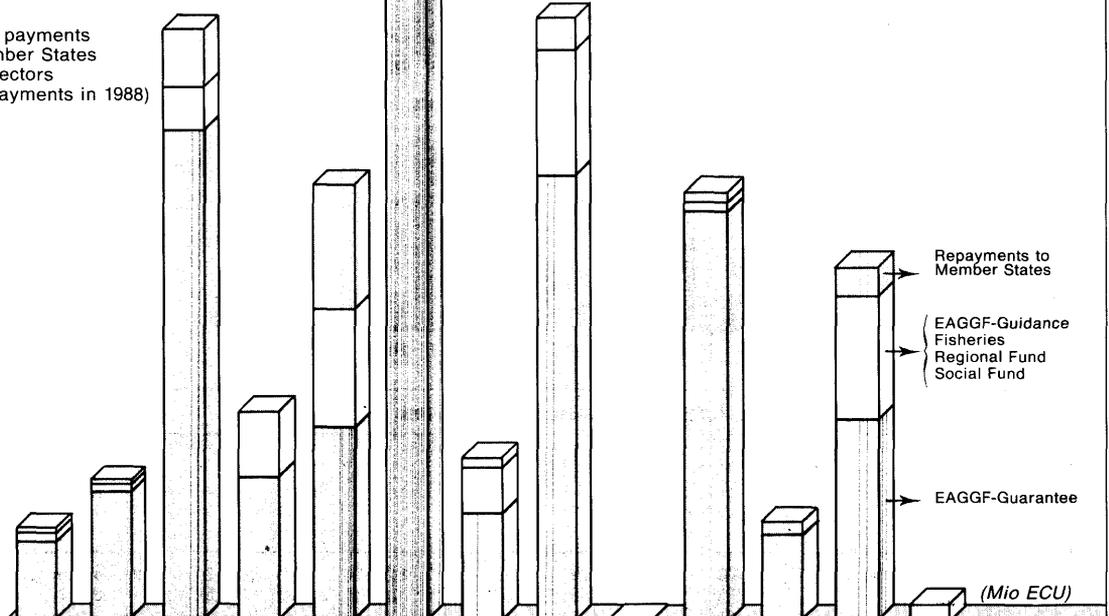
Note: Payments made in 1988 = payments against 1988 appropriations plus payments against carry-overs from 1987.

A. Payments by sector (Mio ECU and %):
(see also § 7, column 13, and § 16)



B. Payments to Member States (Mio ECU and %):
(see also § 12, § 13 and § 18)

Note: This table shows the payments made in 1988 to Member States under the principal sectors (87,5% of the total payments in 1988)

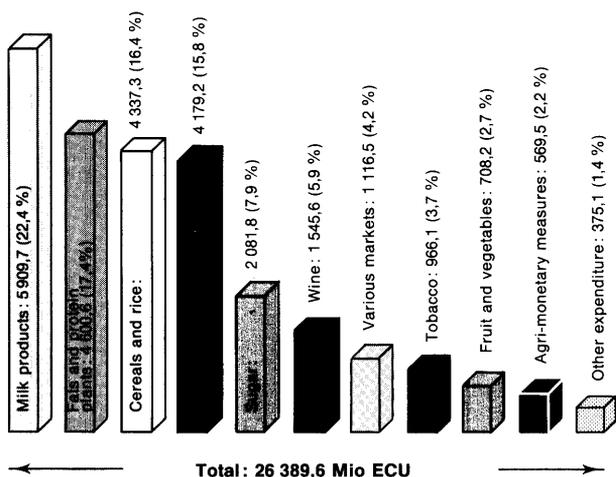


	B	DK	D	GR	E	F	IRL	I	L	NL	P	UK	Allocation not available	EUR 12
- EAGGF-Guarantee(T1-2)(¹)	715,0	1 170,1	4 507,1	1 318,5	1 780,2	6 012,6	991,0	4 114,5	2,8	3 769,3	156,7	1 845,0	6,8	26 389,6
- EAGGF-Guidance (Ch 30-33)	17,8	13,7	131,5	133,5	90,5	281,5	81,7	199,6	2,3	5,4	100,2	84,5	—	1 142,2
- Fisheries (T 4)	0,9	4,1	5,5	3,4	26,6	28,6	3,1	13,5	0,0	1,5	7,9	10,7	154,2	260,0
- Regional Fund (Ch 50-51)	29,6	10,1	96,9	312,6	543,5	436,3	136,9	597,4	7,4	13,3	330,7	577,8	0,3	3 092,8
- Social Fund (Ch 60-61)	32,0	34,3	147,1	147,9	407,1	292,1	179,6	329,7	1,2	46,5	202,4	478,9	—	2 298,8
- Repayments to Member States (Ch 80, 81, 86)	43,2	53,9	539,6	5,6	1 164,4	263,5	95,2	296,3	0,5	109,6	116,9	257,0	—	2 945,7
Total	838,5 (2,3%)	1 286,2 (3,6%)	5 427,7 (15,0%)	1 921,5 (5,3%)	4 012,3 (11,1%)	7 314,6 (20,3%)	1 487,5 (4,1%)	5 551,0 (15,4%)	14,2 (0,0%)	3 945,6 (10,9%)	914,8 (2,5%)	3 253,9 (9,0%)	161,3 (0,5%)	36 129,1 (100%)

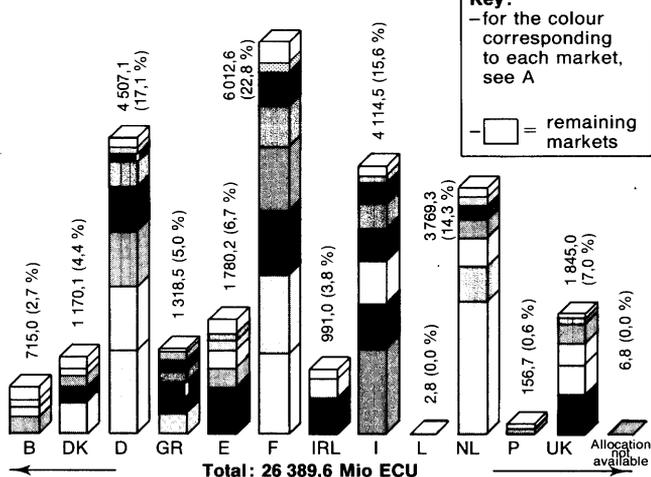
(¹) For the EAGGF-Guarantee these figures include adjusted monetary compensatory amounts (see § 12 D, footnote (¹)).

§ 12. EAGGF-Guarantee: payments made in 1988, by market and by recipient Member State

A. Payments made in 1988, by market (Mio ECU and %):

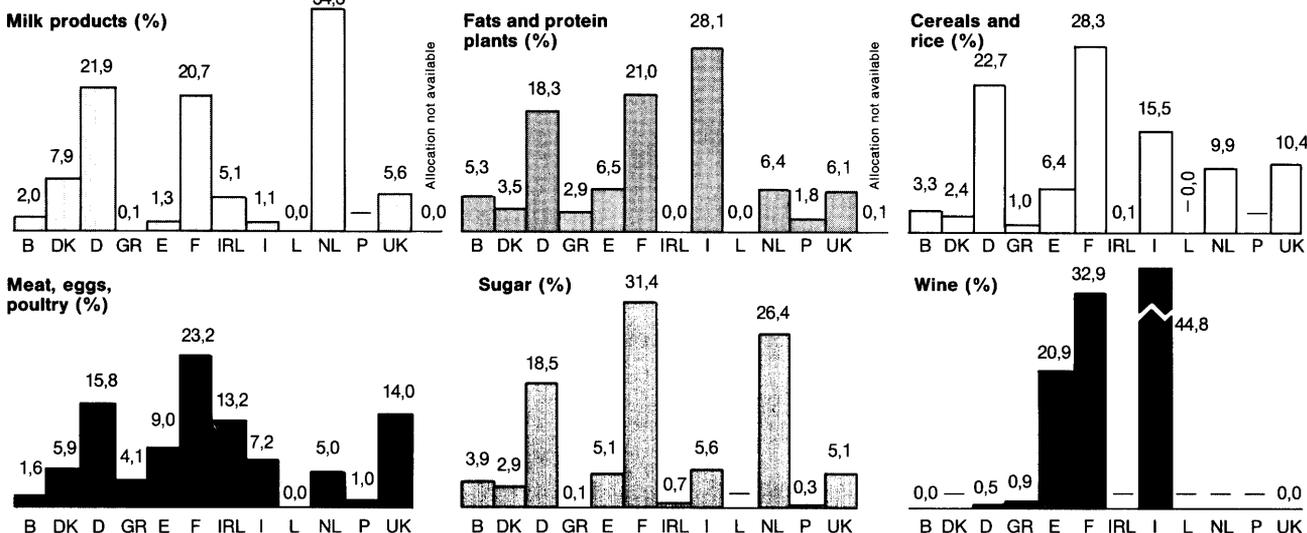


B. Payments made in 1988, by recipient Member State (Mio ECU and %):



Key:
 - for the colour corresponding to each market, see A
 - □ = remaining markets

C. Distribution by recipient Member State of payments made in 1988 for the principal markets (%):



D. Record of payments made in 1988, by recipient Member State and by market:

(Mio ECU)

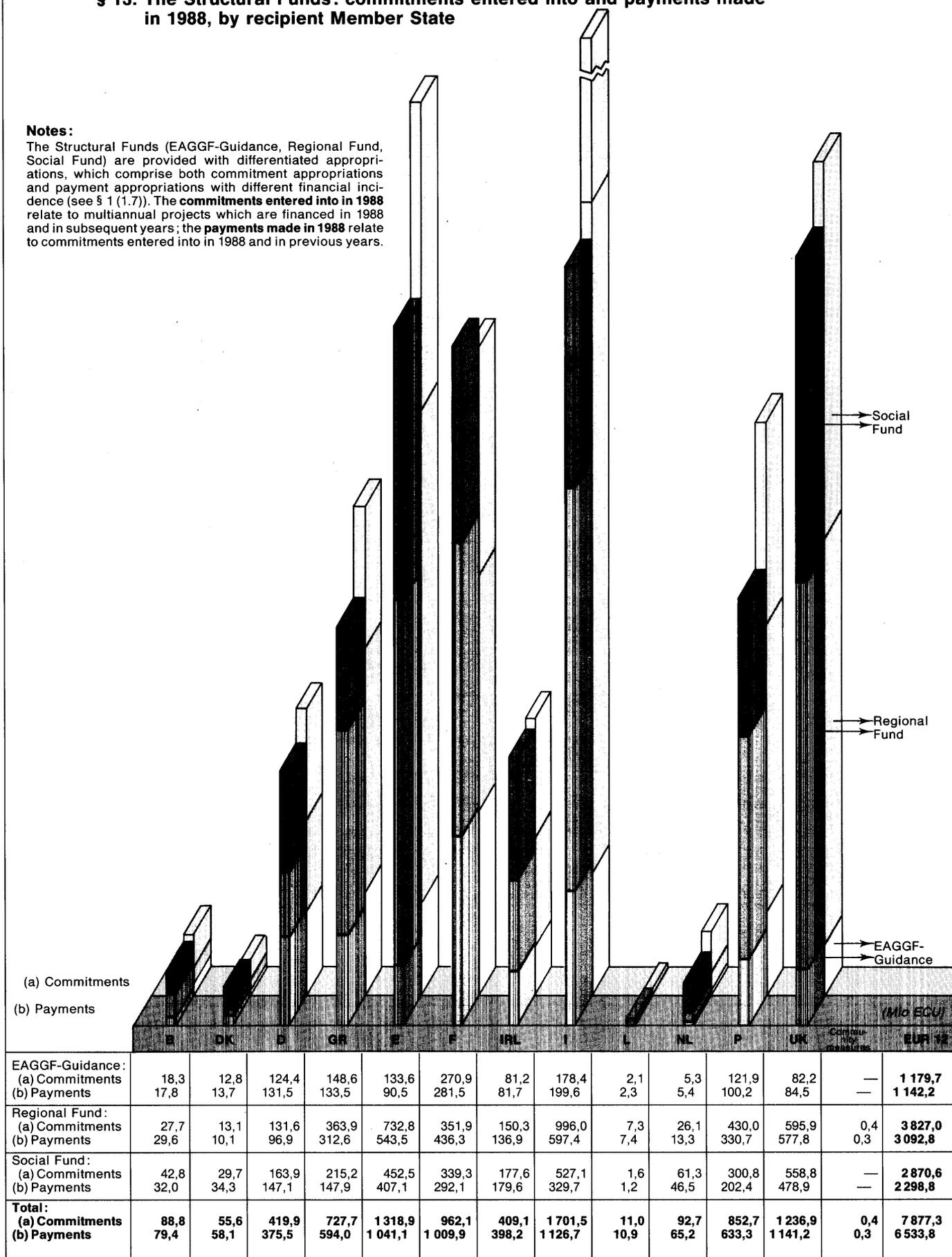
Market	B	DK	D	GR	E	F	IRL	I	L	NL	P	UK	Allocation not available	EUR 12
2.1. Cereals and rice	143,9	104,3	983,9	42,2	279,3	1 225,9	4,2	673,5	-0,2	430,0	—	450,3	—	4 337,3
2.2. Sugar	80,5	60,3	385,5	2,8	105,9	654,5	14,9	116,5	—	549,3	5,4	106,2	—	2 081,8
2.3. Fats and protein plants	245,1	161,5	841,3	131,8	301,3	967,1	2,3	1 292,7	0,1	292,7	81,0	278,8	4,9	4 600,6
2.4. Fruit and vegetables	1,3	2,3	5,9	172,8	35,5	78,7	0,1	385,9	—	5,2	16,4	4,1	—	708,2
2.5. Wine	0,0	—	7,9	14,4	322,7	508,9	—	691,2	—	—	—	0,5	—	1 545,6
2.6. Tobacco	4,3	—	47,5	251,7	72,4	76,3	—	508,5	—	0,1	5,3	—	—	966,1
2.7. Milk products	116,7	469,3	1 295,4	3,5	77,7	1 223,8	299,3	63,4	1,6	2 027,8	—	330,6	0,6	5 909,7
2.8. Meat, eggs, poultry	65,2	245,1	662,3	170,1	376,5	969,5	550,1	302,2	1,2	210,6	41,1	585,3	—	4 179,2
2.9. Various markets	30,6	67,6	100,6	300,5	143,0	93,7	60,6	65,3	0,0	157,9	0,2	95,2	1,3	1 116,5
2.10. Agri-monetary measures (1)	17,5	58,2	104,1	216,4	23,2	63,4	42,3	-15,6	0,0	75,7	6,0	-21,7	—	569,5
2.11. Other expenditure	9,9	1,5	72,7	12,3	42,7	150,8	17,2	30,9	0,1	20,0	1,3	15,7	—	375,1
Total	715,0	1 170,1	4 507,1	1 318,5	1 780,2	6 012,6	991,0	4 114,5	2,8	3 769,3	156,7	1 845,0	6,8	26 389,6

(1) The agri-monetary measures include monetary compensatory amounts (MCAs) adjusted to cancel the effect of the application of Article 2 of Council Regulation (EEC) No 974/71, under which exporting Member States themselves pay directly the MCAs due on import into certain importing Member States. The MCA adjustment consists in allocating to these importing Member States the amounts which are chargeable to them.

§ 13. The Structural Funds: commitments entered into and payments made in 1988, by recipient Member State

Notes:

The Structural Funds (EAGGF-Guidance, Regional Fund, Social Fund) are provided with differentiated appropriations, which comprise both commitment appropriations and payment appropriations with different financial incidence (see § 1 (1.7)). The **commitments entered into in 1988** relate to multiannual projects which are financed in 1988 and in subsequent years; the **payments made in 1988** relate to commitments entered into in 1988 and in previous years.



§ 14. Evolution and utilization of the appropriations for payment for the period 1984-1988, by sector

Note: For the rate of utilization relating to columns (4), (5), (6) and (8), (9), (10), see § 15.

(Mio ECU)

(%)

Sector / financial year (For the definition of sectors, see § 6)	A. Appropriations for payment for the financial year						B. Carry-overs from the previous financial year				C. Payment indicators	
	Evolution of appropriations			Utilization of appropriations			Final carry overs ⁽³⁾	Utilization of appropriations			Share of payments in the total effected (payments and cancell- ations) ⁽⁴⁾	Share of payments in 1st year ⁽⁵⁾
	Initial budget	Final budget ⁽¹⁾	Final appropri- ations ⁽²⁾	Pay- ments	Carry- overs to the follow- ing financial year	Cancell- ations		Pay- ments	Carry- overs to the follow- ing financial year	Cancell- ations		
	(1)	(2)	(3)	(4)	(5)	(6) = (3 - 4 - 5)	(7)	(8)	(9)	(10) = (7 - 8 - 9)	(11) = (4 + 8) (4 + 8 + 10)	(12) = (4) (4 + 8)
1. Administration (all institutions)	1984 1 229,1 1985 1 332,5 1986 1 604,4 1987 1 757,8 1988 1 974,1	1984 1 236,6 1985 1 332,5 1986 1 604,4 1987 1 757,8 1988 1 974,1	1984 1 245,6 1985 1 336,0 1986 1 611,0 1987 1 759,9 1988 1 994,0	1984 1 127,2 1985 1 210,3 1986 1 427,5 1987 1 577,0 1988 1 779,9	1984 96,4 1985 104,1 1986 123,7 1987 142,0 1988 167,2	1984 22,0 1985 21,6 1986 59,8 1987 40,9 1988 46,9	1984 100,6 1985 96,4 1986 104,1 1987 123,6 1988 136,3	1984 88,9 1985 85,7 1986 94,5 1987 106,4 1988 119,9	1984 — 1985 — 1986 — 1987 — 1988 —	1984 11,7 1985 10,7 1986 9,6 1987 17,2 1988 16,4	1984 97,3 1985 97,6 1986 95,6 1987 96,7 1988 96,8	1984 * 92,7 1985 * 93,4 1986 * 93,8 1987 * 93,7 1988 * 93,7
2. EAGGF- Guarantee	1984 16 150,0 1985 19 955,0 1986 22 112,0 1987 22 960,8 1988 27 500,0	1984 17 983,0 1985 19 955,0 1986 22 112,0 1987 22 960,8 1988 27 500,0	1984 18 358,0 1985 19 859,0 1986 22 135,0 1987 22 960,8 1988 27 500,0	1984 18 328,2 1985 19 723,7 1986 22 115,9 1987 22 949,6 1988 26 389,1	1984 2,6 1985 4,4 1986 3,5 1987 0,7 1988 11,2	1984 27,2 1985 130,9 1986 15,6 1987 10,5 1988 0,7	1984 0,1 1985 2,6 1986 4,4 1987 3,5 1988 0,7	1984 0,1 1985 2,2 1986 4,1 1987 2,2 1988 0,5	1984 — 1985 — 1986 — 1987 — 1988 —	1984 0,0 1985 0,4 1986 0,3 1987 1,3 1988 0,2	1984 99,9 1985 99,3 1986 99,9 1987 99,9 1988 96,0	1984 99,9 1985 99,9 1986 99,9 1987 99,9 1988 99,9
3. Agricultural structures	1984 655,6 1985 687,7 1986 790,2 1987 896,2 1988 1 219,0	1984 660,1 1985 687,7 1986 790,2 1987 843,2 1988 1 219,0	1984 666,9 1985 747,7 1986 800,2 1987 830,1 1988 1 210,5	1984 611,1 1985 690,8 1986 720,8 1987 799,0 1988 1 174,6	1984 55,2 1985 56,5 1986 76,8 1987 26,6 1988 23,4	1984 0,6 1985 0,4 1986 2,6 1987 4,5 1988 12,5	1984 131,2 1985 55,2 1986 56,5 1987 101,8 1988 26,6	1984 91,7 1985 47,8 1986 45,7 1987 89,6 1988 20,0	1984 — 1985 — 1986 — 1987 — 1988 —	1984 39,5 1985 7,4 1986 10,8 1987 12,2 1988 6,6	1984 * 94,6 1985 99,0 1986 98,3 1987 98,2 1988 98,4	1984 ** 87,0 1985 * 93,5 1986 * 94,0 1987 ** 89,9 1988 98,3
4. Fisheries	1984 101,4 1985 105,4 1986 164,1 1987 197,3 1988 281,9	1984 112,4 1985 105,4 1986 164,1 1987 177,4 1988 281,9	1984 87,4 1985 107,4 1986 151,1 1987 174,0 1988 287,0	1984 46,6 1985 72,6 1986 108,3 1987 124,6 1988 237,3	1984 38,4 1985 21,7 1986 42,4 1987 38,9 1988 20,4	1984 2,4 1985 13,1 1986 0,4 1987 10,5 1988 29,3	1984 12,5 1985 38,4 1986 21,7 1987 42,4 1988 38,9	1984 10,5 1985 9,2 1986 7,5 1987 33,2 1988 22,7	1984 — 1985 — 1986 — 1987 — 1988 —	1984 2,0 1985 29,2 1986 14,2 1987 9,2 1988 16,2	1984 * 92,8 1985 *** 65,9 1986 ** 88,8 1987 *** 88,9 1988 ** 85,1	1984 ** 81,6 1985 ** 88,8 1986 * 93,5 1987 *** 79,0 1988 * 91,3
5. Regional policy and transport	1984 1 488,6 1985 1 697,8 1986 2 574,8 1987 2 738,2 1988 3 211,4	1984 1 488,6 1985 1 697,8 1986 2 574,8 1987 2 738,2 1988 3 211,4	1984 1 967,7 1985 1 697,8 1986 2 574,8 1987 2 679,5 1988 3 209,5	1984 1 733,9 1985 1 501,9 1986 2 422,2 1987 2 479,9 1988 3 159,3	1984 232,6 1985 195,1 1986 152,6 1987 199,2 1988 32,8	1984 1,2 1985 0,8 1986 0,0 1987 0,4 1988 17,4	1984 126,9 1985 232,6 1986 195,1 1987 242,6 1988 199,2	1984 80,4 1985 223,6 1986 162,9 1987 207,4 1988 189,2	1984 — 1985 — 1986 — 1987 — 1988 —	1984 46,5 1985 9,0 1986 32,2 1987 35,2 1988 10,0	1984 97,4 1985 99,4 1986 98,8 1987 98,7 1988 99,2	1984 95,6 1985 ** 87,0 1986 * 93,7 1987 * 92,3 1988 * 94,3
6. Social policy	1984 1 369,3 1985 1 625,3 1986 2 651,6 1987 2 686,1 1988 2 837,2	1984 1 369,4 1985 1 625,3 1986 2 651,6 1987 2 686,1 1988 2 837,2	1984 1 638,1 1985 1 626,2 1986 2 652,5 1987 2 724,8 1988 2 833,5	1984 1 509,4 1985 1 373,1 1986 2 303,2 1987 2 615,4 1988 2 440,0	1984 125,9 1985 247,1 1986 349,3 1987 107,5 1988 80,3	1984 2,8 1985 6,0 1986 0,0 1987 1,9 1988 313,2	1984 617,7 1985 125,9 1986 247,1 1987 259,3 1988 113,2	1984 526,9 1985 117,6 1986 116,0 1987 237,1 1988 61,3	1984 — 1985 — 1986 — 1987 — 1988 —	1984 90,8 1985 8,3 1986 131,1 1987 22,2 1988 51,9	1984 95,6 1985 99,0 1986 * 94,9 1987 99,2 1988 ** 87,3	1984 *** 74,1 1985 * 92,1 1986 95,2 1987 * 91,7 1988 97,5
7. Research, energy, etc.	1984 610,7 1985 700,3 1986 740,7 1987 911,4 1988 1 117,8	1984 664,4 1985 700,3 1986 740,7 1987 911,4 1988 1 117,8	1984 1 191,6 1985 692,2 1986 760,1 1987 965,9 1988 1 164,3	1984 922,0 1985 469,6 1986 651,6 1987 803,1 1988 1 060,6	1984 265,7 1985 215,9 1986 108,5 1987 161,7 1988 30,8	1984 3,9 1985 6,7 1986 0,0 1987 1,1 1988 72,9	1984 162,5 1985 269,5 1986 220,2 1987 112,5 1988 164,0	1984 122,9 1985 237,9 1986 186,8 1987 97,2 1988 135,8	1984 4,8 1985 4,4 1986 4,0 1987 2,3 1988 2,0	1984 34,8 1985 27,2 1986 29,4 1987 13,0 1988 26,2	1984 96,4 1985 95,4 1986 96,6 1987 98,5 1988 * 92,4	1984 ** 88,2 1985 *** 66,4 1986 *** 77,7 1987 *** 89,2 1988 ** 88,6
8. Repayments to Member States	1984 1 103,5 1985 1 266,8 1986 3 299,8 1987 2 816,1 1988 3 688,3	1984 1 150,2 1985 1 266,8 1986 3 299,8 1987 2 869,0 1988 3 729,9	1984 1 083,2 1985 1 266,8 1986 3 299,8 1987 2 869,0 1988 3 729,9	1984 1 073,8 1985 1 239,3 1986 2 967,7 1987 2 281,1 1988 3 347,6	1984 8,7 1985 4,7 1986 127,7 1987 99,8 1988 382,0	1984 0,7 1985 22,8 1986 204,4 1987 488,1 1988 0,3	1984 99,5 1985 8,7 1986 4,7 1987 127,8 1988 99,8	1984 99,4 1985 8,7 1986 4,7 1987 127,8 1988 99,8	1984 — 1985 — 1986 — 1987 — 1988 —	1984 0,1 1985 — 1986 0,0 1987 — 1988 —	1984 99,9 1985 98,2 1986 * 93,6 1987 ** 83,2 1988 99,9	1984 * 91,5 1985 99,3 1986 99,8 1987 * 94,7 1988 97,1
9. Cooperation with developing countries	1984 893,1 1985 1 039,2 1986 1 141,5 1987 1 229,9 1988 882,8	1984 893,1 1985 1 039,2 1986 1 141,5 1987 1 104,9 1988 882,8	1984 1 032,2 1985 1 092,7 1986 1 161,6 1987 1 097,4 1988 866,1	1984 767,0 1985 855,2 1986 744,8 1987 481,3 1988 713,5	1984 264,6 1985 236,6 1986 416,7 1987 581,8 1988 70,9	1984 0,6 1985 0,9 1986 0,1 1987 34,3 1988 81,7	1984 445,6 1985 264,6 1986 236,7 1987 391,7 1988 581,8	1984 383,6 1985 229,5 1986 108,6 1987 312,5 1988 327,8	1984 — 1985 — 1986 — 1987 — 1988 —	1984 62,0 1985 35,1 1986 128,1 1987 79,2 1988 254,0	1984 * 94,8 1985 96,8 1986 ** 86,9 1987 ** 87,5 1988 *** 75,6	1984 *** 66,7 1985 *** 78,8 1986 ** 87,3 1987 *** 60,6 1988 *** 68,5
10. Provisional appropriations and contin- gency reserve (Commission)	1984 1 760,2 1985 23,2 1986 95,0 1987 119,8 1988 1 066,3	1984 1 690,8 1985 23,2 1986 95,0 1987 119,8 1988 1 066,3	1984 — 1985 11,3 1986 31,1 1987 109,2 1988 1 050,1	1984 — 1985 — 1986 — 1987 — 1988 —	1984 — 1985 — 1986 — 1987 — 1988 —	1984 — 1985 11,3 1986 31,1 1987 109,2 1988 1 050,1	1984 — 1985 — 1986 — 1987 — 1988 —	1984 — 1985 — 1986 — 1987 — 1988 —	1984 — 1985 — 1986 — 1987 — 1988 —	1984 — 1985 — 1986 — 1987 — 1988 —	1984 — 1985 — 1986 — 1987 — 1988 —	1984 — 1985 — 1986 — 1987 — 1988 —
General budget — total	1984 25 361,5 1985 28 433,2 1986 35 174,1 1987 36 313,4 1988 43 778,8	1984 27 248,6 1985 28 433,2 1986 35 174,1 1987 36 168,4 1988 43 820,4	1984 27 270,7 1985 28 437,1 1986 35 177,2 1987 36 170,6 1988 43 844,9	1984 26 119,2 1985 27 136,5 1986 33 462,0 1987 34 111,0 1988 40 301,9	1984 1 090,1 1985 1 086,1 1986 1 401,2 1987 1 358,2 1988 819,0	1984 61,4 1985 214,5 1986 314,0 1987 701,4 1988 2 724,0	1984 1 696,6 1985 1 093,9 1986 1 090,5 1987 1 405,2 1988 1 360,5	1984 1 404,4 1985 962,2 1986 730,8 1987 1 213,4 1988 977,0	1984 4,8 1985 4,4 1986 4,0 1987 2,3 1988 2,0	1984 287,4 1985 127,3 1986 355,7 1987 189,5 1988 381,5	1984 98,7 1985 98,8 1986 98,1 1987 97,5 1988 * 93,0	1984 * 94,9 1985 96,6 1986 97,9 1987 96,6 1988 97,6

(1) After supplementary and amending budgets.

(2) After supplementary receipts, transfers between budget headings and 'transfers' from carry-overs from the previous financial year.

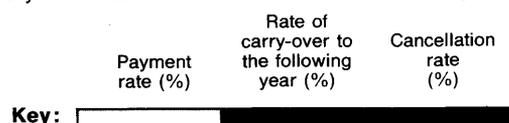
(3) After transfers between budget headings and 'transfers' to the appropriations for the current financial year.

(4) The indicator (11) expresses the evolution of the share of appropriations finally paid during the financial years. The difference in relation to 100 % expresses the share of appropriations finally cancelled. Indicators (11) less than 95 % are marked (*), those less than 90 % (**), and those less than 80 % (***).

(5) The indicator (12) expresses the evolution of payments made against the appropriations for the financial year as a proportion of the total payments effected during the financial year. The difference in relation to 100 % expresses the share of payments effected against carry-overs from the previous financial year. Indicators (12) less than 95 % are marked (*), those less than 90 % (**) and those less than 80 % (***).

§ 15. Utilization rates of the appropriations for payment from 1984 to 1988, by sector

Note: This analysis is based on the financial information given in § 14.



A. Appropriations for the financial year

For basic figures, see § 14, columns 3-6
Final appropriations (col. 3) = 100 %

B. Carry-overs from the previous financial year

For basic figures, see § 14, columns 7-10
Appropriations carried over (col. 7) = 100 %

Sector	Year	A. Appropriations for the financial year (%)		B. Carry-overs from the previous financial year (%)	
		Payment rate (%)	Rate of carry-over to the following year (%)	Payment rate (%)	Rate of carry-over to the following year (%)
1. Administration (all institutions)	1984	90,5	1,8	88,4	11,6
	1985	90,6	1,6	88,9	11,1
	1986	88,6	3,7	90,8	9,2
	1987	89,6	2,3	86,1	13,9
	1988	89,3	2,3	88,0	12,0
2. EAGGF-Guarantee	1984	99,8	0,0 →	100	0,0
	1985	99,3	0,0 →	84,6	15,4
	1986	99,9	0,0 →	93,2	6,8
	1987	99,9	0,0 →	62,9	37,1
	1988	96,0	0,0 →	71,4	28,6
3. Agricultural structures	1984	91,6	0,1	69,9	30,1
	1985	92,4	0,0	86,6	13,4
	1986	90,1	0,3	80,9	19,1
	1987	96,3	3,2 →	88,0	12,0
	1988	97,0	1,9 →	75,2	24,8
4. Fisheries	1984	53,3	2,8	84,0	16,0
	1985	67,6	12,2	24,0	76,0
	1986	71,7	0,3	34,6	65,4
	1987	71,6	6,0	78,3	21,7
	1988	82,7	10,2	58,4	41,6
5. Regional policy and transport	1984	88,1	0,1	63,4	36,6
	1985	88,5	0,0	96,1	3,9
	1986	94,1	0,0	83,5	16,5
	1987	92,6	0,0	85,5	14,5
	1988	98,4	1,0 →	95,0	5,0
6. Social policy	1984	92,1	0,2	85,3	14,7
	1985	84,4	0,4	93,4	6,6
	1986	86,8	0,0	46,9	53,1
	1987	96,0	3,9 →	91,4	8,6
	1988	86,1	2,8 →	54,2	45,8
7. Research, energy, etc.	1984	77,4	0,3	75,6	24,4
	1985	67,8	1,0	88,3	11,7
	1986	85,7	0,0	84,8	15,2
	1987	83,1	0,1	86,4	13,6
	1988	91,1	2,6 →	82,8	17,2
8. Repayments to Member States	1984	99,1	0,8 →	99,9	0,1
	1985	97,8	0,4 →	100	—
	1986	89,9	3,9 →	100	0,0
	1987	79,5	3,5 →	100	—
	1988	89,8	0,0	100	—
9. Cooperation with developing countries	1984	74,3	0,1	86,1	13,9
	1985	78,3	0,1	86,7	13,3
	1986	64,1	0,0	45,9	54,1
	1987	43,9	3,1	79,8	20,2
	1988	82,4	9,4	56,3	43,7
General budget — total	1984	95,8	4,0 →	82,8	17,2
	1985	95,4	3,8 →	88,0	12,0
	1986	95,1	4,0 →	67,0	33,0
	1987	94,3	3,8 →	86,3	13,7
	1988	91,9	1,9 →	71,8	28,2

§ 16. Annual payments during the period 1984-1988, by sector and by institution

Note: Annual payments = payments against appropriations of the financial year plus payments against carry-overs from the previous financial year.

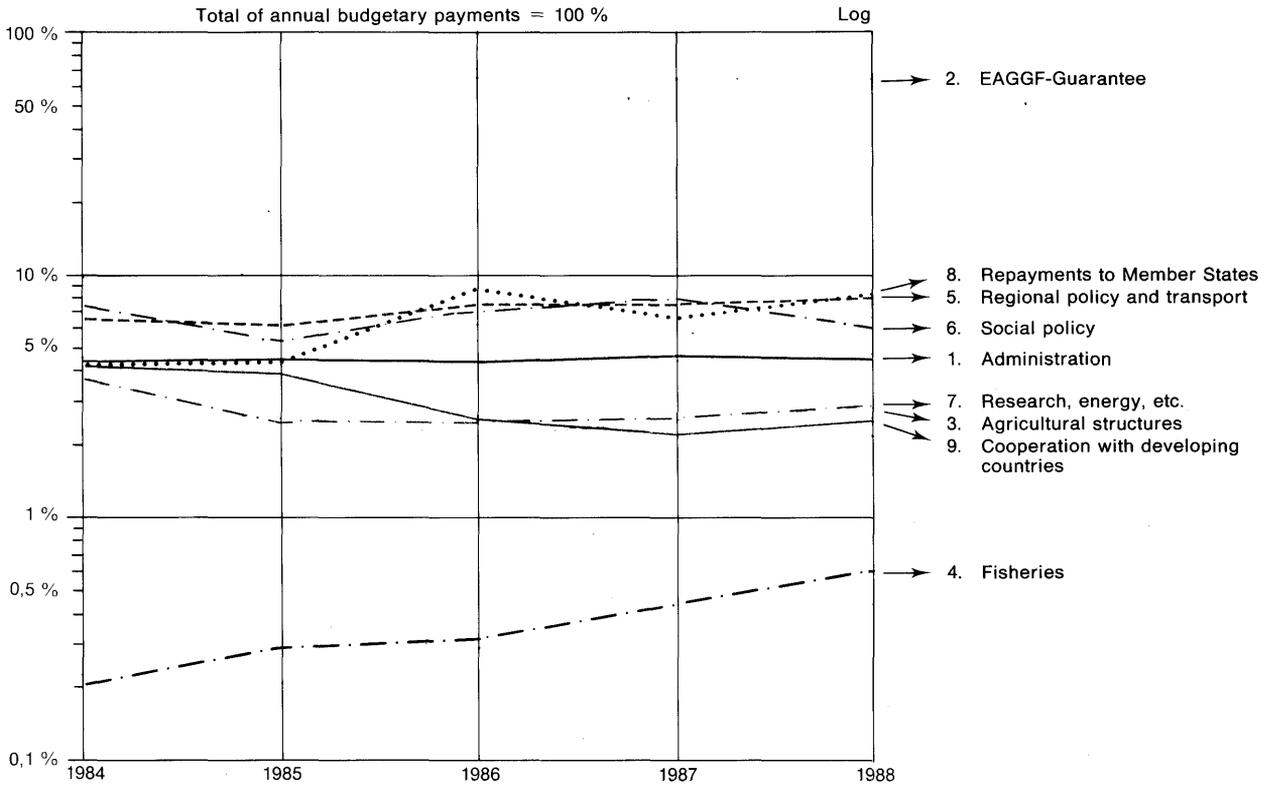
Sector and institution (For the definition of sectors, see § 6)		1984		1985		1986		1987		1988		
		Mio ECU	% (1)									
1. Administration (all institutions)		1 216,1	4,4	1 296,0	4,6	1 522,0	4,4	1 683,4	4,8	1 899,8	4,6	
1.1. Commission		798,4	2,9	869,5	3,1	998,6	2,9	1 098,5	3,1	1 253,8	3,0	
1.2. Other institutions		417,7	1,5	426,5	1,5	523,4	1,5	584,9	1,7	646,0	1,6	
Operating sectors (Commission)	2. EAGGF-Guarantee	18 328,3	66,6	19 725,9	70,2	22 120,0	64,7	22 951,8	65,0	26 389,6	63,9	
	2.1. Cereals and rice	1 697,8	6,2	2 359,8	8,4	3 485,4	10,2	4 236,6	12,0	4 337,3	10,5	
	2.2. Sugar	1 631,5	5,9	1 804,5	6,4	1 725,5	5,0	2 035,6	5,8	2 081,8	5,0	
	2.3. Fats and protein plants	1 965,6	7,1	2 173,7	7,7	3 094,6	9,1	4 413,7	12,5	4 600,6	11,2	
	2.4. Fruit and vegetables	1 454,6	5,3	1 230,7	4,4	986,0	2,9	967,1	2,7	708,2	1,7	
	2.5. Wine	1 222,6	4,4	921,4	3,3	630,8	1,8	800,3	2,3	1 545,6	3,8	
	2.6. Tobacco	776,4	2,8	862,9	3,1	782,2	2,3	803,6	2,3	966,1	2,3	
	2.7. Milk products	5 441,7	19,8	5 933,2	21,1	5 405,8	15,8	5 013,0	14,2	5 909,7	14,3	
	2.8. Meat, eggs and poultry	3 246,1	11,8	3 476,6	12,4	4 348,2	12,7	3 033,1	8,6	4 179,2	10,1	
	2.9. Various markets	541,3	2,0	736,1	2,6	1 121,6	3,3	942,7	2,7	1 116,5	2,7	
	2.10. Agri-monetary measures	376,2	1,4	189,8	0,7	481,7	1,4	654,9	1,8	569,5	1,4	
	2.11. Other expenditure	-25,5	-0,1	37,2	0,1	58,2	0,2	51,2	0,1	375,1	0,9	
	3. Agricultural structures		702,8	2,5	738,6	2,6	766,5	2,2	888,6	2,5	1 194,6	2,9
	3.1. EAGGF-Guidance		646,8	2,3	690,1	2,4	727,1	2,1	863,2	2,4	1 142,2	2,8
	3.2. Specific measures		56,0	0,2	48,5	0,2	39,4	0,1	25,4	0,1	52,4	0,1
	4. Fisheries		57,1	0,2	81,8	0,3	115,8	0,3	157,8	0,4	260,0	0,6
	4.1. Common organization of the market		15,7	0,0	16,1	0,1	18,0	0,0	17,4	0,0	46,9	0,1
	4.2. Other measures		41,4	0,2	65,7	0,2	97,8	0,3	140,4	0,4	213,1	0,5
	5. Regional policy and transport		1 814,3	6,6	1 725,5	6,2	2 585,1	7,6	2 687,3	7,6	3 348,5	8,1
	5.1. Regional Fund		1 350,6	4,9	1 624,2	5,8	2 483,8	7,3	2 535,0	7,1	3 092,8	7,5
	5.2. Transport		430,8	1,6	76,0	0,3	46,2	0,1	24,3	0,1	46,6	0,1
5.3. Other measures		32,9	0,1	25,3	0,1	55,1	0,2	128,0	0,4	209,1	0,5	
6. Social policy		2 036,3	7,4	1 490,7	5,3	2 419,2	7,1	2 852,5	8,1	2 501,3	6,1	
6.1. Social Fund		1 606,3	5,8	1 413,0	5,0	2 321,3	6,8	2 715,3	7,7	2 298,8	5,6	
6.2. Other measures		430,0	1,6	77,7	0,3	97,9	0,3	137,2	0,4	202,5	0,5	
7. Research, energy, etc.		1 044,9	3,8	707,5	2,5	838,4	2,5	900,3	2,6	1 196,4	2,9	
7.1. Energy		545,7	1,9	126,2	0,4	80,6	0,2	89,7	0,3	130,8	0,3	
7.2. Research and investment		441,0	1,6	510,6	1,8	679,7	2,0	720,2	2,0	962,9	2,3	
7.3. Industry		43,9	0,2	49,8	0,2	50,9	0,2	63,8	0,2	76,6	0,2	
7.4. Other measures		14,3	0,1	20,9	0,1	27,2	0,1	26,6	0,1	26,1	0,1	
8. Repayments to Member States		1 173,2	4,3	1 248,0	4,4	2 972,4	8,7	2 408,9	6,8	3 447,4	8,4	
9. Cooperation with developing countries		1 150,6	4,2	1 084,7	3,9	853,4	2,5	793,8	2,2	1 041,3	2,5	
9.1. Food aid		709,2	2,6	543,8	2,0	412,1	1,2	305,2	0,9	581,0	1,4	
9.2. Financial aid		441,4	1,6	540,9	1,9	441,3	1,3	488,6	1,3	460,3	1,1	
Total operating sectors		26 307,5	95,6	26 802,7	95,4	32 670,8	95,6	33 641,0	95,2	39 379,1	95,4	
Grand total		27 523,6	100	28 098,7	100	34 192,8	100	35 324,4	100	41 278,9	100	
Institutions	Parliament	245,5	0,9	228,5	0,8	287,3	0,8	322,3	0,9	369,9	0,9	
	Council (of which: Economic and Social Committee)	126,7 (24,2)	0,4 (0,1)	148,4 (26,4)	0,5 (0,1)	177,4 (31,3)	0,5 (0,1)	194,2 (35,3)	0,5 (0,1)	203,7 (38,0)	0,5 (0,1)	
	Commission	27 105,9	98,5	27 672,2	98,5	33 669,4	98,5	34 739,5	98,4	40 632,9	98,4	
	Court of Justice	28,6	0,1	31,1	0,1	37,1	0,1	43,9	0,1	46,6	0,1	
	Court of Auditors	16,9	0,1	18,5	0,1	21,6	0,1	24,5	0,1	25,8	0,1	
Grand total		27 523,6	100	28 098,7	100	34 192,8	100	35 324,4	100	41 278,9	100	

(1) Percentage in relation to the total of annual budgetary payments.

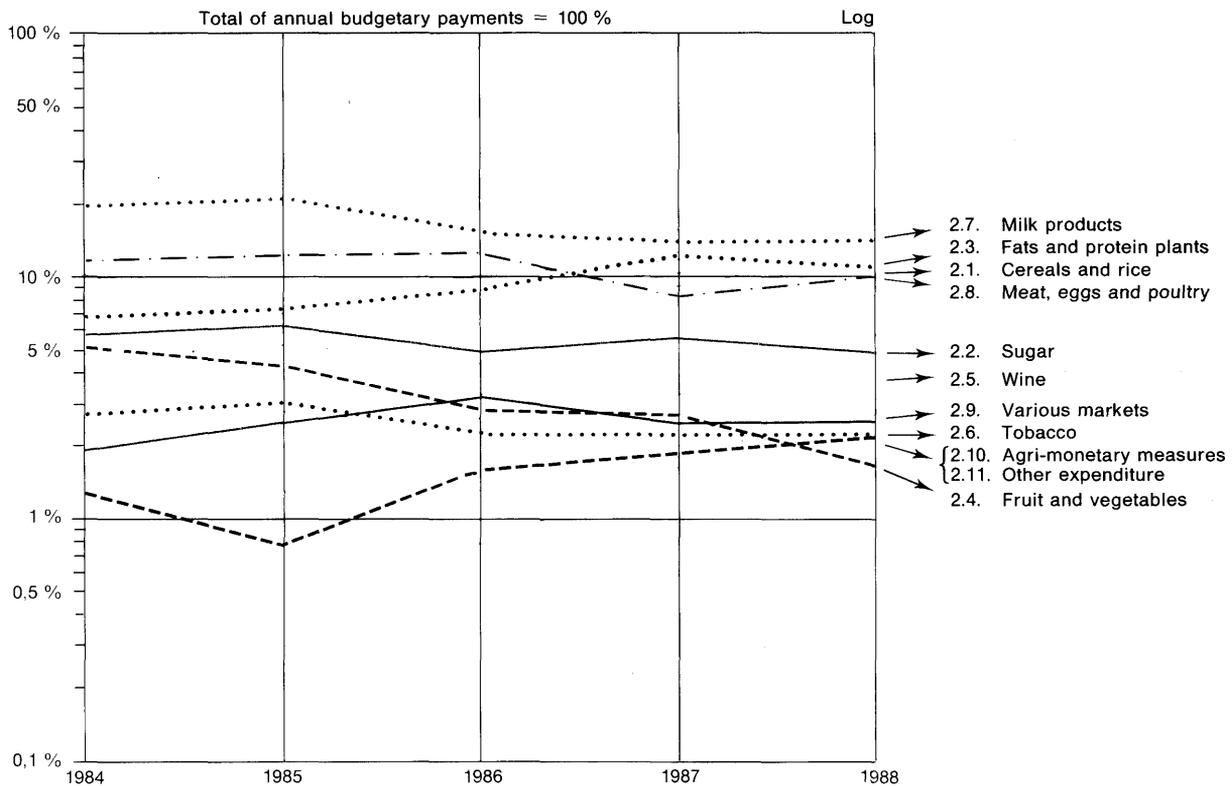
§ 17. Evolution of the ratio of 'annual payments by sector' to 'total of annual budgetary payments' (1984-1988)

(for detailed figures see § 16)

A. General budget (all sectors):



B. EAGGF-Guarantee (all markets):



§ 18. Annual payments to the Member States (1984-1988)

Notes:

1. This table summarizes the annual payments to the Member States under the principal sectors. For the period under consideration these payments represent 87,8 % of total budgetary payments (= the aggregate of the totals in § 16).
2. Annual payments = payments against appropriations for the financial year plus payments against carry-overs from the previous year.
3. Payments under the EAGGF-Guarantee include adjusted monetary compensatory amounts (see § 12 D, footnote (!)).

(Mio ECU)

Financial year/sector	B	DK	D	GR	E	F	IRL	I	L	NL	P	UK	Allocation not available	EUR 10/12
1984:														
EAGGF-Guarantee (T 1-2)	686,4	879,6	3 323,0	961,2	—	3 592,0	884,4	3 909,4	3,6	1 964,2	—	2 121,3	3,2	18 328,3
EAGGF-Guidance (Ch 30-33)	12,9	13,9	89,3	52,8	—	143,9	64,2	127,8	3,9	24,8	—	113,3	—	646,8
Fisheries (T 4)	0,7	3,8	5,1	0,6	—	9,5	10,3	4,1	—	3,6	—	9,5	9,9	57,1
Regional Fund (Ch 50-51)	6,0	28,1	43,9	216,7	—	201,7	104,1	435,1	2,5	14,8	—	297,7	—	1 350,6
Social Fund (Ch 60-61)	52,1	68,7	63,8	71,3	—	225,7	131,4	368,5	0,5	14,1	—	610,2	—	1 606,3
Costs incurred in collecting own resources (Ch 80)	82,0	26,0	302,5	14,8	—	169,7	16,0	117,5	0,7	101,1	—	279,6	—	1 109,9
Specific measures (Ch 82, 86; Articles 707, 783)	—	—	191,7	46,6	—	—	—	—	—	—	—	660,9	—	899,2
Total	840,1 (3,5 %)	1 020,1 (4,2 %)	4 019,3 (16,7 %)	1 364,0 (5,7 %)	—	4 342,5 (18,1 %)	1 210,4 (5,0 %)	4 962,4 (20,7 %)	11,2 (0,1 %)	2 122,6 (8,8 %)	—	4 092,5 (17,1 %)	13,1 (0,1 %)	23 998,2 (100 %)
1985:														
EAGGF-Guarantee (T 1-2)	916,3	829,3	3 625,6	1 192,6	—	4 633,3	1 166,8	3 410,9	4,8	2 047,4	—	1 894,7	4,2	19 725,9
EAGGF-Guidance (Ch 30-33)	12,4	13,0	81,0	83,7	—	122,3	73,1	175,3	1,8	18,1	—	109,4	—	690,1
Fisheries (T 4)	3,1	2,9	2,3	1,7	—	12,1	3,2	6,0	—	2,3	—	12,5	35,7	81,8
Regional Fund (Ch 50-51)	12,3	7,7	61,7	309,0	—	233,2	118,2	381,1	0,7	16,4	—	483,9	—	1 624,2
Social Fund (Ch 60-61)	49,4	33,5	109,8	79,0	—	255,6	171,6	383,5	0,6	46,0	—	284,0	—	1 413,0
Costs incurred in collecting own resources (Ch 80)	76,5	26,1	284,5	12,2	—	159,9	15,8	123,5	0,6	101,7	—	250,1	—	1 050,9
Specific measures (Ch 82, 86; Articles 583, 707)	—	—	20,1	24,6	—	—	—	—	—	—	—	72,8	—	117,5
Total	1 070,0 (4,3 %)	912,5 (3,7 %)	4 185,0 (17,0 %)	1 702,8 (6,9 %)	—	5 416,4 (21,9 %)	1 548,7 (6,3 %)	4 480,3 (18,1 %)	8,5 (0,0 %)	2 231,9 (9,0 %)	—	3 107,4 (12,6 %)	39,9 (0,2 %)	24 703,4 (100 %)
1986:														
EAGGF-Guarantee (T 1-2)	978,4	1 063,2	4 400,6	1 386,9	271,4	5 440,3	1 212,9	3 067,8	2,1	2 276,5	30,4	1 983,0	6,5	22 120,0
EAGGF-Guidance (Ch 30-34)	15,5	13,9	105,1	86,2	—	176,7	64,2	167,0	2,3	17,1	—	79,1	—	727,1
Fisheries (T 4)	4,5	11,3	6,1	3,4	0,0	19,7	2,6	6,9	—	2,9	0,4	21,7	36,3	115,8
Regional Fund (Ch 50-51)	29,5	18,9	92,5	309,1	314,3	219,0	79,3	712,1	0,1	13,1	188,8	506,7	0,4	2 483,8
Social Fund (Ch 60-61)	72,9	80,7	134,6	107,1	174,9	328,4	203,1	462,2	1,4	50,6	109,2	596,2	—	2 321,3
Costs incurred in collecting own resources (Ch 80)	63,4	23,8	249,5	10,4	19,0	139,5	11,8	107,3	0,6	89,3	5,7	200,1	—	920,4
Specific measures (Ch 86)	—	—	—	2,0	1 635,9	—	—	—	—	—	163,3	—	—	1 801,2
Total	1 164,2 (3,8 %)	1 211,8 (4,0 %)	4 988,4 (16,4 %)	1 905,1 (6,3 %)	2 415,5 (7,9 %)	6 323,6 (20,7 %)	1 573,9 (5,2 %)	4 523,3 (14,8 %)	6,5 (0,0 %)	2 449,5 (8,0 %)	497,8 (1,6 %)	3 386,8 (11,1 %)	43,2 (0,2 %)	30 489,6 (100 %)
1987:														
EAGGF-Guarantee (T 1-2)	821,3	1 057,4	3 992,7	1 340,5	601,6	5 657,0	954,9	3 899,7	1,5	2 727,8	146,6	1 747,2	3,6	22 951,8
EAGGF-Guidance (Ch 30-33)	18,7	15,7	128,3	78,0	21,2	237,2	87,0	146,3	4,5	17,1	28,3	80,9	—	863,2
Fisheries (T 4)	2,9	4,9	4,3	3,5	5,6	15,8	5,7	13,0	—	4,8	4,6	11,6	81,1	157,8
Regional Fund (Ch 50-51)	23,0	16,6	73,4	293,9	345,3	311,2	134,7	563,5	3,8	19,6	222,7	526,7	0,6	2 535,0
Social Fund (Ch 60-61)	56,5	31,7	131,6	151,9	311,5	406,1	247,4	539,2	1,7	52,1	190,5	595,1	—	2 715,3
Costs incurred in collecting own resources (Ch 80)	63,0	17,9	211,5	8,7	29,2	117,0	8,3	94,5	0,5	68,8	8,5	160,0	—	787,9
Specific measures (Ch 86)	—	—	—	0,4	670,4	—	—	—	—	—	130,2	—	—	801,0
Total	985,4 (3,2 %)	1 144,2 (3,7 %)	4 541,8 (14,7 %)	1 876,9 (6,1 %)	1 984,8 (6,4 %)	6 744,3 (21,9 %)	1 438,0 (4,7 %)	5 256,2 (17,1 %)	12,0 (0,0 %)	2 890,2 (9,4 %)	731,4 (2,4 %)	3 121,5 (10,1 %)	85,3 (0,3 %)	30 812,0 (100 %)
1988:														
EAGGF-Guarantee (T 1-2)	715,0	1 170,1	4 507,1	1 318,5	1 780,2	6 012,6	991,0	4 114,5	2,8	3 769,3	156,7	1 845,0	6,8	26 389,6
EAGGF-Guidance (Ch 30-33)	17,8	13,7	131,5	133,5	90,5	281,5	81,7	199,6	2,3	5,4	100,2	84,5	—	1 142,2
Fisheries (T 4)	0,9	4,1	5,5	3,4	26,6	28,6	3,1	13,5	0,0	1,5	7,9	10,7	154,2	260,0
Regional Fund (Ch 50-51)	29,6	10,1	96,9	312,6	543,5	436,3	136,9	597,4	7,4	13,3	330,7	577,8	0,3	3 092,8
Social Fund (Ch 60-61)	32,0	34,3	147,1	147,9	407,1	292,1	179,6	329,7	1,2	46,5	202,4	478,9	—	2 298,8
Repayments to Member States (Ch 80, 81, 86)	43,2	53,9	539,6	5,6	1 164,4	263,5	95,2	296,3	0,5	109,6	116,9	257,0	—	2 945,7
Total	838,5 (2,3 %)	1 286,2 (3,6 %)	5 427,7 (15,0 %)	1 921,5 (5,3 %)	4 012,3 (11,1 %)	7 314,6 (20,3 %)	1 487,5 (4,1 %)	5 551,0 (15,4 %)	14,2 (0,0 %)	3 945,6 (10,9 %)	914,8 (2,5 %)	3 253,9 (9,0 %)	161,3 (0,5 %)	36 129,1 (100 %)

§ 19. Actual own resources, by Member State (1984-1988)

Notes:

1. Actual own resources = own resources recovered during the financial year.
2. It should be noted that the Member States, acting on behalf of the Communities, are responsible for the collection of the amounts due in respect of customs duties, agricultural levies and sugar and isoglucose levies.
As from the financial year 1988 the Member States keep 10 % of the corresponding amounts payable to cover their costs.

(Mio ECU)

Financial year/type of resource	B	DK	D	GR	E	F	IRL	I	L	NL	P	UK	EUR 10/12
1984:													
Agricultural levies	211,0	8,0	158,6	19,5	—	94,2	6,9	288,5	0,1	131,8	—	341,4	1 260,0
Sugar and isoglucose levies	83,9	38,0	350,2	16,6	—	406,3	16,8	84,1	—	76,9	—	103,6	1 176,4
Customs duties	470,0	197,3	2 309,7	99,4	—	1 100,0	126,7	750,9	5,9	740,8	—	2 160,1	7 960,8
VAT own resources ^{(1) (2)}	473,4	289,6	4 233,9	220,3	—	3 201,8	135,9	2 319,9	45,3	738,3	—	2 824,4	14 482,8
Total	1 238,3 (5,0 %)	532,9 (2,1 %)	7 052,4 (28,4 %)	355,8 (1,4 %)	—	4 802,3 (19,3 %)	286,3 (1,2 %)	3 443,4 (13,8 %)	51,3 (0,2 %)	1 687,8 (6,8 %)	—	5 429,5 (21,8 %)	24 880,0 (100 %)
1985:													
Agricultural levies	197,2	9,7	142,0	18,1	—	74,1	5,9	314,4	0,2	131,7	—	228,4	1 121,7
Sugar and isoglucose levies	78,4	43,5	286,3	12,0	—	348,0	15,0	75,8	—	104,1	—	94,3	1 057,4
Customs duties	489,3	208,2	2 414,5	95,9	—	1 174,7	137,2	820,1	6,0	781,5	—	2 182,7	8 310,1
VAT own resources ^{(1) (2)}	527,7	359,0	4 661,5	262,0	—	3 722,4	138,3	2 419,2	44,5	872,1	—	2 584,9	15 591,6
Total	1 292,6 (5,0 %)	620,4 (2,4 %)	7 504,3 (28,8 %)	388,0 (1,5 %)	—	5 319,2 (20,4 %)	296,4 (1,1 %)	3 629,5 (13,9 %)	50,7 (0,2 %)	1 889,4 (7,2 %)	—	5 090,3 (19,5 %)	26 080,8 (100 %)
1986:													
Agricultural levies	132,2	9,8	111,9	22,9	10,1	107,6	6,4	356,4	0,2	114,1	18,7	285,2	1 175,5
Sugar and isoglucose levies	84,7	47,6	313,0	16,9	14,5	378,6	10,8	73,0	—	95,9	—	76,5	1 111,5
Customs duties	494,6	220,5	2 436,1	85,5	191,9	1 150,4	113,3	770,1	6,4	792,0	49,8	1 862,3	8 172,9
VAT own resources ^{(1) (3)}	736,6	512,8	5 869,2	507,1	2 104,1	5 248,5	213,3	3 518,7	59,2	1 230,0	210,1	2 601,2	22 810,8
Total	1 448,1 (4,4 %)	790,7 (2,4 %)	8 730,2 (26,2 %)	632,4 (1,9 %)	2 320,6 (7,0 %)	6 885,1 (20,7 %)	343,8 (1,0 %)	4 718,2 (14,2 %)	65,8 (0,2 %)	2 232,0 (6,7 %)	278,6 (0,8 %)	4 825,2 (14,5 %)	33 270,7 (100 %)
1987:													
Agricultural levies	284,8	15,4	155,3	19,1	77,5	108,3	5,8	411,3	0,2	96,8	41,5	410,1	1 626,1
Sugar and isoglucose levies	106,2	59,0	394,0	12,5	53,4	452,6	12,0	166,8	—	125,8	0,2	89,4	1 471,7
Customs duties	529,0	194,0	2 617,8	92,3	382,7	1 212,6	112,0	875,7	7,3	817,6	93,9	2 001,6	8 936,5
VAT own resources ^{(1) (3)}	782,6	576,3	6 217,5	216,5	1 195,1	5 556,5	207,7	3 738,0	66,0	1 326,0	206,2	3 226,4	23 314,8
Total	1 702,6 (4,8 %)	844,7 (2,4 %)	9 384,6 (26,5 %)	340,4 (1,0 %)	1 708,7 (4,8 %)	7 330,0 (20,7 %)	337,5 (1,0 %)	5 191,6 (14,7 %)	73,5 (0,2 %)	2 366,2 (6,7 %)	341,8 (1,0 %)	5 727,5 (16,2 %)	35 349,1 (100 %)
1988:													
Agricultural levies	144,2	18,6	186,4	18,5	199,8	110,9	3,1	403,8	0,2	109,3	41,0	268,8	1 504,6
Sugar and isoglucose levies	94,8	41,8	348,4	8,6	94,4	430,8	16,9	154,7	—	110,5	0,1	89,7	1 390,7
Customs duties	616,0	217,0	2 990,4	119,2	415,7	1 378,3	133,6	992,6	8,0	946,6	105,7	2 421,6	10 344,7
Costs incurred in collecting own resources	-85,4	-27,8	-352,3	-14,6	-71,3	-192,2	-15,4	-154,7	-0,8	-116,4	-14,7	-279,4	-1 325,0
VAT own resources ^{(1) (3)}	850,2	559,6	6 900,8	227,6	2 039,5	6 150,1	154,4	4 030,4	62,3	1 441,6	214,9	1 891,2	24 522,6
Revenue to balance the general budget	213,7	146,5	1 461,1	70,6	—	1 217,5	35,6	—	11,9	304,0	52,9	932,0	4 445,8
Total	1 833,5 (4,5 %)	955,7 (2,3 %)	11 534,8 (28,2 %)	429,9 (1,1 %)	2 678,1 (6,6 %)	9 095,4 (22,2 %)	328,2 (0,8 %)	5 426,8 (13,3 %)	81,6 (0,2 %)	2 795,6 (6,8 %)	399,9 (1,0 %)	5 323,9 (13,0 %)	40 883,4 (100 %)

(1) Including the balances and adjustments of previous financial years.

(2) Greece paid a financial contribution based on its GNP.

(3) Portugal paid a financial contribution based on its GNP.

Part II: The European Development Funds (EDFs) (position at 31 December 1988)

§ 20. General information on the EDFs

THE FIRST FOUR EDFs

20.1 General information and detailed financial information on the first three EDFs, has most recently been given in the annual report of the Court of Auditors on the financial year 1980. Information concerning the 4th EDF has been given in the annual report on the financial year 1986. Only a few small amounts still remain to be paid under the 4th EDF.

A summary of the payments made under the first four EDFs is given in § 27.

THE 5th AND 6th EDFs

20.2. Legal provisions

a) Legal basis in respect of ACP States:

- 5th EDF: second ACP-EEC Convention signed in Lomé on 31 October 1979 (Lomé II),
- 6th EDF: third ACP-EEC Convention signed in Lomé on 8 December 1984 (Lomé III).

b) Legal basis in respect of the OCT:

- 5th EDF: Council Decision 80/1186/EEC of 16 December 1980,
- 6th EDF: Council Decision 86/283/EEC of 30 June 1986.

c) Establishment of the EDFs:

- 5th EDF: internal agreement of 20 November 1979,
- 6th EDF: internal agreement of 19 February 1985.

d) Financial Regulations:

- 5th EDF: Financial Regulation 81/215/EEC of 17 March 1981,
- 6th EDF: Financial Regulation 86/548/EEC of 11 November 1986.

20.3. Allocations, financing, distribution and type of aid

The EDF allocations after changes ⁽¹⁾ by the Council are as follows:

- 5th EDF: 4 823,0 Mio ECU,
- 6th EDF: 7 855,4 Mio ECU.

The EDFs are financed by the EC Member States in proportions laid down in the internal agreements (see also § 21).

The above-mentioned internal agreements provide for distribution of the allocations of the EDFs between the ACP States and the OCT and between grants, special loans, risk capital, Stabex ⁽²⁾ and Sysmin ⁽³⁾.

Part of the allocation in the form of grants is reserved for exceptional aid and for interest subsidies on loans granted by the European Investment Bank. The rest of the allocation in the form of grants and the allocation in the form of special loans are distributed among the recipient countries, with the exception of funds for the regional projects, administrative costs and a contingency reserve. The amounts thus allocated to the recipient countries, called indicative programmes in the case of the ACP States, are used to finance the projects adopted.

20.4. Monetary unit

The EDF amounts are given in ECU; for conversion into ECU of the monetary units previously applied, it has been agreed that 1 u.a. = 1 EUA = 1 ECU.

20.5. Date of entry into force

- 5th EDF: 1 January 1981,
- 6th EDF: 1 May 1986.

20.6. Financial implementation

The Commission draws up a timetable of requests for contributions, which in principle are to be paid quarterly by the Member States of the European Communities. The use of the EDF resources is shown in the accounts in three stages: (I) financing decision, (II) signing of contracts against funds allocated to national authorizing officers, (III) authorization of payments to contractors.

20.7. External audit

The Court of Auditors is responsible for the audit of the EDFs (in accordance with the Treaty).

20.8. Authority giving discharge

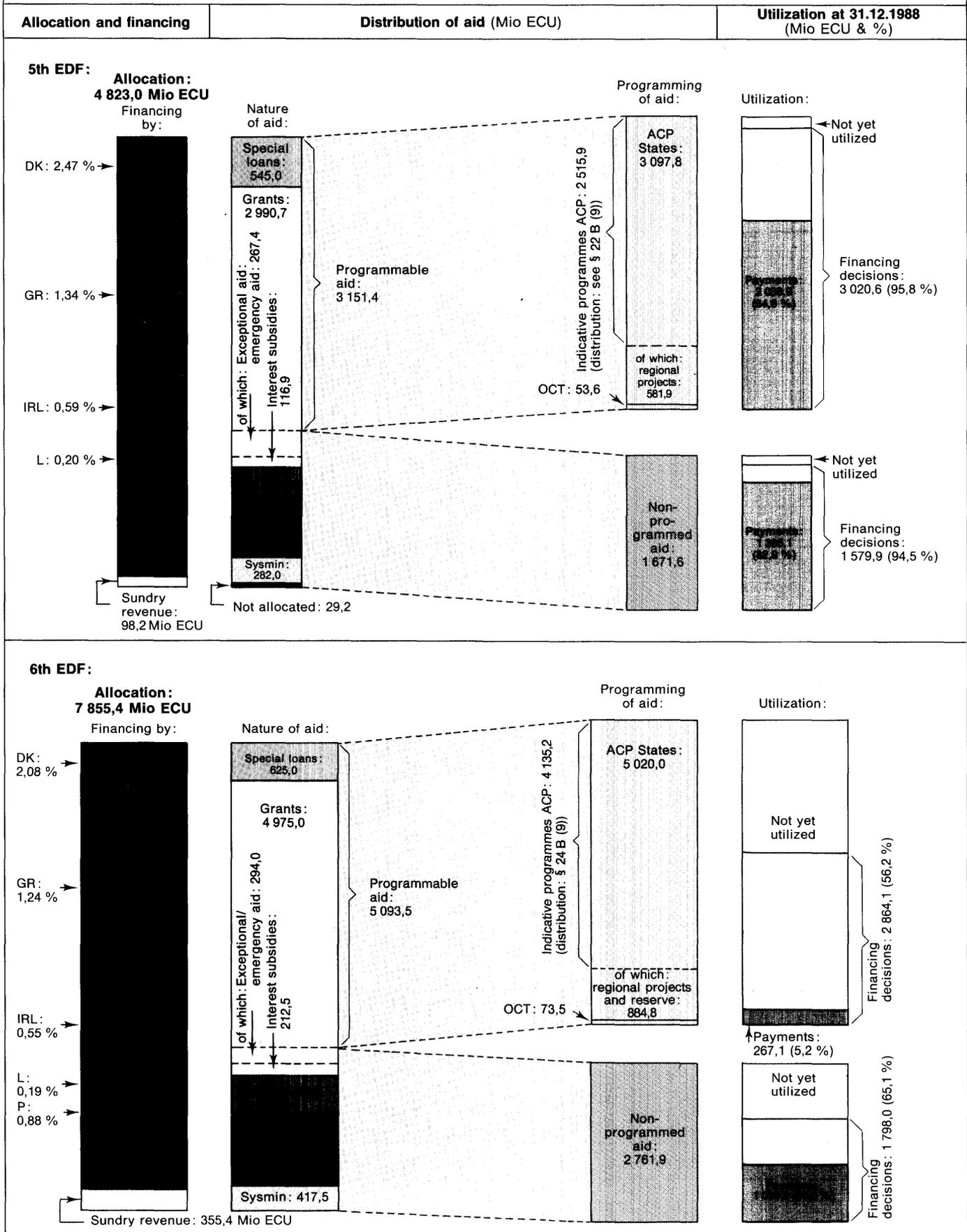
The European Parliament gives discharge of the financial management of the EDFs, on the recommendation of the Council (in accordance with internal agreements).

⁽¹⁾ The initial allocations were altered by Council Decisions, and are increased by various receipts such as reconstitution of Stabex transfers and bank interest.

⁽²⁾ System designed to guarantee the stabilization of earnings from exports by the ACP States to the Community (Lomé I, Article 16; Lomé II, Article 23; Lomé III, Article 147).

⁽³⁾ System designed to aid ACP States whose economies are largely dependent on the mining sectors and in particular towards helping them cope with a decline in their capacity to export mining products to the Community (Lomé II, Article 49; Lomé III, Article 176).

§ 21. The 5th and 6th EDFs: allocation, financing, distribution of aid, overall utilization



§ 22. The 5th EDF: aid by type and by recipient country
(financial implementation: situation at 31 December 1988)

(Mio ECU)

Recipient country	A. Non-programmed aid							B. Programmable aid (indicative programmes ACP and other aid)					Total (A + B)	
	Financing decisions						Payments made	Allocations	Financing decisions			Payments made	Financing decisions (7) + (12)	Payments made (8) + (13)
	Interest subsidies (grants)	Risk capital	Exceptional/emergency aid	Stabex	Sysmin	Total (2) + ... + (6)			Grants	Special loans	Total (10) + (11)			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
Aid to ACP countries														
I. By country:														
Antigua and Barbuda	—	—	0,1	—	—	0,1	0,1	2,7	1,7	1,0	2,7	0,9	2,8	1,0
Bahamas	—	—	—	—	—	—	—	2,1	2,0	—	2,0	1,2	2,0	1,2
Barbados	1,9	0,1	—	—	—	2,0	1,1	3,7	3,7	—	3,7	2,2	5,7	3,3
Belize	0,3	0,6	—	—	—	0,9	0,9	5,5	0,6	—	0,6	0,2	1,5	1,1
Bénin	—	4,5	3,8	4,6	—	12,9	6,2	55,0	48,7	6,4	55,1	32,6	68,0	38,8
Botswana	6,3	—	3,1	—	—	9,4	7,0	23,0	17,2	5,8	23,0	15,2	32,4	22,2
Burkina Faso	—	7,0	0,5	1,0	—	8,5	8,6	84,5	74,9	7,0	81,9	67,3	90,4	75,9
Burundi	—	5,9	0,2	13,8	—	19,9	19,9	77,0	60,5	16,3	76,8	38,3	96,7	58,2
Cameroun	20,9	—	1,6	29,6	—	52,1	48,2	69,0	45,1	23,8	68,9	37,7	121,0	85,9
Cape Verde	—	1,8	2,2	0,5	—	4,5	4,4	16,0	15,9	—	15,9	13,3	20,4	17,7
Centrafrique	—	5,1	0,8	5,2	—	11,1	10,9	49,0	44,5	4,0	48,5	39,9	59,6	50,8
Comores	—	0,2	0,4	6,6	—	7,2	7,2	14,5	13,0	—	13,0	8,7	20,2	15,9
Congo	5,3	0,5	—	—	—	5,8	5,7	31,5	19,5	12,0	31,5	29,9	37,3	35,6
Côte-d'Ivoire	9,8	—	0,8	93,4	—	104,0	97,7	54,0	31,3	22,3	53,6	33,1	157,6	130,8
Djibouti	—	2,2	0,3	—	—	2,5	2,6	5,4	5,5	—	5,5	4,2	8,0	6,8
Dominica	—	1,0	0,5	3,5	—	5,0	5,0	3,5	3,3	—	3,3	2,9	8,3	7,9
Ethiopia	—	12,9	51,2	11,3	—	75,4	69,3	141,0	109,9	31,0	140,9	124,6	216,3	193,9
Fiji	6,8	6,3	4,7	3,0	—	20,8	19,2	13,0	11,0	—	11,0	10,2	31,8	29,4
Gabon	7,2	2,5	0,5	—	—	10,2	9,1	16,0	8,5	6,1	14,6	12,8	24,8	21,9
Gambia	—	—	0,0	18,2	—	18,2	18,2	14,0	12,1	—	12,1	8,9	30,3	27,1
Ghana	—	13,6	3,8	85,5	—	102,9	97,5	60,0	53,1	7,0	60,1	33,2	163,0	130,7
Grenada	—	2,2	—	4,0	—	6,2	6,1	3,5	3,3	—	3,3	3,0	9,5	9,1
Guinée	1,1	2,3	0,6	—	—	4,0	4,3	80,0	67,9	12,0	79,9	53,0	83,9	57,3
Guinée-Bissau	—	3,8	—	3,6	—	7,4	6,8	25,0	20,9	—	20,9	17,8	28,3	24,6
Guinée équatoriale	—	2,0	—	—	—	2,0	1,6	8,5	8,3	—	8,3	6,9	10,3	8,5
Guyana	—	4,0	—	—	34,5	38,5	6,9	14,6	14,6	—	14,6	12,5	53,1	19,4
Jamaïca	0,7	5,0	0,1	4,3	—	10,1	9,9	26,4	16,9	9,0	25,9	12,7	36,0	22,6
Kenya	8,6	1,4	2,3	44,9	—	57,2	55,2	88,0	54,2	26,3	80,5	53,5	137,7	108,7
Kiribati	—	0,2	—	1,6	—	1,8	1,8	4,0	4,0	—	4,0	2,4	5,8	4,2
Lesotho	—	6,0	0,1	1,3	—	7,4	4,4	29,0	20,2	8,8	29,0	20,2	36,4	24,6
Liberia	0,5	2,8	—	—	49,3	52,6	1,6	31,0	23,7	4,7	28,4	17,0	81,0	18,6
Madagascar	—	21,8	5,0	10,0	—	36,8	34,9	78,0	65,5	9,8	75,3	54,4	112,1	89,3
Malawi	1,2	15,0	0,4	4,9	—	21,5	18,4	80,0	61,7	11,8	73,5	42,9	95,0	61,3
Mali	—	3,4	14,6	10,7	—	28,7	26,5	96,0	71,6	17,8	89,4	59,7	118,1	86,2
Maurice	0,4	0,1	0,2	—	—	0,7	0,6	20,5	12,8	7,7	20,5	16,1	21,2	16,7
Mauritanie	—	7,0	6,8	—	—	13,8	11,7	43,0	29,6	8,7	38,3	31,1	52,1	42,8
Niger	3,6	—	16,5	—	—	20,1	17,9	80,5	71,2	8,0	79,2	64,1	99,3	82,0
Nigeria	5,1	—	—	—	—	5,1	3,8	50,0	47,5	—	47,5	14,4	52,6	18,2
Papua New Guinea	1,4	13,8	—	50,7	—	65,9	64,6	23,0	12,4	8,2	20,6	14,0	86,5	78,6
Rwanda	—	0,6	2,0	9,3	2,8	14,7	11,8	79,0	62,3	15,4	77,7	68,7	92,4	80,5
Saint Christopher and Nevis	—	—	—	—	—	—	—	2,2	2,2	—	2,2	1,8	2,2	1,8
Saint Lucia	—	1,0	0,2	1,6	—	2,8	2,8	3,7	3,7	—	3,7	3,6	6,5	6,4
Saint Vincent and the Grenadines	—	3,0	0,2	—	—	3,2	2,9	3,7	3,7	—	3,7	3,2	6,9	6,1
São Tomé & Príncipe	—	0,0	0,4	7,6	—	8,0	8,1	4,0	4,0	—	4,0	3,6	12,0	11,7
Sénégal	5,6	4,8	2,1	90,6	—	103,1	100,7	69,0	43,7	20,1	63,8	45,0	166,9	145,7
Seychelles	—	4,0	0,3	—	—	4,3	3,5	3,6	3,6	—	3,6	3,4	7,9	6,9
Sierra Leone	—	—	0,2	14,3	—	14,5	14,5	48,5	40,0	8,4	48,4	24,4	62,9	38,9
Solomon Islands	—	0,2	—	4,2	—	4,4	4,3	12,0	11,8	—	11,8	5,7	16,2	10,0
Somalia	—	9,6	18,2	3,6	—	31,4	30,9	79,3	68,4	—	68,4	39,2	99,8	70,1
Sudan	—	10,0	38,8	40,7	—	89,5	85,4	103,0	87,3	—	87,3	76,8	176,8	162,2
Suriname	—	4,2	3,5	—	—	7,7	3,5	18,0	8,6	2,7	11,3	2,5	19,0	6,0
Swaziland	2,1	0,0	0,1	8,2	—	10,4	10,5	18,5	13,5	4,7	18,2	11,2	28,6	21,7
Tanzania	—	9,7	0,5	20,9	—	31,1	31,0	120,7	108,9	11,6	120,5	91,7	151,6	122,7
Tchad	—	2,0	15,7	6,6	—	24,3	18,8	62,0	59,7	—	59,7	51,5	84,0	70,3
Togo	1,5	—	0,6	28,8	—	30,9	30,8	43,0	33,9	8,6	42,5	33,9	73,4	64,7
Tonga	—	2,3	1,4	4,0	—	7,7	7,7	4,1	3,0	—	3,0	2,7	10,7	10,4
Trinidad and Tobago	5,2	—	—	—	—	5,2	4,6	10,5	8,5	—	8,5	3,3	13,7	7,9
Tuvalu	—	0,1	—	0,1	—	0,2	0,3	1,0	1,1	—	1,1	0,9	1,3	1,2
Uganda	—	10,0	5,2	—	—	15,2	15,2	87,0	85,1	—	85,1	57,5	100,3	72,7
Vanuatu	—	2,7	0,2	—	—	2,9	0,9	4,5	4,4	—	4,4	6,2	7,3	7,1
Western Samoa	—	3,3	0,1	6,5	—	9,9	10,0	6,2	6,3	—	6,3	6,1	16,2	16,1
Zaire	—	18,6	4,8	—	81,0	104,4	68,2	104,0	72,0	25,7	97,7	67,5	202,1	135,7
Zambia	8,5	1,5	1,3	—	83,0	94,3	90,6	58,0	37,9	19,8	57,7	28,9	152,0	119,5
Zimbabwe	6,7	5,2	5,0	—	—	16,9	14,4	49,0	29,7	19,0	48,7	26,0	65,6	40,4
Total ACP countries	110,7	247,8	221,9	659,2	250,6	1 490,2	1 287,2	2 515,9	1 991,6	411,5	2 403,1	1 678,3	3 893,3	2 965,5
II. Regional projects	1,3	25,9	41,6	—	—	68,8	72,0	581,9	489,4	79,3	568,7	337,2	637,5	409,2
Administrative costs	—	—	—	—	—	—	7,0	—	7,9	—	7,9	—	7,9	7,0
Total ACP (I + II)	112,0	273,7	263,5	659,2	250,6	1 559,0	1 366,2	3 097,8	2 488,9	490,8	2 979,7	2 015,5	4 538,7	3 381,7
III. OCT	4,5	5,7	0,9	9,8	—	20,9	18,9	53,6	28,4	12,5	40,9	21,4	61,8	40,3
Total 5th EDF	116,5	279,4	264,4	669,0	250,6	1 579,9	1 385,1	3 151,4	2 517,3	503,3	3 020,6	2 036,9	4 600,5	3 422,0

§ 23. The 5th EDF: aid by economic sector and by recipient country
(situation at 31 December 1988)

(Mio ECU)

Recipient country	Financing decisions											Total payments
	Miscellaneous	Industrialization, energy and mining	Rural production	Transport and communications	Education and training	Health	Hydraulics and urban development	Trade promotion, tourism	Exceptional aid ⁽¹⁾	Stabex transfers ⁽²⁾	Total (2) + ... + (11)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Aid to ACP countries												
I. By country:												
Antigua and Barbuda	—	—	1,9	0,8	—	—	—	0,0	0,1	—	2,8	1,0
Bahamas	0,5	—	1,1	—	0,2	0,2	—	—	—	—	2,0	1,2
Barbados	—	1,0	2,8	1,0	0,3	—	—	0,6	—	—	5,7	3,3
Belize	0,0	0,9	—	—	0,1	0,5	—	—	—	—	1,5	1,1
Bénin	1,6	8,6	9,8	19,1	2,9	11,4	4,6	4,1	1,5	4,4	68,0	38,8
Botswana	0,4	10,7	10,1	1,3	3,4	—	2,1	1,2	3,2	—	32,4	22,2
Burkina Faso	0,9	17,3	25,4	18,7	5,1	1,3	20,2	—	0,5	1,0	90,4	75,9
Burundi	—	18,0	37,7	10,1	7,7	—	9,1	0,1	0,2	13,8	96,7	58,2
Cameroun	0,3	14,4	30,0	44,5	0,4	—	3,0	1,0	1,6	25,8	121,0	85,9
Cape Verde	0,9	3,8	1,9	6,3	0,9	—	3,9	—	2,2	0,5	20,4	17,7
Centrafrique	0,9	5,4	21,3	20,4	3,4	2,6	0,2	0,0	0,5	4,9	59,6	50,8
Comores	0,2	0,5	6,1	1,2	0,7	—	4,1	0,4	0,4	6,6	20,2	15,9
Congo	0,3	5,2	0,1	27,7	1,3	—	2,5	0,2	—	—	37,3	35,6
Côte-d'Ivoire	0,1	6,3	49,8	—	0,2	—	12,0	2,7	0,8	85,7	157,6	130,8
Djibouti	0,8	2,3	2,4	—	0,4	—	1,8	—	0,3	—	8,0	6,8
Dominica	—	1,0	0,9	2,3	0,2	—	—	0,0	0,5	3,4	8,3	7,9
Ethiopia	0,0	55,6	30,3	5,8	5,3	1,5	55,4	0,0	51,3	11,1	216,3	193,9
Fiji	—	11,3	4,8	5,4	2,2	—	—	0,5	4,7	2,9	31,8	29,4
Gabon	1,0	13,0	9,5	0,0	0,6	—	—	0,2	0,5	—	24,8	21,9
Gambia	0,2	0,6	2,1	3,4	2,6	—	3,7	0,1	0,1	17,5	30,3	27,1
Ghana	0,3	18,3	35,0	24,9	2,3	—	—	0,1	3,8	78,3	163,0	130,7
Grenada	0,1	2,3	0,3	1,9	0,9	—	—	0,1	—	3,9	9,5	9,1
Guinée	0,1	31,5	24,9	0,1	5,8	9,6	11,2	—	0,7	—	83,9	57,3
Guinée-Bissau	1,6	—	10,6	6,4	0,6	1,9	1,4	2,1	—	3,7	28,3	24,6
Guinée équatoriale	0,2	4,9	2,6	1,3	1,2	—	0,1	—	—	—	10,3	8,5
Guyana	—	42,9	5,9	1,0	1,3	—	2,0	0,0	—	—	53,1	19,4
Jamaica	0,2	9,7	11,5	—	5,3	4,9	—	—	0,1	4,3	36,0	22,6
Kenya	2,6	7,5	33,8	32,0	9,1	—	9,0	1,1	2,3	40,3	137,7	108,7
Kiribati	—	—	3,2	0,6	0,4	—	—	—	—	1,6	5,8	4,2
Lesotho	0,4	13,7	1,2	14,3	4,7	—	—	0,8	0,1	1,2	36,4	24,6
Liberia	0,4	53,2	10,3	9,8	2,1	2,5	2,7	—	—	—	81,0	18,6
Madagascar	0,0	34,7	30,5	20,9	4,2	5,6	4,5	0,4	2,1	9,2	112,1	89,3
Malawi	1,7	18,2	25,9	31,3	5,1	3,8	0,9	2,9	0,4	4,8	95,0	61,3
Mali	3,5	20,7	38,4	9,5	7,1	2,5	10,8	0,4	14,6	10,6	118,1	86,2
Maurice	0,0	5,7	5,5	5,5	1,1	3,2	—	0,1	0,1	—	21,2	16,7
Mauritanie	0,0	8,5	26,8	7,0	0,0	2,8	0,2	0,0	6,8	—	52,1	42,8
Niger	0,1	4,3	28,2	25,5	1,9	4,5	9,8	8,5	16,5	—	99,3	82,0
Nigeria	0,0	6,7	20,3	—	19,5	6,1	0,0	—	—	—	52,6	18,2
Papua New Guinea	—	16,2	1,6	17,8	3,3	—	—	0,8	—	46,8	86,5	78,6
Rwanda	1,1	7,9	29,4	23,2	9,2	—	10,2	0,2	2,0	9,2	92,4	80,5
Saint Christopher and Nevis	—	0,6	—	—	0,8	—	0,8	—	—	—	2,2	1,8
Saint Lucia	—	1,0	2,2	1,2	0,3	—	—	0,0	0,2	1,6	6,5	6,4
Saint Vincent and the Grenadines	0,1	2,9	0,4	0,1	0,3	2,8	—	0,1	0,2	—	6,9	6,1
São Tomé & Príncipe	—	0,0	2,7	1,0	0,0	—	0,5	—	0,4	7,4	12,0	11,7
Sénégal	1,1	9,8	36,6	6,0	7,7	5,8	9,5	3,5	2,1	84,8	166,9	145,7
Seychelles	0,0	4,0	0,7	—	0,4	2,4	—	0,1	0,3	—	7,9	6,9
Sierra Leone	1,5	2,7	18,7	15,2	7,1	0,0	2,8	0,6	0,2	14,1	62,9	38,9
Solomon Islands	0,5	0,1	2,6	1,1	1,8	—	5,9	—	—	4,2	16,2	10,0
Somalia	2,3	10,1	21,3	28,1	5,6	2,4	7,9	0,5	18,2	3,4	99,8	70,1
Sudan	0,1	12,2	65,6	18,7	3,0	—	—	0,1	38,8	38,3	176,8	162,2
Suriname	0,0	4,3	8,6	6,1	—	—	—	0,0	—	—	19,0	6,0
Swaziland	2,3	2,1	5,0	—	9,0	—	1,6	0,3	0,1	8,2	28,6	21,7
Tanzania	0,0	16,6	51,5	36,4	1,3	4,0	20,0	0,6	0,5	20,7	151,6	122,7
Tchad	1,1	2,0	27,8	11,9	8,4	10,8	1,9	—	13,5	6,6	84,0	70,3
Togo	1,7	0,5	14,4	19,6	4,1	—	3,3	0,4	0,6	28,8	73,4	64,7
Tonga	—	2,0	—	3,3	—	—	—	—	1,4	4,0	10,7	10,4
Trinidad and Tobago	—	3,5	4,9	—	5,3	—	—	—	—	—	13,7	7,9
Tuvalu	—	0,5	0,2	0,1	—	—	—	0,4	—	0,1	1,3	1,2
Uganda	1,2	19,0	34,0	26,1	4,5	3,5	6,7	0,0	5,3	—	100,3	72,7
Vanuatu	—	2,7	4,0	0,3	0,1	—	—	—	0,2	—	7,3	7,1
Western Samoa	0,1	9,5	0,1	0,3	0,1	—	—	—	0,1	6,0	16,2	16,1
Zaire	1,9	109,1	17,8	47,8	14,1	—	8,3	0,3	2,8	—	202,1	135,7
Zambia	0,0	116,9	21,4	0,1	3,7	2,0	5,8	0,8	1,3	—	152,0	119,5
Zimbabwe	0,1	10,0	30,6	2,7	10,3	—	6,4	0,5	5,0	—	65,6	40,4
Total ACP countries	34,4	824,9	965,0	627,1	210,9	98,6	267,2	36,4	209,1	619,7	3 893,3	2 965,5
II. Regional projects and administrative costs	33,4	102,9	158,0	196,2	60,2	8,2	0,5	44,1	41,9	—	645,4	416,2
Total ACP (I + II)	67,8	927,8	1 123,0	823,3	271,1	106,8	267,7	80,5	251,0	619,7	4 538,7	3 381,7
III. OCT	0,5	17,5	5,4	9,3	4,4	—	10,7	3,2	1,0	9,8	61,8	40,3
Total 5th EDF	68,3	945,3	1 128,4	832,6	275,5	106,8	278,4	83,7	252,0	629,5	4 600,5	3 422,0

(1) The differences compared with § 22, column 4 may be explained by the different analysis of projects for some countries.

(2) The differences compared with § 22, column 5 may be explained by the different analysis of Stabex projects for some countries.

§ 24. The 6th EDF: aid by type and by recipient country
(financial implementation: situation at 31 December 1988)

(Mio ECU)

Recipient country	A. Non-programmed aid							B. Programmable aid (indicative programmes ACP and other aid)					Total (A + B)	
	Financing decisions						Payments made	Allocations	Financing decisions			Payments made	Financing decisions (7) + (12)	Payments made (8) + (13)
	Interest subsidies (grants)	Risk capital	Exceptional/emergency aid	Stabex	Sysmin	Total (2) + ... + (6)			Grants	Special loans	Total (10) + (11)			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
Aid to ACP countries														
I. By country:														
Angola	—	4,0	3,2	—	—	7,2	2,2	102,0	58,2	—	58,2	4,6	65,4	6,8
Antigua and Barbuda	—	—	—	—	—	—	—	4,5	0,2	—	0,2	—	0,2	—
Bahamas	3,3	—	—	—	—	3,3	0,1	4,0	1,6	—	2,6	0,1	5,9	0,2
Barbados	—	1,0	—	—	—	1,0	—	5,0	0,5	—	0,5	0,1	1,5	0,1
Belize	0,3	1,0	0,7	—	—	2,0	0,0	8,0	3,1	3,0	6,1	0,4	8,1	0,4
Bénin	—	6,5	11,5	10,4	—	28,4	11,2	82,5	65,7	—	65,7	3,4	94,1	14,6
Botswana	1,7	5,0	0,9	—	—	7,6	0,4	30,5	17,7	—	17,7	1,4	25,3	1,8
Burkina Faso	—	4,5	0,4	7,3	—	12,2	8,1	107,5	49,2	—	49,2	0,2	61,4	8,3
Burundi	—	5,5	12,4	24,5	—	42,4	13,8	108,0	45,2	6,6	51,8	0,7	94,2	14,5
Cameroun	—	—	0,2	60,4	—	60,6	18,1	101,0	44,3	30,0	74,3	3,7	134,9	21,8
Cape Verde	—	—	—	—	—	—	—	24,5	20,5	—	20,5	0,1	20,5	0,1
Centrafrique	—	—	0,5	19,0	—	19,5	19,5	89,5	56,4	—	56,4	3,5	75,9	23,0
Comores	—	2,0	—	7,1	—	9,1	7,9	21,5	8,0	—	8,0	0,1	17,1	8,0
Congo	—	26,0	—	—	—	26,0	—	48,0	26,3	10,0	36,3	0,1	62,3	0,1
Côte-d'Ivoire	6,8	—	0,2	179,0	—	186,0	191,6	82,0	2,8	20,9	23,7	0,1	209,7	191,7
Djibouti	—	2,0	0,5	—	—	2,5	0,3	16,0	12,2	—	12,2	0,1	14,7	0,4
Dominica	—	3,8	—	—	—	3,8	—	6,0	4,9	—	4,9	4,4	8,7	4,4
Ethiopia	—	31,0	26,8	91,6	—	149,4	116,6	210,0	134,9	14,1	149,0	0,2	298,4	116,8
Fiji	0,5	1,0	0,3	0,3	—	2,1	0,6	20,0	5,1	—	5,1	0,0	7,2	0,6
Gabon	—	—	—	—	—	—	—	26,0	14,9	4,3	19,2	5,8	19,2	5,8
Gambia	—	5,7	3,2	10,9	—	19,8	13,1	21,0	15,3	—	15,3	2,7	35,1	15,8
Ghana	3,2	20,0	11,5	—	—	34,7	2,8	97,5	35,5	—	35,5	4,8	70,2	7,6
Grenada	—	1,8	—	1,0	—	2,8	1,9	5,5	4,5	—	4,5	2,8	7,3	4,7
Guinée	—	16,5	12,6	—	—	64,1	0,1	114,0	84,1	—	84,1	1,4	148,2	1,5
Guinée-Bissau	—	—	6,1	2,9	—	9,0	3,0	37,5	26,9	—	26,9	1,6	35,9	4,6
Guinée équatoriale	—	4,0	—	4,5	—	8,5	4,5	12,0	0,1	—	0,1	0,1	8,6	4,6
Guyane	—	—	0,3	—	—	0,3	0,2	22,1	17,4	—	17,4	0,8	17,7	1,0
Jamaica	2,3	—	1,2	—	—	3,5	1,2	40,2	29,2	10,0	39,2	0,7	42,7	1,9
Kenya	3,9	7,5	—	40,7	—	52,1	40,7	135,0	103,9	10,0	113,9	10,7	166,0	51,4
Kiribati	—	—	—	2,5	—	2,5	2,5	6,5	0,5	—	0,5	0,0	3,0	2,5
Lesotho	—	3,5	0,2	3,1	—	6,8	8,7	41,5	26,5	10,0	36,5	1,9	43,3	10,6
Liberia	—	—	—	—	—	—	—	45,0	22,7	5,0	27,7	0,6	27,7	0,6
Madagascar	—	29,8	15,2	4,5	—	49,5	7,7	125,0	50,3	12,5	62,8	6,0	112,3	13,7
Malawi	—	12,0	16,2	11,9	—	40,1	15,4	114,5	67,6	10,0	77,6	22,0	117,7	37,4
Malï	1,1	20,5	15,8	15,6	—	53,0	16,3	137,0	52,3	2,5	54,8	0,6	107,8	16,9
Maurice	3,9	6,5	0,1	3,0	—	13,5	5,8	31,0	14,9	9,0	23,9	1,0	37,4	6,8
Mauritanie	—	15,0	7,3	—	18,0	40,3	5,0	61,5	51,3	—	51,3	0,0	91,6	5,0
Mozambique	—	9,0	40,1	20,1	—	69,2	29,2	160,0	93,1	—	93,1	18,8	162,3	48,0
Niger	—	14,3	15,1	6,6	12,5	48,5	7,6	122,0	96,1	5,0	101,1	1,0	149,6	8,6
Nigeria	12,7	—	1,1	—	—	13,8	1,1	213,5	50,6	113,9	164,5	0,0	178,3	1,1
Papua New Guinea	5,2	3,5	—	84,5	—	93,2	85,2	34,5	8,8	14,0	22,8	1,7	116,0	86,9
Rwanda	—	—	0,9	25,4	—	26,3	25,4	107,0	53,0	—	53,0	1,9	79,3	27,3
Saint Christopher and Nevis	—	1,5	—	—	—	1,5	0,9	3,5	0,0	—	0,0	0,0	1,5	0,9
Saint Lucia	0,5	2,0	—	—	—	2,5	—	6,0	5,2	—	5,2	0,6	7,7	0,6
Saint Vincent and the Grenadines	—	1,8	0,1	—	—	1,9	0,1	7,0	5,0	—	5,0	0,3	6,9	0,4
São Tomé & Príncipe	—	2,1	1,1	1,6	—	4,8	0,3	6,0	4,8	—	4,8	2,1	9,6	2,4
Sénégal	—	25,5	12,4	106,0	—	143,9	128,2	108,5	86,9	10,0	96,9	5,1	240,8	133,3
Seychelles	—	—	—	—	—	—	—	6,2	1,8	—	1,8	0,4	1,8	0,4
Sierra Leone	—	7,0	0,1	—	—	7,1	0,4	69,5	23,7	2,5	26,2	1,8	33,3	2,2
Solomon Islands	—	—	0,5	27,7	—	28,2	28,1	17,0	10,2	—	10,2	1,7	38,4	29,8
Somalie	—	13,0	1,1	—	—	14,1	1,3	117,0	23,1	—	23,1	0,7	37,2	2,0
Sudan	—	12,0	35,1	63,9	—	111,0	74,0	156,0	78,2	—	78,2	23,2	189,2	97,2
Suriname	—	—	0,3	—	—	0,3	0,1	24,0	1,1	—	1,1	0,1	1,4	0,2
Swaziland	—	6,0	0,7	—	—	6,7	1,3	25,5	20,5	5,0	25,5	1,4	32,2	2,7
Tanzania	—	23,5	24,5	8,9	—	56,9	8,9	176,5	113,9	—	113,9	13,1	170,8	22,0
Tchad	—	2,2	3,2	33,4	—	38,8	35,8	89,0	51,5	—	51,5	6,9	90,3	42,7
Togo	—	—	7,0	13,5	—	20,5	13,5	61,5	24,6	0,8	25,4	1,2	45,9	14,7
Tonga	—	1,5	—	2,8	—	4,3	4,1	6,5	0,2	—	0,2	0,0	4,5	4,1
Trinidad and Tobago	—	—	—	—	—	—	—	15,0	0,7	—	0,7	0,0	0,7	0,0
Tuvalu	—	—	—	0,1	—	0,1	0,1	2,0	0,8	—	0,8	0,1	0,9	0,2
Uganda	—	2,0	21,8	—	—	23,8	9,2	127,0	71,9	—	71,9	20,5	95,7	29,7
Vanuatu	—	—	0,6	16,4	—	17,0	16,9	6,7	3,8	—	3,8	0,2	20,8	17,1
Western Samoa	—	4,2	—	7,9	—	12,1	7,9	9,0	0,6	—	0,6	0,0	12,7	7,9
Zaire	7,8	—	0,7	—	—	8,5	0,5	166,5	98,4	23,5	121,9	9,0	130,4	9,5
Zambia	—	10,5	1,3	—	—	11,8	3,1	92,0	37,5	15,0	52,5	5,5	64,3	8,6
Zimbabwe	5,7	—	—	—	—	5,7	0,8	77,0	23,9	20,0	43,9	3,8	49,6	4,6
Total ACP countries	58,9	377,7	315,0	919,0	65,5	1 736,1	1 003,3	4 135,2	2 164,6	368,6	2 533,2	207,8	4 269,3	1 211,1
II. Regional projects	2,7	40,7	7,8	—	—	51,2	4,7	884,8	312,4	11,7	324,1	58,8	375,3	63,5
Total ACP (I + II)	61,6	418,4	322,8	919,0	65,5	1 787,3	1 008,0	5 020,0	2 477,0	380,3	2 857,3	266,6	4 644,6	1 274,6
III. OCT	2,1	5,9	0,1	1,8	0,8	10,7	1,9	73,5	6,8	—	6,8	0,5	17,5	2,4
Total 6th EDF	63,7	424,3	322,9	920,8	66,3	1 798,0	1 009,9	5 093,5	2 483,8	380,3	2 864,1	267,1	4 662,1	1 277,0

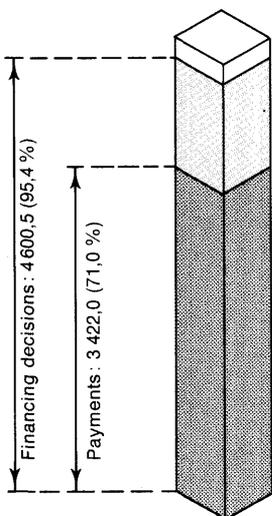
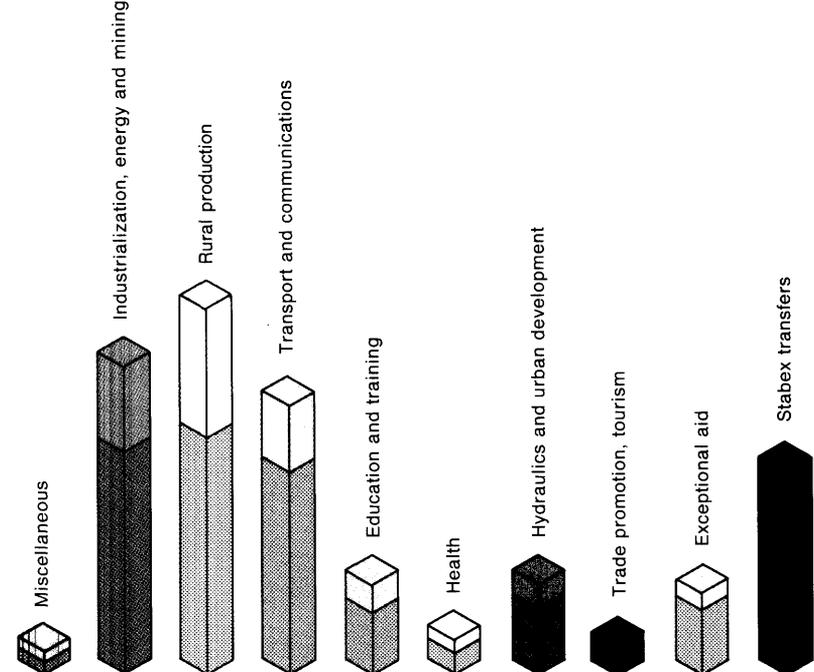
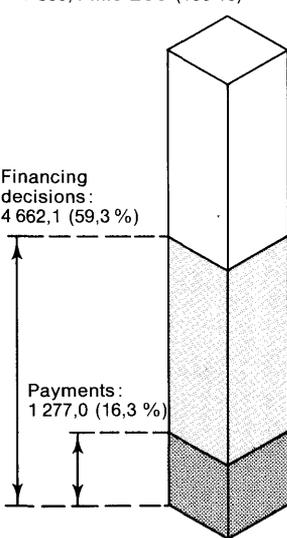
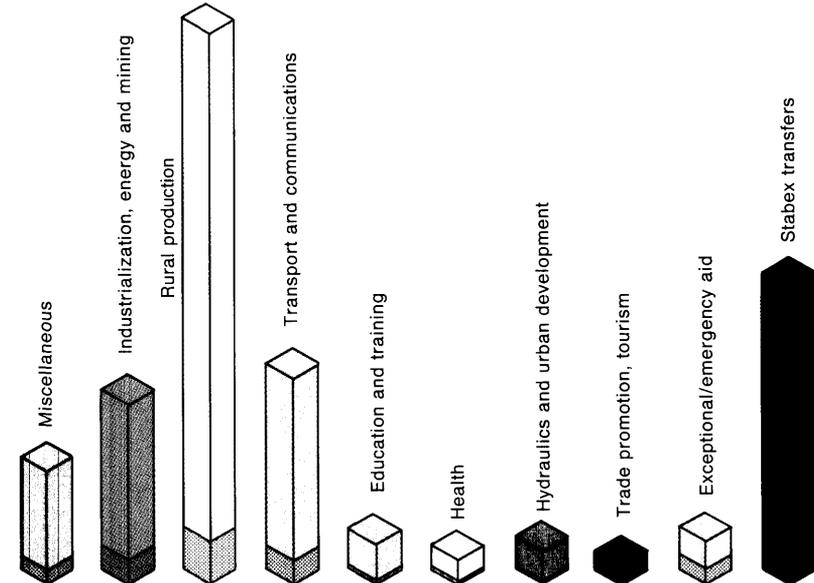
§ 25. The 6th EDF: aid by economic sector and by recipient country
(situation at 31 December 1988)

(Mio ECU)

Recipient country	Financing decisions											Total payments
	Miscellaneous	Industrializa- tion, energy and mining	Rural production	Transport and communications	Education and training	Health	Hydraulics and urban development	Trade promotion and tourism	Exceptional/ emergency aid (1)	Stabex transfers	Total (2) + ... + (11)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Aid to ACP countries												
I. By country:												
Angola	1,8	4,0	35,2	0,9	0,2	20,1	0,0	0,0	3,2	—	65,4	6,8
Antigua and Barbuda	—	—	—	0,2	—	—	—	—	—	—	0,2	—
Bahamas	0,0	4,1	—	—	—	—	1,8	—	—	—	5,9	0,2
Barbados	—	1,0	—	—	—	—	—	0,5	—	—	1,5	0,1
Belize	0,1	1,0	0,3	5,6	0,1	0,7	—	0,3	—	—	8,1	0,4
Bénin	12,2	—	32,5	28,1	0,5	3,3	6,6	0,0	0,5	10,4	94,1	14,6
Botswana	2,0	6,7	4,4	6,0	5,0	—	0,7	—	0,5	—	25,3	1,8
Burkina Faso	—	4,5	48,3	—	0,9	—	—	—	0,4	7,3	61,4	8,3
Burundi	11,0	5,6	36,9	6,8	—	—	9,0	—	0,4	24,5	94,2	14,5
Cameroun	—	—	43,3	31,0	—	—	—	—	0,2	60,4	134,9	21,8
Cape Verde	0,3	—	—	—	—	—	20,2	—	—	—	20,5	0,1
Centrafrique	—	—	55,3	0,6	—	—	—	0,5	0,5	19,0	75,9	23,0
Comores	—	2,0	0,2	7,9	—	—	—	—	—	7,0	17,1	8,0
Congo	—	16,1	36,0	0,2	—	0,0	10,0	0,0	—	—	62,3	0,1
Côte-d'Ivoire	—	5,1	23,7	1,7	—	—	—	—	0,2	179,0	209,7	191,7
Djibouti	1,1	2,0	0,2	—	0,0	1,1	10,3	—	—	—	14,7	0,4
Dominica	—	3,8	—	4,3	—	—	—	0,6	—	—	8,7	4,4
Ethiopia	—	21,0	141,7	10,0	7,3	—	—	—	26,8	91,6	298,4	116,8
Fiji	—	1,5	5,1	0,0	0,0	—	—	—	0,3	0,3	7,2	0,6
Gabon	1,3	—	17,0	—	0,5	0,0	0,4	0,0	—	—	19,2	5,8
Gambia	5,3	—	11,1	1,2	0,7	—	5,7	—	0,2	10,9	35,1	15,8
Ghana	20,5	24,4	2,9	21,8	0,6	—	—	—	—	—	70,2	7,6
Grenada	—	1,9	0,3	4,2	—	—	—	0,0	—	0,9	7,3	4,7
Guinée	14,1	51,6	72,1	—	0,4	9,4	—	0,6	0,0	—	148,2	1,5
Guinée-Bissau	6,1	—	29,8	—	0,0	—	—	3,0	0,1	2,9	35,9	4,6
Guinée équatoriale	—	4,0	—	0,1	—	—	—	—	—	4,5	8,6	4,6
Guyana	—	—	0,1	17,0	—	—	—	0,3	0,3	—	17,7	1,0
Jamaica	17,8	1,5	0,3	15,2	—	—	6,7	—	1,2	—	42,7	1,9
Kenya	0,3	10,6	97,5	15,7	1,0	—	—	0,2	—	40,7	166,0	51,4
Kiribati	—	—	0,1	0,1	0,4	—	—	—	—	2,4	3,0	2,5
Lesotho	—	13,0	8,4	10,3	8,0	—	—	0,3	0,2	3,1	43,3	10,6
Liberia	—	0,5	27,2	0,0	—	—	—	—	—	—	27,7	0,6
Madagascar	15,0	29,8	31,0	16,8	4,2	5,5	5,1	0,1	0,3	4,5	112,3	13,7
Malawi	12,6	12,2	39,2	25,8	—	10,2	3,2	—	2,6	11,9	117,7	37,4
Mali	15,0	30,6	45,2	0,4	—	0,2	0,1	—	0,8	15,5	107,8	16,9
Maurice	—	22,3	11,4	—	—	—	0,7	—	0,1	2,9	37,4	6,8
Mauritanie	7,4	33,0	35,3	15,0	—	0,6	—	—	0,3	—	91,6	5,0
Mozambique	31,4	11,8	6,9	35,0	6,4	0,1	—	0,5	50,0	20,2	162,3	48,0
Niger	14,0	26,8	85,3	15,0	0,8	—	—	0,0	1,1	6,6	149,6	8,6
Nigeria	—	3,7	134,5	—	30,0	—	9,0	—	1,1	—	178,3	1,1
Papua New Guinea	0,3	8,7	3,5	19,0	—	—	—	—	—	84,5	116,0	86,9
Rwanda	—	—	51,0	0,2	0,3	—	1,6	—	0,9	25,3	79,3	27,3
Saint Christopher and Nevis	—	1,5	—	—	—	—	—	0,0	—	—	1,5	0,9
Saint Lucia	—	2,6	5,0	—	—	—	—	0,1	—	—	7,7	0,6
Saint Vincent and the Grenadines	—	1,8	2,9	—	—	1,8	—	0,3	0,1	—	6,9	0,4
São Tomé & Príncipe	1,0	2,3	4,0	0,5	0,1	0,0	—	—	0,1	1,6	9,6	2,4
Sénégal	11,5	13,5	97,0	12,0	—	—	—	—	0,9	105,9	240,8	133,3
Seychelles	—	1,3	0,5	—	—	—	—	—	—	—	1,8	0,4
Sierra Leone	—	7,1	6,1	20,0	—	—	—	—	0,1	—	33,3	2,2
Solomon Islands	0,8	—	9,4	—	—	0,0	—	—	0,5	27,7	38,4	29,8
Somalia	15,0	14,6	0,3	5,9	0,3	0,7	—	0,0	0,4	—	37,2	2,0
Sudan	8,5	12,0	56,2	19,6	0,4	2,7	1,0	0,1	24,7	64,0	189,2	97,2
Suriname	—	0,0	1,1	—	—	—	—	0,0	0,3	—	1,4	0,2
Swaziland	2,9	6,3	7,4	—	11,6	—	2,6	1,4	—	—	32,2	2,7
Tanzania	24,5	33,5	94,6	9,3	—	—	—	—	—	8,9	170,8	22,0
Tchad	—	—	20,5	20,9	—	12,0	2,3	—	1,2	33,4	90,3	42,7
Togo	10,6	—	19,4	—	2,4	—	—	0,0	—	13,5	45,9	14,7
Tonga	—	1,5	—	—	—	—	0,2	—	—	2,8	4,5	4,1
Trinidad and Tobago	0,7	—	—	—	—	—	—	—	—	—	0,7	0,0
Tuvalu	—	0,0	0,8	—	—	—	—	—	—	0,1	0,9	0,2
Uganda	15,0	2,0	24,0	23,9	8,7	2,9	—	17,3	1,9	—	85,7	29,7
Vanuatu	—	—	3,8	—	—	—	—	—	0,6	16,4	20,8	17,1
Western Samoa	—	4,6	—	—	0,2	—	—	—	—	7,9	12,7	7,9
Zaire	0,2	7,8	69,7	46,9	1,1	—	4,0	—	0,7	—	130,4	9,5
Zambia	—	28,7	26,3	0,8	7,8	—	—	—	0,7	—	64,3	8,6
Zimbabwe	4,0	3,2	34,2	—	0,9	0,3	2,5	4,5	—	—	49,6	4,6
Total ACP countries	284,3	509,1	1 650,4	475,9	100,8	71,6	103,7	30,6	124,4	918,5	4 269,3	1 211,1
II. Regional projects	63,4	45,0	52,6	161,9	19,1	—	—	25,5	7,8	—	375,3	63,5
Total ACP (I + II)	347,7	554,1	1 703,0	637,8	119,9	71,6	103,7	56,1	132,2	918,5	4 644,6	1 274,6
III. OCT	1,2	7,4	1,1	2,2	1,9	—	—	1,8	—	1,9	17,5	2,4
Total 6th EDF	348,9	561,5	1 704,1	640,0	121,8	71,6	103,7	57,9	132,2	920,4	4 662,1	1 277,0

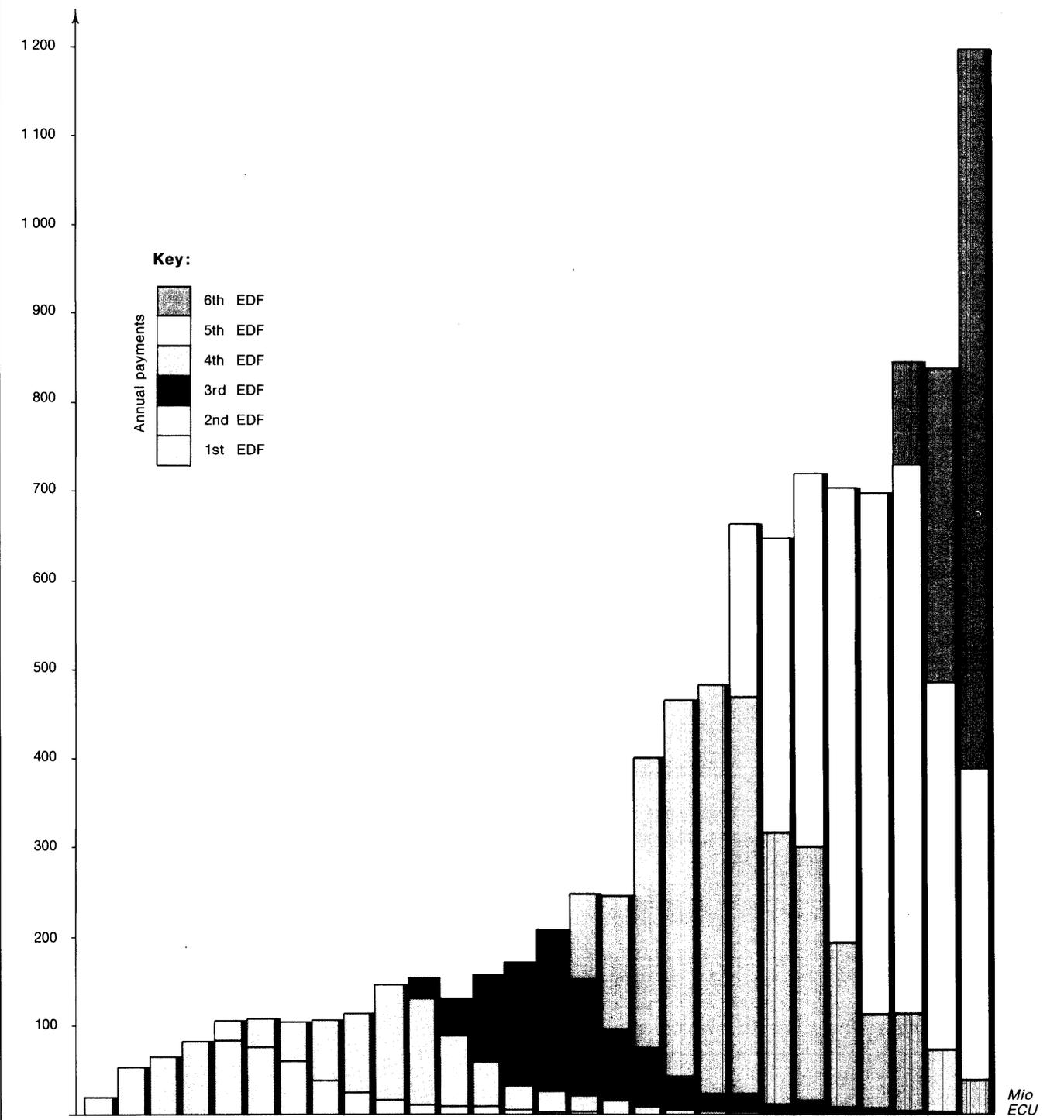
(1) The differences compared with § 24, column 4 may be explained by the different analysis of projects under certain headings.

§ 26. The 5th and 6th EDFs: utilization of aid by economic sector (situation at 31 December 1988)

Allocation and utilization		Financing decisions and payments by economic sector																														
<p>5th EDF:</p> <p>Allocation: 4 823,0 Mio ECU (100 %)</p>  <p>Financing decisions: 4 600,5 (95,4 %)</p> <p>Payments: 3 422,0 (71,0 %)</p>																																
<p>Total:</p> <p>Financing decisions (Mio ECU) 4 600,5</p> <p>Payments (Mio ECU) 3 422,0</p>		<p>By economic sector:</p> <table border="1"> <tr> <td>68,3</td> <td>945,3</td> <td>1 128,4</td> <td>832,6</td> <td>275,5</td> <td>106,8</td> <td>278,4</td> <td>83,7</td> <td>252,0</td> <td>629,5</td> </tr> <tr> <td>43,1</td> <td>679,3</td> <td>728,3</td> <td>617,5</td> <td>190,6</td> <td>66,3</td> <td>204,5</td> <td>60,6</td> <td>202,3</td> <td>629,5</td> </tr> </table>											68,3	945,3	1 128,4	832,6	275,5	106,8	278,4	83,7	252,0	629,5	43,1	679,3	728,3	617,5	190,6	66,3	204,5	60,6	202,3	629,5
68,3	945,3	1 128,4	832,6	275,5	106,8	278,4	83,7	252,0	629,5																							
43,1	679,3	728,3	617,5	190,6	66,3	204,5	60,6	202,3	629,5																							
<p>6th EDF:</p> <p>Allocation: 7 855,4 Mio ECU (100 %)</p>  <p>Financing decisions: 4 662,1 (59,3 %)</p> <p>Payments: 1 277,0 (16,3 %)</p>																																
<p>Total:</p> <p>Financing decisions (Mio ECU) 4 662,1</p> <p>Payments (Mio ECU) 1 277,0</p>		<p>By economic sector:</p> <table border="1"> <tr> <td>348,9</td> <td>561,5</td> <td>1 704,1</td> <td>640,0</td> <td>121,8</td> <td>71,6</td> <td>103,7</td> <td>57,9</td> <td>132,2</td> <td>920,4</td> </tr> <tr> <td>47,4</td> <td>75,4</td> <td>131,5</td> <td>71,2</td> <td>8,7</td> <td>5,0</td> <td>4,6</td> <td>25,4</td> <td>51,3</td> <td>856,5</td> </tr> </table>											348,9	561,5	1 704,1	640,0	121,8	71,6	103,7	57,9	132,2	920,4	47,4	75,4	131,5	71,2	8,7	5,0	4,6	25,4	51,3	856,5
348,9	561,5	1 704,1	640,0	121,8	71,6	103,7	57,9	132,2	920,4																							
47,4	75,4	131,5	71,2	8,7	5,0	4,6	25,4	51,3	856,5																							

§ 27. The six EDFs: evolution of annual payments (1960-1988)

Mio ECU



Key:

- 6th EDF
- 5th EDF
- 4th EDF
- 3rd EDF
- 2nd EDF
- 1st EDF

	1960/61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	Total
1st EDF	19,2	53,3	65,3	83,4	84,8	76,7	61,7	38,6	25,6	16,1	11,4	10,1	9,9	5,5	2,4	2,9	0,6	0,8	0,4	0,3	0,4	—	—	—	—	—	—	—	569,4
2nd EDF	—	—	—	—	21,9	31,6	42,9	67,9	89,4	129,5	120,5	78,6	49,4	25,9	23,3	17,2	16,3	7,9	4,1	2,5	0,9	0,4	0,1	0,1	—	—	—	—	730,4
3rd EDF	—	—	—	—	—	—	—	—	—	—	22,5	42,8	98,5	140,6	182,7	131,0	79,8	66,0	37,4	19,8	20,7	11,2	14,3	8,2	6,0	3,6	2,2	—	887,3
4th EDF	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	97,5	148,0	326,3	423,4	459,3	445,8	305,5	285,2	185,2	105,7	108,5	70,2	38,4	2 999,0
5th EDF	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	195,9	330,1	419,2	509,5	586,3	617,9	412,9	350,2	3 422,0
6th EDF	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	116,7	352,6	807,7	—	1 277,0
Total	19,2	53,3	65,3	83,4	106,7	108,3	104,6	106,5	115,0	145,6	154,4	131,5	157,8	172,0	208,4	248,6	244,7	401,0	465,3	481,9	663,7	647,2	718,8	703,0	698,0	846,7	837,9	1 196,3	9 885,1

**The institution's replies to the
Court of Auditor's observations
concerning the financial year 1988**

PART ONE

General budget of the European Communities

CHAPTER 1

General matters

REPLIES OF THE COMMISSION

PRELIMINARY REMARKS

The report contains a number of observations and criticisms on the way in which the Community institutions implemented the 1988 budget. However, the Commission wishes to stress that 1988 was a year of major reforms to the Community's finances. The reforms, adopted by the European Council of 11 to 13 February 1988, were the culmination of many years' work by the Commission to create a system relying less on exceptional decisions and characterized more by sound financial management. These far-reaching reforms would undoubtedly not have been carried out were it not for the incessant urgings of the Commission that specific rules be adopted to tighten budgetary discipline and thereby offer more scope for monitoring the implementation of the budget.

The changes introduced were as follows:

— the own-resources decision finally guaranteed the Community a period of financial stability for

financing its policies. This put an end to the somewhat unorthodox practices which had sometimes proved necessary to cover essential expenditure. The Inter-institutional Agreement and the financial perspective enabled expenditure ceilings to be fixed in the various spheres of Community activity for a five-year period (1988-92). These ceilings may only be raised by means of well-defined procedures which require the agreement of the Commission, Parliament and the Council.

— A reform of the structural Funds was undertaken to make them more effective and rationalize the means of deploying them. The main aim was to ensure that the different Funds pursue the same objectives, that there is no duplication of effort and that the appropriations needed for the structural adjustment of the Community's least-prosperous regions could be guaranteed. This is to be achieved by means of a partnership formula for administering the Funds. On this basis, the Commission and the Member States

draw up Community assistance plans, implementation of the programmes adopted under these plans is the responsibility of the Member States. The latter are required to devise effective control procedures at national level, to ensure that the measures financed by the Community are implemented as intended.

Ex ante and *ex post* assessment of the various measures is also a requirement. The various factors on which assessment is based must be stipulated in the decisions on the projects receiving assistance. The assessment should also take account of the economic impact of the Community assistance in the regions concerned.

In addition, common rules and procedures have been drawn up with regard to commitments, payments and inspections. This should ensure effective and coordinated management of the appropriations earmarked for the Funds.

— The Commission has always maintained that an increase in the overall volume of the budget and the doubling of the resources of the Funds would only be possible if well-defined rules were drawn up at the same time, designed to ensure effective budgetary discipline. It considers that the legislation adopted on the agricultural guideline, the early-warning system and agricultural stabilizers should finally allow agricultural expenditure to be brought under control.

— Budgetary discipline extends beyond the agricultural sector. A number of provisions of the Financial Regulation have been amended to lend greater weight to the principle of annuality. As regards differentiated appropriations, for instance, commitment and payment appropriations which have not been used at the end of the year are, as a rule, left to lapse and cannot be carried over unless they meet the criteria laid down in the Financial Regulation. This applies also to commitment appropriations made available following the cancellation in subsequent years of the corresponding commitments as a result of failure to implement the projects concerned. These appropriations also may be re-entered only under clearly-defined conditions. The cancellation at the end of 1988 of ECU 701,7 million in commitment appropriations which had not been made available again and of ECU 819,9 million in payment appropriations is proof of the significance of this measure.

— The Commission further undertook in the Interinstitutional Agreement to examine rigorously, when entering appropriations in the preliminary draft

budget, whether the appropriations requested could effectively be used during the financial year in question. Finally, care has to be taken to strike the right balance between commitments and payments.

— There have also been positive developments as regard own resources. Regulations Nos 1552/89 and 1553/89 have considerably broadened the scope for Commission inspections. The Commission now has the power to conduct autonomous inspections in the Member States relating to customs duties and agricultural levies, hitherto it could only participate in inspections carried out jointly with the authorities in the Member States.

Furthermore, the Member States are required to report regularly to the Commission on the results of their inspections and any shortcomings they have observed in their control systems. As regards value-added tax, the rules stipulate that the Commission is to be informed of the methods used and the findings of the inspections carried out in the various Member States, with a view to examining their effectiveness and possible improvements to be made, in collaboration with the Member State concerned.

— In the field of fraud prevention, the Commission has adopted some very important measures. A central unit has been set up to coordinate the activities of the various departments. The work programme drawn up includes the following measures: simplification of the rules in force (particularly in the agricultural sector), harmonization of the rules on inspections in the agricultural sector, the introduction of penalties in sectoral legislation, examination, in collaboration with the Member States, of their control systems and definition of procedures for preventing fraud, development of new control methods better adapted to conditions on the ground, monitoring of the implementation of the existing rules, improved exchange of information between the Commission and the Member States, examination of the possibilities, using financial incentives, of stimulating the Member States to make more intensive efforts to combat fraud, and the creation of a legal instrument for protecting the Community's financial interests. The main aim of the programme is to find practical solutions and to involve the Member States to the greatest possible extent.

The first implementing measures have already been adopted, including the simplification of the legislation.

— Finally, the imminent amendment of the Financial Regulation should enable budgetary management to be further improved, in particular by means of increased use of cost/effectiveness or cost/benefit analyses.

To sum up, the Commission is convinced that the reforms undertaken will provide it with a range of instruments enabling it better to meet the requirements of sound budgetary management.

THE COMMUNITIES' FINANCIAL SITUATION

1.1 – 1.5. The Court analyses the final balance of the Commission's accounts for 1988. While the Commission does not dispute the usefulness of this exercise, it would stress that the balance for 1988 was established in accordance with the rules in force and that the entry in the accounts for 1988 of expenditure incurred in previous years did not affect the final balance, a fact acknowledged by the Court.

Expenditure effected in 1988 but not charged to the budget for that year is made up partly of EAGGF-Guarantee Section expenditure, of which only eleven and a half months' worth was booked to 1988, as a direct consequence of the European Council's decision to extend the time limit for payment of Commission advances from two to two and a half months, which inevitably meant that the 1988 financial year in the agricultural sector was a period of transition, consisting of only eleven and a half months. The other expenditure not charged to the 1988 budget related to the repayment of the expenditure incurred by the Member States in 1987 and 1988 in reducing surplus butter stocks. The deferral of these repayments is provided for in Regulation No 801/87 concerning the disposal of surpluses of butter in public storage.

The Court notes that the surplus revenue in 1988 was not used to redeem the Commission's debts by means of an amendment of Regulation No 801/87. The Commission would point out that in the mean time, the Interinstitutional Agreement and the financial perspective have introduced a binding timetable of expenditure for the period 1988-92. The financial perspective for this sector assumes that repayment will be spread over four years starting in 1989, as laid down by Regulation No 801/87. Repayment ahead of schedule would have required a revision of the financial perspective.

The Court repeats its request for a precise description, with a timetable of due dates, of the Communities' potential liabilities and expenditure. The Commission endeavours to make the information provided in Volume V of the revenue and expenditure account as comprehensive as possible. However, it is anxious to avoid confusion between the different items of financial information and remains convinced that the only

potential liabilities which should be mentioned in the accounts are those relating to commitments entered into with third parties.

As other potential liabilities cannot be entered in the accounts, but can be entered in the multiannual forecasts for the corresponding categories, the Commission has decided to depart from its past practice in this respect. Likewise, it considers that a timetable of due dates is part of the process of planning expenditure, and has no place in accounts relating to a particular year. The information requested will have to be supplied within the context of the budget.

As regards the principal causes of under-utilization of appropriations under the various budget headings, the Commission's quarterly reports on the implementation of the budget examine the utilization of appropriations in the different sectors. A thorough examination is carried out in October each year, when the Commission makes a detailed report to Parliament on the implementation of the budget (the *Notenboom* procedure). This matter will, however, have to be re-examined by the Commission.

Finally, when drawing up its preliminary draft budget the Commission makes a detailed examination of the causes of under-utilization of appropriations during the previous year; under the Interinstitutional Agreement, it has given a legally binding undertaking to carry out such an examination.

OBSERVATIONS ON THE EFFECTIVENESS OF THE BUDGETARY MANAGEMENT

1.6 – 1.15. Throughout its report the Court highlights problems which concern relations between the Commission and the Member States with regard to the implementation of the budget. These relations are governed by the principle of subsidiarity.

The Community's tasks must be performed at the most appropriate level. This means that only legislative and administrative tasks vital to the smooth running of the Community should be carried out centrally. The principle of subsidiarity has assumed growing importance in recent years, as the development of the Community's activities has made it impossible for a central authority to wield all the executive powers. Moreover, the issue here is not so much one of delegating the Community's powers to the Member States as of managing a system of parallel powers as efficiently as possible.

In practice, the principle of subsidiarity can take a number of different forms. Where the common agricultural policy is concerned, for instance, the Member States have sole responsibility for applying the Community rules. In the case of the structural Funds, future activities will be mostly on a partnership basis. Research takes the form of what is known as 'indirect action', and in the case of own resources, legislation is drawn up at national level. The primary role of the Member States is to monitor the application of their legal and administrative instruments and to set up effective systems for that purpose.

The administrative procedures may take many different forms. In the case of VAT inspections, for instance, the Member States define their own systems, simply informing the Commission of the outcome. Alternatively, as in the case of the structural Funds, committees may be set up to monitor implementation. A third possibility, which is to be applied henceforth to traditional own resources, is for the Commission to carry out independent inspections parallel to those of the Member States. However, highly centralized arrangements which give the Commission control powers not conferred on it under Community law would hardly be in keeping with the principle of subsidiarity. In the absence of more wide-ranging powers, the Commission's task consists in monitoring the effectiveness, reliability and transparency of the systems set up in the Member States, for example for VAT controls. This is a delicate operation, offering a great deal of scope for improving the results, as the Court itself points out in a number of places.

It follows from the above that some of the criticisms made by the Court are directed at the Member States rather than at the Commission as far as the implementation of the Community budget is concerned.

Management of revenue

1.6 – 1.8. On the revenue side, the 1988 budget provided for contributions from the Member States, to be paid under an intergovernmental agreement, in addition to own resources. At the end of the year, two Member States had still not completed the internal procedures required to enable them to apply the agreement, with the result that they could not pay their contributions until 1989.

The Commission agrees with the Court that its system of monitoring own resources could be improved. However, the effectiveness of the system depends not only on the inspections carried out by the Commission on the ground, but also on the use made of the information it receives from the Member States. It is expected that Regulation No 1552/89 will lead to an improvement in the flow of information and better inspection arrangements. Furthermore, the Commission is currently looking into ways of ensuring that action is taken more systematically on the problems brought to light during inspections, so that future inspections can be better targeted. Finally, it will be responsible in future for examining the effectiveness of the systems adopted by the Member States.

Control of agricultural expenditure

1.9 – 1.12 The checks carried out by the Commission in connection with the clearance of the accounts and with fraud prevention have revealed shortcomings in certain areas in the systems operated in the Member States. The Commission's response has varied according to the specific situation in each sector:

- in the fruit and vegetables sector, additional checks have been carried out in one Member State, resulting in a reduction in the level of Community support;
- in the case of durum wheat, a new regulation adopted in 1989 provides for specific inspections and penalties. The regulation is also designed to harmonize the application of legislation by the various national authorities;
- finally, in the starch sector, the management committee will be scrutinizing the findings of the inspections and the observations made by the Court before proposing possible improvements.

These examples demonstrate that the Commission is making full use of the range of instruments at its disposal in order to tighten controls and improve the implementation of the budget.

The Commission cannot agree that the procedures for clearing the accounts do not satisfy control requirements. It is conscious of the fact that the procedures are not entirely satisfactory, however, and would remind the Court that it embarked upon a systems audit in 1986 which it will take several years to complete. The clearance operation examined by the Court was only the second year of application of this new control procedure.

This is a good example of how the Commission plans to apply the principle of subsidiarity: in all cases where national controls are conducted, specific Commission inspections are to be replaced by systems analysis. However, should it emerge that the arrangements applied by the Member State are inadequate, specific checks will be carried out to assess whether the budgetary allocation should not be reduced.

The Court further states that amendments made with regard to milk quotas were the result of faulty legislation, and were dictated by considerations of convenience. The Commission would argue that the amendments were the result of political compromises reached by the Council to deal with market trends and specific problems faced by certain categories of producers.

Effectiveness of structural operations

1.13–1.15. The Court directs four criticisms at the Commission:

— ***Lack of effective monitoring of projects and insufficient additionality***

The Commission agrees with the Court on the need to improve monitoring in the areas referred to (in particular specific Social Fund operations and transport infrastructure). This was why strict rules on monitoring and assessment were incorporated in the new provisions governing the structural Funds. Monitoring committees are to be set up and the Commission decisions approving the operations will define physical and financial indicators for monitoring. The indicators must be structured in such a way that they show the stage reached in the operation and how it is being managed.

As regards additionality, the absence of a Community programme on transport policy means that most of the Commission expenditure goes to finance investment projects adopted at national level. In the same context, with reference to the Regional Fund industrial investment operations, it should be noted that firms' investment decisions are not as a rule influenced by this assistance, as the Commission itself has noted time and again. Hence its insistence that the new provisions governing the structural Funds should make it clear that the appropriations allocated must result in an increase in total government or

equivalent assistance for structural projects in the Member State concerned.

— ***Imprecise eligibility criteria for operations to be financed***

While it is often difficult to draw up selection criteria which are precise while being general enough to cover all individual situations, it is nonetheless possible to establish a set of references which, seen individually, may appear to be imprecise but which, taken as a whole, act as a fairly precise guide. The Court makes particular reference to the 'innovatory nature' criterion for specific operations financed by the Social Fund. While it is true that the Commission has given no formal definition of this innovatory nature, it has laid down three main guidelines for assessing it:

- experimentation with new job profiles;
- adaptation of vocational training structures;
- amendment of the integration procedure for certain specific professions.

In addition, the socio-economic development of the region in question is taken into consideration, enabling innovation to be transferred from highly developed to other regions. Overall, implementation of these guidelines has led to more than 50 % of applications being declared ineligible on the grounds that they were not sufficiently innovative.

— ***Support for projects which do not satisfy the requirements of the regions in which they are located***

The Court claims that ERDF assistance for industrial development only rarely has a knock-on effect on economic activity in the region in question.

The Commission must stress that this state of affairs is generally the result of shortcomings in the Member States' regional-level industrial development policies or strategies.

Within the context of the partnership provided for by the reform of the structural Funds, and making use of the various types of assistance available, the Commission will endeavour to establish closer links between industrial development aid and the regional and sectorial context in which it is situated.

— *Lack of multiannual development plan for transport infrastructures*

The Commission also deplores the lack of such a plan, particularly since it first proposed one to the Council a number of years ago. At the same time, it proposed that assistance should be concentrated on a small number of priority projects of Community interest. It also feels strongly that these should tie in with the activities of the Regional Fund.

DIFFICULTIES IN THE CONTROL AND MONITORING OF SHARED MANAGEMENT BY THE COMMISSION AND MEMBER STATES

Inadequacies of the legislation

1.17 – 1.18. In its remarks on the subject of subsidiarity, the Commission outlined its basic position on this issue. It feels that there is no foundation for the criticism levelled by the Court regarding the heterogeneous nature of Community legislation in the various spheres and the impact this has on the effectiveness of the Commission's central role. First, the Commission is convinced that effective monitoring of the national control mechanisms enables it to ensure uniform application of provisions formulated in various ways; furthermore, in a number of areas the Commission cannot be said to play a central role, as it is simply exercising powers held jointly with the Member States.

The remark that the regulations concerning the EAGGF and own resources are imprecise, too complex or incomplete is only partially justified. Wherever possible, the Commission will endeavour to remedy the problems by tightening up the provisions in question. Regulations Nos 1552/89 and 1553/89 concerning own resources and Regulation No 1738/89 ⁽¹⁾ concerning the agricultural sector may be cited as examples.

The Court considers that the weakness of certain legislative provisions can be attributed to a lack of coordination both within the Commission and between the Commission and the Member States. It refers in particular to the provisions relating to the ewe premium in the sheepmeat sector. As it happens, the Commission

has carried out a detailed analysis of the measures adopted in this sector, the results of which are to form the basis for a new regulation being drawn up in collaboration with the national supervisory bodies.

Weaknesses in the decision-taking procedures

1.19. The Court's assertion that effective management of the Community funds is frequently hampered by a lack of clear instructions is a generalization, which the Court backs up with only three examples, as follows:

- as regards own resources, the Court maintains that there are no rules on the procedure to be followed in the event of a disagreement between the Commission and the Member States. The Commission would point out that in the event of an infringement of Community law affecting own resources, it sends the Member State concerned a 'demand letter', requiring it to calculate and forward the contested amount within a certain time. If the Member State fails to comply, proceedings are instituted under Article 169 of the EEC Treaty.

In the event of disagreement on technical points, the Commission adopts a pragmatic approach, and endeavours to resolve the problem by negotiation with the Member States;

- the Court points out that no method exists for applying the Member States' subsidiary liability under the Social Fund. This does not mean, however, that they escape all such liability. In this case, as the Court itself states, reference is made to national law;
- the Court makes the point that the rules governing the granting of subsidies to transport infrastructures do not specify the method for determining the Community contribution. It should be made clear that this is not the cause of the variations in the rate of the Community contribution, which depends on the specific nature of the projects and the financing arrangements. Furthermore, the proportion of the total cost of the project which is financed varies, and is often relatively modest.

⁽¹⁾ OJ L 171, 20.6.1989.

Shortcomings in the implementation of the administrators' controls

1.20 – 1.22. The Court criticizes the Commission for failing to monitor the activities of the administrators sufficiently, given the absence of clear rules or methods. The Court refers to the following four areas:

Own resources

The Commission has already pointed to the difficulties experienced in the past in monitoring the findings of inspections on a systematic basis. Regulation No 1552/89 (customs duties and levies) has brought about a considerable improvement in this respect, for example by requiring the Member States to send to the Commission the results of their own inspections and a description of major fraud cases, mentioning financial corrections separately. As regards value-added tax, the new provisions stipulate that the VAT Committee is to be provided with detailed information on changes in national legislation. This, allied to the various controls which already exist, should ensure that the activities of the Member States are monitored more effectively.

Control of self-financing in the sugar sector

The Court reaches the conclusion that the system in force does not guarantee sufficient control of self-financing. The Commission cannot share this view. For each marketing year it draws up a document for the Member States containing all the elements deemed necessary to enable checks to be made on financial equilibrium. Expenditure is monitored on the basis of this document.

Checks in the field of transport infrastructures

The Court deplores the fact that the Commission has carried out only a limited number of on-the-spot

inspections, and that the Member States' progress reports are often submitted very late. It is true that the Commission has so far conducted only a limited number of checks, as it has confined its attention to completed projects. However, it has drawn up a work programme providing for the most important projects to be inspected once the interim report has been submitted. There are also plans to include a provision in the decisions granting assistance requiring an annual report to be submitted.

Absence of method in the treatment of various borrowing operations

With regard to the shortcomings identified by the Court in the system for handling borrowing operations, the Commission would emphasize that this system has to be adapted to the negotiating methods and conditions prevailing on the financial markets, one of whose chief characteristics is the need for speedy action.

While making due allowance for these characteristics, the Commission has begun a review of the internal rules and procedures governing borrowing operations in response to the Court's observations. The main measures envisaged by the Commission are outlined in its reply to paragraph 13.20 of the Court's report.

BUDGETARY DISCIPLINE

1.23 – 1.25. The Court subjects the role of the Financial Controller to close and careful scrutiny, arriving at the conclusion that it should be substantially changed. To begin with, the Commission can agree with the Court's view that the internal audit function should be further strengthened. It cannot, however, endorse the Court's recommendation that the Financial Controller should in future carry out checks on the financial management of the Authorizing Officers only after the event. The Commission feels that controls at all stages, together with the dialogue which currently exists between the Financial Controller and the Authorizing Officers, are the most effective means of guaranteeing sound budgetary management. This approach also enables the Financial Controller to assist the departments concerned in an advisory capacity. The Commission cannot agree with the Court's assessment that the role of the Authorizing Officer is less responsible as a result.

Furthermore it emerged, during the discussions on the amendment of the financial regulations, that the budgetary authority sees controls at all stages as an essential guarantee of sound budgetary management. For this reason, and in view of the existing legal situation, the Commission feels unable to share the Court's view on this matter.

CONCLUSION

1.26. In its conclusions, the Court makes four recommendations to the Commission.

The Commission has already stated its position, in this chapter, on three of them (changing the role of the Financial Controller, reorganizing the procedure for clearing EAGGF-Guarantee Section accounts and ensuring that the Member States carry out their duties to the full in the area of decentralized management).

The fourth recommendation calls on the Commission to initiate legislative reform designed to protect the Communities' financial interests. First, the Commission considers it advisable to wait until the impact of the new provisions of Regulations Nos 1552/89 and 1553/89 can be assessed before contemplating extending the Commission's supervisory powers in the sphere of own resources. Second, the Commission's work programme on the prevention of fraud affecting the Community budget provides for the revival of the draft treaty on the protection of the Communities' financial interests, currently under discussion in the Council. Finally, the Court of Justice judgment in Case 68/88 (Greek maize) puts the issue in a new light.

CHAPTER 2

Implementation of the budget and accounting mattersREPLIES OF THE PARLIAMENT

THE COMMUNITY GENERAL ACCOUNTS AND BALANCE SHEET

Observations on the general accounts and balance sheet

2.37. Parliament would draw attention to the replies it gave in previous years on this subject. The procedure for granting a discharge to the Accounting Officer for the 1982 financial year has been delayed because of the action (Case No 44/88) ⁽¹⁾ brought before the Court of Justice by the official concerned against a decision of 18 January 1988 to discipline him. The case is now before the Court of First Instance.

⁽¹⁾ OJ C 89, 6. 4. 1988, p. 11.

REPLIES OF THE COUNCILTHE COMMUNITY GENERAL ACCOUNTS
AND BALANCE SHEET

The Council would stress a fact mentioned by the Court in its comments, namely that it had already reduced its coverage rate from 115 % to 45 %.

*Observations on cash management in respect
of the implementation of the general budget***Punctual payment****Estimates of expenditure**

2.49. Within the framework of the new system in preparation concerning the monitoring of budget appropriations, the Council has seen to it that in future the authorizing departments will be required to indicate the due date on a new 'payment order' form and the Accounting Officer will indicate this date on the transfer.

2.48. Since the Court's audit the Council has been endeavouring to reduce further its rate of coverage by ensuring that wherever possible, the value date on which the bank account is credited coincides with the date on which the salaries and rents are paid.

As far as the payment of August salaries is concerned, the Court of Auditors' request has been accepted.

Number of bank accounts

2.50. (a) The number of bank accounts cited by the Court includes three imprest accounts in Luxembourg, Strasbourg and Geneva.

One of these accounts is hardly ever used and will be closed.

Since 1984 the Council has closed two bank accounts and has been obliged to open three, two following the accession of Portugal and Spain and one in ECU for funding the ESC (following a suggestion made by the Court of Auditors in its 1984 report).

- (i) In 1989 the Council will also be closing the account in UKL which is hardly ever used.
- (ii) The Council will examine the suggestion that a single bank in Brussels be entrusted with all its transfers in BFR.

The Council has also examined the solution of a single account for payments in foreign currencies; it did not finally implement this solution because of the considerable additional cost it would have involved.

Crediting accounts at the Economic and Social Committee

2.51. As from 1990, the funds intended for the Economic and Social Committee will no longer be transmitted via a Council bank account.

Banking terms

2.52. As agreed at a meeting of Accounting Officers from the institutions, the Council, along with a number of other institutions, has sent the various banks a questionnaire on the banking terms applied.

The Commission will collate the replies to the questionnaire and send them to each institution, which will thus be made aware of the best terms offered and be able to ask for them to be applied to its own bank accounts.

Observations on the Community accounting system

Internal control of cash operations

2.55. (a) The Council will supplement its manual of procedure, particularly as regards cash operations; this manual is available to all the officials concerned.

- (b) (i) The Council stands by the reply given to a similar comment made by the Court in its report on the 1987 accounts, namely that the practice followed at the Council is the result of the needs arising from the existing *de facto* situation.

The Council would point out that Article 49 of the procedures for implementing the Financial Regulation of 21 December 1977 does not specify the status of the second person empowered to sign in respect of banking transactions.

- (iii) Since the Court's audit, two officials have been assigned to cash operations:

- an assistant Accounting Officer, responsible for handling funds and cash accounts; he is also authorized to sign in respect of banking transactions.
- an official who handles bank accounts and banking reconciliations.

These tasks are carried out under the supervision of the Accounting Officer.

- (c) (i) In line with the Court's wishes, the Accounting Officer will make more frequent unannounced controls on the cash office in addition to those made every first working day of the month.
- (e) (i) Following the Court's request, receipt books are kept by the Accounting Officer who issues pre-numbered, initialled receipts to the cashier as necessary.
- (ii) The Decisions will be adjusted in line with the Court's request.

(f) The Financial Regulation, which lays down in exhaustive detail the tasks and responsibilities of the Financial Controller, does not provide for intervention by the Financial Controller in the audit of cash operations.

2.56. The Council would refer to the replies given above to the points concerning the manual of procedures and audits in the Treasury Department.

REPLIES OF THE COMMISSION**ANALYSIS OF THE IMPLEMENTATION OF THE 1988 GENERAL BUDGET***Utilization of appropriations*

2.2 – 2.7. The Court concludes its comments on the utilization of appropriations with the statement that 'the quality of the management and implementation of the budget cannot be assessed purely on the basis of the rates of utilization of appropriations'.

The Commission agrees with this and, as in the past, has expressed its reservations concerning the choice of certain criteria on which the analysis is based. It considers, for instance, that the distinction between compulsory and non-compulsory expenditure, while essential during the procedure for establishing the budget, is not suitable for monitoring budget execution. In addition, the unused amounts of appropriations in headings amended by Parliament must be compared with the total amount of appropriations available, with due allowance for the difficulties involved in starting up projects and seeing them through at short notice.

The Court notes that there was an appreciable increase in the rates of utilization of appropriations, both in commitments and in payments, for budget headings other than the EAGGF-Guarantee Section and the Title 10 reserve. The Commission believes that these results were achieved thanks to its constant concern to avoid any overbudgeting when preparing the budget and also to the adoption in late 1988 of internal procedures designed to secure an optimal out-turn.

Analysis of the reasons for the under-utilization of appropriations

2.8 – 2.12. As it stated in its replies to the Court's annual report for 1987, the Commission finds the Court's analysis of the reasons for under-utilization of appropriations very interesting.

In volume I of the revenue and expenditure account the Commission itself makes chapter-by-chapter comments on budget out-turn. In addition to this analysis of financial management, which is required by the rules, quarterly and monthly reports on budget execution are also sent to the budgetary and control authorities. In October each year a thorough analysis is carried out and

the Commission sends a detailed report to Parliament on the execution of the budget (Notenboom procedure).

This whole issue will have to be reviewed by the Commission which, however, does not want an oversimplified presentation which might distort the information being provided; some causes of under-utilization can have an accumulative effect and any conclusions drawn must therefore be qualified.

As a general rule departments managing appropriations are well aware of the reasons for under-utilization and they do everything they can to remedy this situation both at the execution stage and when the budget is being established.

Finally, the Commission would stress that in the last three years the utilization of appropriations for operations (payments, excluding carryovers) has improved steadily from 85.8 % in 1986 to 91.8 % in 1988.

2.9. There are three main reasons for the low rate of utilization of payment appropriations for fisheries (Title 4):

- the national authorities were slow in implementing Community programmes and the coordination of fisheries research was delayed (Article 440);
- Member States were slow in presenting to the Commission reimbursement requests in respect of operations for restructuring the sardine industry (Article 453);
- difficulties were encountered in setting up producer groups in the new Member States (Article 461).

In all three cases the delays concern the implementation of policies or operations agreed at Community level and are not the fault of the Commission.

As regards social policy, the utilization rate of 84.9 % relates to the whole of Title 6 covering a wide variety of operations which cannot really be lumped together in the same overall analysis. For example:

- in the Social Fund, the problem is mainly with specific measures (Article 610), where the diversity of operations frequently means that it takes longer than expected to conclude them;
- as the appropriations for education and vocational training (Chapter 63) are all non-differentiated, payments, which are spread over the school year, will be made in the following financial year;
- the utilization rate for appropriations in Chapter 64 (Employment, social protection and public health) reflects the difficulties involved in carrying out new operations when the budget is adopted late; all the same, 89 % of the payment appropriations (differentiated) were used.

The difficulties for environment and consumers (Chapter 66) stem from the late adoption of the 1988 budget and the delays this entailed for using appropriations.

In the field of development cooperation, the reasons for the low rate of utilization of appropriations at the payment stage continue to be the length of time required to set up and carry out projects, mainly because of the administrative difficulties within the recipient countries themselves and the negative impact these have on payments.

MONITORING OF OUTSTANDING COMMITMENTS UNDER DIFFERENTIATED APPROPRIATIONS

2.15 – 2.28. The Commission fully appreciates the Court's concern about the monitoring of outstanding commitments made against differentiated appropriations.

Of the outstanding amount quoted by the Court, commitments cancelled in 1988 were 11.4 % higher than in 1987 (8.1 % higher than in 1986). Payments made against these commitments in 1988 were 17.2 % up on payments in 1987 (17.6 % up on 1986).

But it is true that this improved performance in clearing old commitments does not offset the increase from year to year in the volume of new multiannual commitments. It should, however, be noted that commitments entered into in 1988 and already paid in 1988 amounted to 39.4 %, a much higher figure than in the past, which can be attributed in part to the measures taken by the Commission to improve budget execution (see the reply to paragraphs 2.2 – 2.7).

The Commission's concern to keep a close watch on multiannual commitments prompted the amendment made to the Financial Regulation on 24 June 1988 to insert the following provision: 'The legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted'. On the basis of this provision, it is the Commission's intention in future to monitor new commitments systematically.

As regards commitments from the past, the Commission is endeavouring to impose stricter monitoring, as emerges from the replies to paragraphs 2.23 – 2.25. The Court observes that improvements have been forthcoming, despite existing constraints, in particular as regards the Social Fund. The Commission will pursue its efforts to achieve similar results in the other areas of operating expenditure.

2.23. It is quite normal, in connection with the management of multiannual operations, e.g. structural projects, that commitments should exist for a certain time. There is now a time limit for such operations laid down by the new provisions of the financial regulation.

Hitherto, the means available to the Commission to wind up an operation were very limited, especially in the 'decentralized' area of the structural Funds: in the case of the ERDF, for instance, a project could not be considered 'dormant' until it had been abandoned for four years (as stipulated in the ERDF regulation in force until 31 December 1988).

The situation improved with the introduction, in 1988, of a time limit in Article 1(3a) of the Financial Regulation (which involves the insertion, from now on, of a clause in each decision granting assistance for multiannual operations) and as a result of the system of commitments by tranche.

The many measures taken have brought about improvements in the situation as regards past commitments ('dormant file' operations during on-the-spot controls, monitoring tables, etc.). The Court expressly acknowledges that there have been improvements for the ERDF.

2.24. It is quite normal for the value of outstanding commitments in absolute terms to grow when the volume of appropriations is also expanding. So the 94 % increase in outstanding commitments in the research sector between 1986 and 1989, compared with a 112 % increase in appropriations, reflects the care that has been taken in clearing old operations.

In the energy sector in 1988, 1 060 contracts were still in progress out of the 2 256 concluded since 1978 on the basis of various Council regulations. All these contracts relate to the development of new technology and last for between four and eight years. Payments are not spread out in fixed tranches, but on the basis of the rate of expenditure and the progress of each project. It is therefore normal that outstanding commitments in the energy field at the end of 1988 should total 384 Mio ECU (23 % of the amount mentioned in the report).

The Court's condemnation of the monitoring of contracts as inadequate must be seen against the diversity and the very nature of the projects, which inevitably causes certain technical and even administrative problems. The Commission is well aware of the situation and is particularly careful about winding up difficult cases.

2.25 – 2.27. The financial department of the Directorate-General for Development will shortly be given extra staff and computerized equipment so that project monitoring can be stepped up and working methods defined more clearly.

Preliminary work has started on setting up a new computerized system (an adaptation of the OLAS system planned for the EDF) which will make it possible for analytical accounts to be kept by contract and not just by project as is the case at present.

This will allow a closer watch to be kept on the financial situation and the progress of files so that the authorizing officers' attention can be systematically drawn to the possibility of winding up projects or operations.

It will also be made standard procedure to send a letter to the recipient when the final payment is made to confirm that the project is finished. The Commission departments concerned will produce the necessary standard letter.

2.28. The Commission will take appropriate action to ensure that the departments concerned make a more substantial contribution towards improving the monitoring of outstanding commitments.

OBSERVANCE OF THE FINANCIAL REGULATION

Charging of food aid to the budget

2.30 – 2.32. The annex to Commission Decision 88/484/EEC of 26 July 1988 amending Decision 88/189/EEC of 16 March 1988 concerning the establishment of overall quantities of food aid for 1988 ⁽²⁾ provides, in addition to the specific products and quantities to be supplied, for 'food aid made up of the products listed above and intended to cover exceptional food shortages, corresponding to a maximum of 200 000 tonnes of cereal equivalent'.

This programme decision reflects the Commission's view that the appropriations in Item 9280 (Exceptional reserve) are to be considered as a supplement to the ordinary food aid programme intended to cover exceptional requirements.

The decision concerning Mozambique comes under this programme decision; as the first two instalments of the initial programme left only 10 000 tonnes of cereals available, the Commission had to turn to the exceptional reserve provided for in that decision to find the remaining 100 000 tonnes required to cope with the exceptional food shortages in Mozambique.

The rebooking of expenditure to which the Court refers can be explained by the system of overall commitments provided for in the first paragraph of Article 102 of the Financial Regulation, these commitments having been entered into on the basis of the old rules, i.e. before the entry into force of the new food aid regulation on 1 July 1987. The object was to make sensible use of the appropriations and at the same time to ensure that the quantities covered by Items 9200, 9201, 9202 and 9280 did not exceed the limits set by the programme ⁽²⁾.

As the Commission's decisions allocating aid do not specifically identify the budget items concerned, the aid involved may be booked to any of a number of budget headings. Corrective rebookings cannot therefore be ruled out, though it should be added that this does not have any financial impact on the total food aid budget.

⁽²⁾ OJ L 239, 30. 8. 1988.

2.33. Financial Control approved the case referred to by the Court after establishing that there was nothing irregular about the use being made of the Item 9280 appropriations. It agrees with the interpretation of the concept of 'exceptional reserve' generally accepted since 1986, namely that this aid is in addition to the ordinary food aid programme. This same principle accounts for the rebookings criticized by the Court.

Monitoring of advances recorded as budgetary expenditure

2.34 – 2.35. The Commission cannot accept the terms used by the Court, notably that 'transactions are being managed secretly'.

Because of the conditions in which the Commission had to implement the 'special programme to combat hunger in the world', the delegations in the developing countries or, in their absence, the project leaders had to be given more responsibility than usual for the financial management of projects. Their responsibilities were stipulated in the detailed arrangements for using the aid annexed to the protocols.

This division of work is also reflected in the files, which are kept partly with the Commission departments and partly on the spot. Centralization of information has not always been as it ought to be. The Commission therefore took the opportunity afforded by the Court's comments and in 1989 asked the delegations and project leaders for full information. Most replies have already been received and will shortly be sent to the Court.

THE COMMUNITY GENERAL ACCOUNTS AND BALANCE SHEET

Observations on the general accounts and balance sheets

COMMISSION

2.38 – 2.39. For practical reasons some expenditure incurred in connection with cooperation with non-

member countries is paid from 'paying agents' accounts' or by Community bodies to which the Commission grants advances.

The Commission acknowledges that delays have occurred at the end of the year in clearing transactions covered by the paying agents' accounts and regrets that this situation caused an incorrect balance to be shown in the balance sheet at the end of 1988; steps will be taken to put matters right as soon as possible.

As regards the advances paid to the European Association for Cooperation, the Commission will be reconciling the EAC figure with the figure it entered in its balance sheet at the end of 1988 as soon as it receives the Association's end-1988 balance sheet.

As regards the advances paid to the British Council, from the information supplied by this organization in reply to a request, the Commission has managed to relate the amount declared by the British Council to the figures shown in the Commission's balance sheet at the end of 1988.

Observations on cash management in respect of the implementation of the general budget

Rate of coverage of net needs

2.46 – 2.47. To satisfy the Court the Commission has already reduced the rate of coverage of needs in Ispra to a level which none the less leaves a certain margin of manoeuvre to cover unforeseeable payments.

Number of bank accounts

2.50. (b) Following the Court's comments there will be a review of the number of bank accounts.

As regards the currencies mainly used by the JRC, the ECU and the lira, keeping two accounts could be a means of stimulating competition between banks and obtaining the best possible rates of interest.

Banking terms and conclusions

2.52 – 2.54. The question of the number of bank accounts and banking terms has been examined at the periodical meetings of the institutions' Accounting Officers. The initial results of this examination should be ready in the first half of 1990.

The questions of value date and coverage of needs will be dealt with by the same group.

*Observations on the Community Accounting System***Internal control of cash operations**

2.55. (a) The Commission is considering the possibility of producing a manual of procedures for cash operations, including the Ispra treasury department.

(b) (ii) The Assistant Accounting Officer (chief cashier) has sole responsibility for cash.

(iii) The Commission is looking into the possibilities of improving the necessary controls.

(iv) It is true that this could happen as one member of the 'I' group is not an Assistant Accounting Officer. However, clear instructions have been given to prevent it from happening.

The Directorate-General for Budgets will review the system of signatures for the Ispra accounts with a view to making whatever changes are possible in line with the Court's request.

(c) (ii) The necessary provisions are being studied. Imprest accounts are controlled jointly by an official from the Accounts Department and an official from Financial Control. It is planned to assign this task to an Assistant Accounting Officer.

(d) (i) Instructions have been given to put an end to the practice criticized by the Court.

(e) (i) There are plans to introduce a receipt numbered in advance for any revenue collected at the cash office.

(iv) The revenue concerned derives from the recovery of telephone expenses and of the cost of accommodation made available to staff not covered by the Staff Regulations. However, to satisfy the Court, a recovery procedure based on an overall recovery order will be considered.

2.55. (f) – 2.56. As stated in the replies to Chapter 3 (and more specifically to paragraphs 3.17 and 3.18), Financial Control has in general had to set itself priorities with particular reference to the provisions of the Financial Regulation.

It is true that some areas have had to be neglected, including control of the treasury department. However, since 1989, Financial Control has been extending its control activities in this area; initially, its checks have covered the treasury department at headquarters. Financial Control is planning to extend this gradually to the control of the JRC treasury department.

Study of the Commission's central accounting system

2.57 – 2.58. The Commission would point out that action was already taken in 1988 on certain items of this report, which was commissioned jointly by the Commission and the Court:

— the rules on carrying over appropriations were made much stricter by the amendments to the Financial Regulation adopted in July 1988 (paragraph 2.57(a));

— the Commission asked an outside consultant to look into ways of improving the presentation of the accounts, as a result of which it published for the 1987 and 1988 accounts an executive summary in the nine Community languages (paragraph 2.57(f)).

The Accounting Officers of the institutions are currently examining certain other items of the report mentioned by the Court with a view to finding solutions suited to the specific features of the Community budget.

*REPLIES OF THE COURT OF JUSTICE***THE COMMUNITY GENERAL ACCOUNTS AND BALANCE SHEET**

2.40. Since the date on which the Court of Auditors carried out its audit the responsible departments of the Court of Justice have brought the inventory of fixed assets up-to-date and measures have been taken to ensure that this will be done progressively, as changes occur.

2.41. The provisional charging to extra-budgetary accounts of certain items of expenditure is to be explained as follows:

- As regards the purchase of petrol coupons, this practice facilitates the analysis of monthly consumption per car and makes it possible to charge to a financial year only the consumption relating to that year; however, the Court of Justice is examining together with the suppliers the possibility of simplifying invoicing by means of direct payments, without recourse to petrol coupons. Should this not be possible, the Court of Justice will take the necessary measures for the budget to be charged.
- As regards the repair of damaged vehicles, the cost of which is met by the insurance companies and never by the budget of the Court of Justice, the practice makes it possible to pay the bills for repairs pending reimbursement by the insurance companies. However, following the observations of the Court of Auditors, the Court of Justice will charge these items of expenditure to the budget and will treat the reimbursements relating thereto as revenue available for re-use.
- As regards the payment of the expenses of witnesses and experts and of sums advanced by way of legal aid, the practice corresponds to the nature of these payments. Orders for the hearing of witnesses or experts or for the grant of legal aid are made by the Court of Justice in the exercise of its judicial functions. The Registry and administration of the Court of Justice cannot, without serious prejudice to the observance of the law and to judicial independence, delay the implementation of such orders for budgetary reasons. By virtue of the applicable rules (Articles 73 and 76 (5) of the Rules of Procedure; Article 22 of the Instructions to the Registrar) the sums advanced by the cashier of the Court of Justice for the implementation of such orders are not in

principle definitively charged to the budget of the Court of Justice, since they are recovered from the party ordered to pay the costs in the decision terminating the proceedings.

2.42. A change in the present system of recovering claims and advances is under consideration.

2.48. At the Court of Justice about 80 % of expenditure is concerned with staff. The Commission makes the funds available a few days before the date of payment in order to ensure that there is a minimum safety margin and to avoid any payments being made without the funds being available at the bank. The remaining 20 % concerns, on the one hand, current expenditure (sundry suppliers) of relatively small sums which call for a minimum of permanently available funds and, on the other hand, fixed costs such as rents, insurance premiums, etc., for which a system of estimates of expenditure will be set up by the Authorizing Officers.

2.49. Since the greater part of the bills for payment (about 2 000) are usually for a modest sum, they are settled as and when they are received. Taking account of administrative delays, the time by which payment is made generally corresponds to the credit terms allowed by suppliers (one month) and payment before the due date is made only exceptionally. As regards invoices for large amounts, the Court of Justice takes care to observe the due dates and to take advantage of any discounts.

As regards the payment in July of officials' salaries for the month of August, this is a practice established many years ago and is one which is applied by administrations other than that of the Court of Justice. The Court of Justice is willing to alter that practice within the framework of interinstitutional harmonization.

2.53. The value dates applied by the banks are those in force in banking practice in the different countries. The Court of Justice is naturally in favour of any negotiation at the interinstitutional level with a view to improving the present situation.

2.55. (a) At the Court of Justice there is already in existence a set of rules governing cash operations. As regards the manual of procedures in respect of cash operations in general, the Court of Justice is of course prepared to contribute at the interinstitutional level to the drawing-up of such a manual.

(e) (i) The receipts in receipt books have hitherto been numbered as and when they were used. In future they will all be numbered in advance.

organization chart, there is already an internal document containing a brief description of the functions of all the officials of the Court of Justice, including those in the Financial Department.

2.56. Since a manual of procedure must contain a minimum of common rules, of substance and form, the Court of Justice is willing to collaborate in the drafting of those rules at interinstitutional level. As regards the

As regards the internal credit activities of the Financial Controllers, this is a problem common to all the institutions.

REPLY OF THE COURT OF AUDITORS

THE COMMUNITY GENERAL ACCOUNTS AND BALANCE SHEET

Observations on the Community accounting system

Internal control of cash operations

2.55. Following the observations made by the Court, the management rules in use for the last two years have been codified in a manual of procedures. A copy of this document will be forwarded to the relevant auditing sector at the Court by 31 October 1989.

REPLIES OF THE ECONOMIC AND SOCIAL COMMITTEE

THE COMMUNITY ACCOUNTS AND GENERAL BUDGET SHEET

Centralized management of these accounts by the Commission's general accounts department will also help to standardize interest rates.

Introduction

2.43. Since June this year, monthly balance sheets have been printed and kept by the Financial Service.

2.45. Article 7 of the ESC's rules on settlement of travel expenses and subsistence allowances for meetings and travel time stipulates that payments may be made either in cash or by bank transfer, at the interested parties' choice.

2.44. At the end of the financial year 1989, the ESC intends to transfer the guarantee accounts held by the Accounting Officer and Assistant Accounting Officers to the Commission, in order to comply with the Commission Regulation of 11 December 1986 setting out implementing procedures for certain provisions of the Financial Regulation of 21 December 1977.

As indicated in our answer to the Court's comments on the financial year 1987, the Committee is pursuing its efforts to persuade ESC members to opt for bank transfers rather than cash.

Observations on cash management in respect of the implementation of the general budget

Rate of coverage of net needs — Estimates of expenditure

2.47 and 2.48. As the Court notes in paragraph 2.51., Commission funds intended for the ESC are transmitted via the Council.

Any change in the level of funding requires the ESC Secretary-General to write to the Council Secretariat which in turn informs the Commission.

The cumbersome nature of this procedure explains why the ESC calls for a constant monthly amount equal to one twelfth of the total net amount to be financed.

In an attempt to lower the rate of coverage of net needs in 1989 the Committee has kept monthly funding at the 1988 level and has postponed the supply date in line with the salaries payment date.

Punctual payment

2.49. Since 1989 the Committee has taken the requisite measures to comply with the relevant regulations. August salaries were in fact paid as of 14 August.

Crediting accounts at the ESC

2.51. The Committee can only endorse the Court's comments and would welcome direct crediting by the

Commission. This is moreover a *sine qua non* for better management of the ESC's funds.

Comments on the ESC's accounting system

Internal control of cash operations

2.55. While the Committee accepts the Court's observations, it would make the following comments:

- (a) from 1990, the Committee intends to draw up a procedures manual for cash operations;
- (b) the design of the cash office makes it impossible to give each cashier separate cash facilities;
- (c) the opening hours of the cash office and the small number of cashiers make it impossible to check cash every day;
- (e) the ESC cannot for the moment introduce an imprest payments system for Members' allowances, because it does not have enough staff to keep the accounts of the imprest system provided for by Article 56 of the Commission Regulation of 11 December 1986 on implementing procedures for certain provisions of the Financial Regulation of 21 December 1977;
- (f) to meet the Court of Auditor's request, the ESC's Financial Controller intends to step up checks on cash transactions.

Finally the Committee intends to examine the specific problems created by the payment of Members' meeting expenses with a view to solving them as far as possible.

CHAPTER 3

System of internal controlREPLIES OF THE COMMISSION**GENERAL COMMENT**

Before replying to the various points mentioned in Chapter 3, the Commission would stress that its departments have studied carefully the views and proposals of the Court as set out in this chapter, which represent one possible approach to a management and control system, and that some of the Court's suggestions will in fact be implemented even though the Commission has felt itself bound to respect the existing distribution of competences laid down by the Financial Regulation and the forthcoming amendments to this Regulation.

INTRODUCTION

3.1–3.3. Article 209 of the Treaty states that 'the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors, shall:

- (a) make financial regulations specifying in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;
- (b) p.m.
- (c) lay down rules concerning the responsibility of Authorizing Officers and Accounting Officers and concerning appropriate arrangements for inspection'.

The Treaty thus clearly stipulates that arrangements must be made to monitor the responsibility of the Authorizing Officers and Accounting Officers and states that the relevant rules should be laid down in financial regulations.

The management of the Community's finances therefore rests on three pillars: the Authorizing Officer, the Accounting Officer and Financial Control. Provisions governing Financial Control are laid down by the Financial Regulation of 21 December 1977 and by the rules for implementing this Regulation.

On 19 June 1989 the Council, acting on a proposal for a general revision of the Financial Regulation, adopted a common position which stated that in carrying out his duties, the Financial Controller should observe the following principles: budget appropriations must be used according to the principles of sound financial management, in particular thrift and cost-effectiveness. Quantified objectives must be set and the progress made in attaining them must be monitored.

The Council and Parliament, while aware of the views of the Court as expressed in its opinion on this revision, maintained the role of the Financial Controller as the guarantee for sound financial management; in doing so, they restated the criteria and methods to be applied by the Financial Controller without making any changes whatever in his duties as laid down by the Financial Regulation: the examination and prior approval of commitment proposals and payment or recovery orders from the point of view of the availability of appropriations and the principles of regularity, conformity with the rules and sound financial management.

3.4. With regard to own resources, it is clear from the conditions for the granting of prior approval by the Financial Controller, laid down in Article 23(2) of the Financial Regulation ⁽¹⁾, that his role is not limited to 'approving the entry of revenue in the central accounts'. Financial Control also plays a day-to-day role in monitoring the bulk of revenue (own resources), in particular by carrying out on-the-spot inspections in the Member States (30 missions in 1988).

The Financial Controller's role in respect of expenditure on agriculture is discussed in the reply to paragraph 3.10.

THE FINANCIAL CONTROLLER

Prior approval by the Financial Controller

3.7 – 3.9. The prior approval procedure allows Financial Control to intervene at any stage of an operation; this includes the possibility of giving an opinion during the preparatory phase. As the Court points out, the importance of this opinion is such that, if it is negative, the Authorizing Officer usually feels it necessary to reconsider his decision. He will therefore tend to pay more attention to the regularity and cost-effectiveness of these operations and to the exercise of his own responsibilities, knowing that his proposals must be examined and given prior approval by the Financial Controller before they can be implemented.

It is certainly not easy for the Financial Controller to judge an operation in advance, in particular from the angle of sound financial management, since the information available on a particular case is sometimes incomplete and, in any event, likely to change in the course of the operation.

(1) The competent Authorizing Officer shall draw up, in respect of every debt established, a recovery order which shall be sent with supporting documents to the Financial Controller for his prior approval. Such recovery orders shall, after they have received the approval of the Financial Controller, be registered by the Accounting Officer in accordance with the measures of implementation provided for in Article 106. The purpose of the approval shall be to establish that:

- (a) the revenue is booked to the correct budget item;
- (b) the order is in order and conforms to the relevant provisions;
- (c) the supporting documents are in order;
- (d) the debtor is correctly described;
- (e) the due date is indicated;
- (f) the order conforms to sound financial management;
- (g) the amounts and the currency of the sums to be recovered are correct.

However, the Financial Controller can, at any time, produce a report recording a change in his appraisal of an operation which has already been approved, in the light of new information which has come to his attention or following the discovery of errors or inaccuracies. He can then make observations and propose changes.

Moreover, despite the difficulty in certain cases of making an assessment in advance from the point of view of sound financial management, it is more efficient to stop an operation before it has taken effect than to wait until it has been completed before giving a full evaluation, since it is then no longer possible to put right any negative consequences it may have caused.

These two kinds of intervention are not mutually exclusive. The Financial Controller can give an *ex ante* appraisal of the sound financial management when granting prior approval to an operation, and thereby anticipate a number of problems; he can then also make a sounder (*ex post*) evaluation, thus combining the benefits of effectiveness and security to be gained from intervening both before and after an operation.

The Financial Controller therefore acts as an adviser to the institution; without ignoring the political constraints on the Commission, he is able to rectify spending decisions before they are taken and thereby help the institution to avoid embarking on operations for which it would later be criticized.

The Financial Controller is constantly engaged in preventive action in the form of direct contact with administrators and on-the-spot missions.

3.10. The Financial Regulation contains special provisions governing the EAGGF-Guarantee Section in order to take account of the particular problems associated with the administration of funds in this area. They make specific provision for the intervention of the Financial Controller at three stages of the CAP budgetary procedure: global provisional commitments, the commitment and charging as payments by chapter, article and item, and the clearance of accounts.

However, it does not follow that the Financial Controller does not intervene in decisions which result in expenditure.

In this connection, it must be pointed out that although the departments and agencies designated by the Member States are empowered to pay export refunds for trade with non-member countries and intervention expenditure for the stabilization of agricultural markets, the fact remains that the basic responsibility for managing the CAP rests with the Commission. This takes the form of a

whole range of acts, initiatives and opinions which affect the utilization of appropriations. These management activities are not ignored by the rules and procedures laid down by the Financial Regulation.

The Financial Controller intervenes for example in:

- the harmonization of rules;
- the monitoring work of management committees including participation in drawing up rules relating to control measures and measures which have a financial impact;
- the fight against fraud and irregularities in cooperation with other competent Commission departments;
- monitoring the recovery of agricultural co-responsibility levies and deductions against agricultural expenditure.

There are therefore no grounds for concluding that CAP measures likely to involve expenditure from the budget which are taken prior to the provisional commitments are in any way exempt from the general provisions of the Financial Regulation and hence from scrutiny by the Financial Controller.

The Commission's reply to Chapter 5 of the report discusses the measures taken by Financial Control for the preventive control of the management of agricultural markets.

Financial Control believes that this is an essential task since it would be contrary to the spirit and intention of Community legislation to consider the most important and most sensitive section of the Community budget as exempt from the fundamental principle of prior control, on which the institution's internal control arrangements are based. This prior intervention assumes various forms which are the equivalent of the 'approval' procedure adapted to the particular circumstances of the measures to be controlled.

The Court's observations on the role of Financial Control in the clearance of accounts are also answered in Chapter 5.

It should also be pointed out that Financial Control, having itself drawn the Commission's attention on various occasions to the considerable delays which had accumulated in the clearance of accounts, mobilized all its

staff in order to clear the backlog with the cooperation of DG VI.

The number of negative reserves, which constitute a provisional disallowance of expenditure, have decreased considerably, partly at the insistence of Financial Control (see opinion of 10.7.1987 on the clearance of accounts for 1984-85).

3.11. When an operation presented to the Financial Controller for approval does not satisfy the criteria of legality and regularity, for the sake of simplicity he bases his decision in the first instance on these indisputable legal requirements.

However, if these requirements are met and do not constitute sufficient grounds for rejecting the operation, the Financial Controller develops arguments based on the economic principles of sound financial management. In fact the principles of conformity and regularity are indissolubly linked with the concept of sound financial management.

The Financial Controller applies the provisions of the Financial Regulation (Articles 23(2) and 34) which require him to check that the principle of sound financial management is properly applied by the Authorizing Officers. The fact that it is sometimes difficult to assess this principle cannot be used as an excuse to exempt the Authorizing Officer or the Financial Controller from making such an assessment.

3.12. This observation applies to the Authorizing Officer, the Accounting Officer and all others involved in the procedure. Given the fact that several hundred thousand operations are dealt with each year, it is essential that modern control methods be employed based on systems analysis, risk assessment and statistical and analytical sampling.

3.13. Far from believing that the system of prior approval might distance Authorizing Officers from their responsibilities, the Commission takes the view that the existence of this mechanism induces them to exercise more care in carrying out their duties.

Moreover, the effect which the existence of prior approval has on Authorizing Officers is well illustrated by the Court's observation in paragraph 3.9.: '... in a number of cases of this kind, the Financial Controller has been allowed to give an opinion at the time the decision was taken. The possibility that he may, at a later date, withhold approval of the accounting commitment has invested his opinion with such importance that...'. Far from relying unduly on the approval of the Finan-

cial Controller, Authorizing Officers are likely to think all the more about their proposals since they run the risk of seeing the operations refused by the Controller if there are errors in the proposals.

3.14. If the Financial Controller establishes that certain details on which he based his agreement have since changed or proved to be inaccurate, he may, at any stage of an operation, report on the changes that have occurred and express his views on the matter.

For example, in certain cases relating to the ESF, the granting of prior approval has not prevented the Financial Controller from criticizing at a later stage the inadequacy of monitoring and controls, two items of detail which were not finalized at the time approval was granted.

3.15. While it is true that the Financial Controller remains responsible for approval granted by delegated or sub-delegated staff, this does not mean that the officials in question are free of all legal responsibility. They are still bound by their responsibilities as employees of the institution.

It is, however, logical that the power to withhold approval should be reserved for the Financial Controller in his capacity as the ultimate controlling authority since it is the Commission itself, as the supreme authority of the institution, which will, if necessary, take the final decision on the operation concerned.

3.16. The staff of Financial Control are given sufficiently comprehensive instructions to enable them to carry out their control duties.

As recommended by the Court, Financial Control has, for example, produced instruction manuals for use by officials working on the EAGGF-Guarantee Section, the structural Funds, own resources, borrowing and lending operations and certain administrative areas. In addition, Financial Control will continue to issue instructions to all its departments in appropriate sectors to reflect the development of control methods and the introduction of new computer applications.

As for those cases where the Court believes that approval should have been withheld, the Commission would stress that prior approval is given on the basis of the information available at the time and that this information can change in the course of the operation. The specific cases discussed by the Court are dealt with in the relevant chapters. It should also be pointed out that Financial Control employs statistical survey techniques based on the use of samples as explained above.

Transactions not subject to approval

3.17. – 3.18. In general, Financial Control has set its priorities according to three criteria: the provisions of the Financial Regulation, the relative level of risk involved and new policy requirements.

It is true that certain areas mentioned by the Court have received less attention, priority being given to more critical areas.

However, it should be noted that Financial Control is extending its supervision of accounting matters. In 1988, a new unit was created to carry out inspections into

- the general accounts,
- the budget accounts,
- treasury management.

In connection with this last point, it should be pointed out that during the first half of 1989, inspections were carried out on bank interest and treasury management, i.e. the way in which bank accounts are kept.

It is true that the revenue and expenditure account is not subjected to examination, let alone approved by Financial Control. A proper examination (which is not provided for in the Financial Regulation) would require a great deal of preliminary work. However, periodic controls of the accounts, which are not yet carried out on a systematic basis, should gradually provide a double guarantee of the accuracy of the revenue and expenditure account.

Financial Control is currently having a review carried out of the method of valuing the Communities' assets.

With regard to borrowing and lending operations, Financial Control does examine the latter. In accordance with the Commission Decision of 14 December 1983 ⁽²⁾, this is done by controls based on records and performed on the spot; some of the on-the-spot controls have been carried out in association with the Court. In reply to the assertion that the reports drawn up in accordance with Article 24(3) of the Financial Regulation do not show

⁽²⁾ COM(83) Min 718.

sums to be recovered as a result of frauds or irregularities in peripheral management, the Commission would point out that these reports contain all cases known to Financial Control where Community claims have not been established or recovered. As the Commission has already pointed out in its replies to previous annual reports, the legal relationship between the Member States and operators suspected of having perpetrated fraud gives rise to a claim against the operator on the part of the Member States, but for the Community this claim is only a 'notional' one.

Article 6(3) of the new Council Regulation No 1552/89 of 29 May 1989 on the system of the Communities' own resources, requires Member States, with effect from 1 January 1990, to report cases of fraud and irregularities. If necessary, this information could be used by the Commission's departments to monitor the recovery of payments by the Member States. A report to be drawn up by the Financial Controller could record the progress made in recovering these amounts.

As for sums to be recovered as the result of fraud affecting the EAGGF-Guarantee Section, Regulation (EEC) No 729/70 lays down a strict division of responsibilities and defines the procedures for recovering the sums and booking them in the accounts. Nevertheless, Financial Control will step up its action to follow up the financial consequences of irregularities using the computerized system Irene and strive to improve the efficiency of this system.

The Financial Controller's duties as an internal auditor

3.19. It should be pointed out that selective inspections are not a new development but have been carried out by Financial Control since 1975.

Some examples of inspections which have been carried out on the EAGGF-Guarantee Section and the European Social Fund are as follows:

EAGGF-Guarantee Section

- inspection of the beef/veal content in beef/veal preparations falling under the Common Customs Tariff;
- inspection of control agencies in the olive-oil sector;

- control of measures for the disposal of butter at reduced prices.

European Social Fund

- monitoring the progress in setting up and using funds for projects under Regulation (EEC) No 815/84 ⁽³⁾ (exceptional financial support for Greece);
- scrutiny of new developers in two Member States with regard to the existence of structures for carrying out projects financed by the ESF.

3.20. The special reports provided for in Article 11 of the Regulation laying down rules for implementing the Financial Regulation are only one of the methods which the Financial Controller has at his disposal for monitoring sound financial management. Financial Control constantly employs other, less formal and more practical means such as the reports of the selective inspections, the opinions addressed to the Commission in support of each batch of ESF, ERDF or EAGGF-Guidance Section decisions, the annual reports on the clearance of accounts, the letters on sound financial management addressed to the Directorates-General and close daily contact with the authorizing departments.

Moreover, the Commission would point out that Financial Control regularly draws attention to management errors retrospectively, even in cases where prior approval had been granted.

Relations between the Financial Controller and the Court of Auditors

3.21 – 3.22. Under Article 10 of the Commission Regulation of 11 December 1986 laying down detailed rules for the implementation of certain provisions of the Financial Regulation of 21 December 1977 ⁽⁴⁾, 'in carrying out his control duties, the Financial Controller shall be completely independent and shall be responsible only to the institution. He may not receive any instruction as regards the performance of the duties assigned to him pursuant to the provisions of the Financial Regulation by virtue of his appointment.'

These provisions also apply to the assistant Financial Controllers, within the limits of the powers delegated to them by the Financial Controller, and without prejudice

⁽³⁾ OJ L 88, 31.3.1984.

⁽⁴⁾ OJ L 360, 19.12.1986.

to their accountability to their superiors. Furthermore, Financial Control follows the instructions given by the Commission to all its departments, with respect to both the communication of information and reports and visits by the Court. It cannot be exempted from these instructions.

However, it must be stressed that, in accordance with Article 85 of the Financial Regulation, the Financial Controller takes account of the comments made in the decisions giving discharge.

THE AUTHORIZING OFFICER

3.24. The Court's assertion does not necessarily hold true. The opposite view can also be argued, i.e. if the prior approval of the Financial Controller did not cover the area of sound financial management, the Authorizing Officer might see less cause to shoulder his responsibilities in this area and concentrate instead on the questions of regularity and conformity since these would be the criteria on which the Financial Controller would be likely to stop the operations.

Moreover, the Commission takes the view that the concept of sound financial management is indivisible and includes within it the principles of regularity and conformity. In the absence of a precise definition of the concept of sound financial management, any attempt to make a distinction between these various aspects is artificial. It is true that on account of the variability, multiplicity and complexity of the various factors which make up the concept of sound financial management, assessing it is a very delicate task which makes great demands on the experience and initiative of officials. However, this difficulty is not a valid reason for dispensing with the prior appraisal of sound financial management even if it is obviously much easier to deliver an opinion after the event using established 'historical' facts once an operation has been completed. The demands of efficiency require that operations should be corrected and amended as soon as possible and that measures should be taken, even in advance, to avoid errors in the planning of operations which are liable to result in bad financial management. This is the task of the Authorizing Officer and the Financial Controller.

It would not be very productive to wait until the results of operations were known before exposing cases of bad financial management, since it would then be too late to redress the situation. This illustrates the usefulness of the prior assessment of sound financial management by the Financial Controller despite the difficulties caused by the changing nature of the information on which such an assessment is based. It also provides justification for the role of the Financial Controller as financial adviser to the institution and the Authorizing Officers.

THE ACCOUNTING OFFICER

3.25. – 3.26. The Commission does not share the Court's views on the responsibilities of the Accounting Officers and the administrators of imprest accounts.

The Accounting Officer and the Financial Controller do not share their responsibilities; they have distinct and universal functions in accordance with the principle of the division of managerial responsibility. The Financial Regulation and the rules for its implementation define quite clearly the responsibilities of the Accounting Officers and the administrators of imprest accounts. Like any other official, the Accounting Officer clearly has wider responsibilities than mere financial liability for the loss of funds.

Moreover, it is no longer true that the activities of the Accounting Officer are not subject to the surveillance of Financial Control: all operations involving the recovery of debts, treasury management and transactions involving bank accounts are from now on subject to periodic checks by Financial Control. In no circumstances will a discharge be granted to an Accounting Officer in the event of irregularities on his part.

STRENGTHENING THE STRUCTURE OF INTERNAL CONTROL

3.27. The Commission can see no logical link between the factual observations in paragraph 3.27 and the Court's proposals in paragraph 3.28.

3.28. In the revision of the Financial Regulation as reflected at present in the common position of the Member States meeting in the Council, the Community legislature has not taken up the Court's ideas on the role of Financial Control. It has maintained the role of the Financial Controller in evaluating sound financial management and has made no change to his responsibilities for giving prior approval.

The Court's observations ignore the Financial Controller's role as adviser. He is responsible for making sure that the institution does not take any decisions which fail to observe the principles of legality, regularity and sound financial management.

The Commission therefore feels that discharging the Financial Controller of his responsibilities concerning the *ex ante* control of sound financial management is neither possible, within the terms of the existing Regulations and

in view of the express wishes of the legislature, nor desirable, from the point of view of the day-to-day effectiveness of the existing distribution of competences between Authorizing Officers, Accounting Officers and Controllers.

3.29. – 3.30. The Commission agrees with the Court, however, that the internal audit function should be enhanced. It has, in fact, already taken a decision in principle to this effect and the detailed arrangements will be worked out in the near future.

The Court also maintains that the Financial Controller should step up selective controls of sets of operations. The Commission agrees about the importance of such controls and can confirm that the Financial Controller already carries out a number of controls in the areas referred to by the Court. However, audits of the balance sheet and the revenue and expenditure account are still being developed.

3.31. The Financial Controller is not obliged by the Financial Regulation to write an annual report on the management of Community funds and such a report would not appear to serve the interests of efficiency. In performing its daily tasks Financial Control endeavours to provide the institution with an assurance that the principles set out in the Financial Regulation are observed.

Moreover, a number of annual reports are drawn up by the Commission's departments, such as the reports on the activities of the Social Fund and the ERDF, and provide

all the necessary information on the management of funds in each particular field.

3.32. In the Commission's view, the existing provisions of the Financial Regulation (Article 70) correspond to the principles of sound management. The Accounting Officers and administrators of imprest accounts are, of course, liable to disciplinary action and to payment of compensation for the sums in their charge and they are required to insure themselves against the risks they run. It is possible that, as suggested by the Court, the Commission should act as its own insurer instead of paying for private insurance.

Given the number and size of the operations carried out each year under the general budget (around 2 000 payments per day of an average value of 100 000 ECU), it would be neither wise nor practicable to cover the initial risk of loss from the guarantee account of the Accounting Officer or administrator of an imprest account who was responsible.

However, in the event of a serious error being duly established which rules out the recourse to insurance, the Accounting Officer or administrator of an imprest account not only loses his guarantee account but also a part of his salary.

The Commission believes that if the existing provisions are properly applied, the liabilities of the Accounting Officers and administrators of imprest accounts are sufficient and that Community funds are protected against all ordinary risks.

CHAPTER 4

Revenue

REPLIES OF THE COMMISSION

VAT OWN RESOURCES

*Commission controls on implementation of the Sixth VAT Directive***The basis of Commission control**

4.8. The Commission would stress that it has not produced a 'declaration of conformity' and does not wish to issue such declarations in a field as complicated and technical as VAT, where divergent interpretations are common. By not doing so, it also avoids restricting its freedom of action for the future.

In practice, the Commission is constantly assessing whether national measures are in conformity with Community law, while spot checks are carried out to ensure that directives have been incorporated into national law by the Member States. It is when the assessment process gives rise to a presumption that a national provision is not in line with Community legislation that a legal submission is drawn up.

The implementation of Commission control and the protection of VAT own resources

4.9.(a) and (b) The Commission has set up a detailed procedure for checking whether all adopted directives have been incorporated into national law. For this purpose, six months before the expiry of the deadline for applying the internal implementing provisions, the Commission writes to the national authorities asking them for a statement indicating, in some detail, the

national provisions which correspond to the provisions of the directive adopted. If no official statement is received from Member States, the Commission serves notice demanding it.

Aware of the work involved and in the belief that cross-checking would enhance efficiency, the Commission therefore set up an annual procedure whereby the Member States, within the VAT Committee, forward details of changes made in their tax legislation in the course of the preceding year. Initial experience has amply demonstrated the efficacy of this procedure.

The part played by the VAT Committee should, incidentally, be stressed. Since its business is to deal with the difficulties which arise in interpreting directives, the Committee is a means both of arriving at a common interpretation and thereby improving the degree of conformity of national law with Community law, and, in certain cases, of detecting cases of failure to conform and thus enabling the necessary action to be taken.

(c) All the basic legislation is available to the Commission. In addition, through the VAT Committee, it is kept informed of any amendments made to legislation.

(d) In July 1987 the Commission embarked upon a horizontal study of each Member State's legislation. The basic national legislation in six Member States has so far been examined, including that of the three new Member States.

However, in view of the very substantial resources which such work requires and the new priorities set by the Commission as it looks ahead to the elimination of tax frontiers, the Commission has not been in a position to carry the work any further and is currently considering whether it would be worthwhile doing so.

On the other hand, the comparative, vertical method involving a methodical comparison of national legislation and Community law is applied on a permanent basis. Nevertheless, whenever an infringement is detected in a Member State or a complaint is registered, a horizontal study of national legislation is systematically carried out as a double check and for the information of the Court of Justice.

4.10. Article 34 of the Sixth Directive requires reports to be drawn up on the application of the common system of value-added tax in the Member States. Two reports have so far been issued, the most recent one on 20 December 1988. The report on the implementation of the directives, through an analysis of the various proceedings for infringement initiated or settled in the course of the year, illustrates the trend towards conformity on the part of national law.

The primary aim of these reports is not to establish whether national law conforms to Community law but to report on the operation of the common system of value-added tax by pinpointing the difficulties, especially problems of interpretation, which obstruct the smooth operation of the system.

4.11. The Commission has already stated in reply to paragraph 4.8 that it has no intention of producing a declaration of conformity.

As regards the scrutiny of the legislation of the three countries referred to, it has already been pointed out at 4.9(d) that this legislation has been examined by the Commission, as witness the statement of presumed infringements.

4.12. While not issuing formal 'declarations of conformity', the Commission can at any time initiate the infringement procedure against national legislation which does not conform to Community law.

Conclusions

4.13. The Commission would refer to its reply to paragraph 4.8 and would point out that it never publishes any written report of its examinations except where an

infringement is found. The Commission confirms that the practice of subjecting new law to methodical scrutiny and comparing national legislation where an infringement is found in a Member State has been actively pursued.

4.14 – 4.15. As pointed out in its reply to paragraph 4.9(d), in 1987 the Commission began a comparative study of national legislation in addition to its regular monitoring. In 1988, too, it established a procedure through the VAT Committee for passing on information about amendments to national legislation.

It therefore believes that it has honoured its undertakings by taking steps to monitor national legislation.

VAT own resources management

Weaknesses in current procedure

4.20. In its second report on the implementation of Regulation No 2892/77 as amended (COM(88) 99 final of 9 March 1988, paragraphs 6.1.6 – 6.1.9.), the Commission has already set out the procedures it follows for implementing Article 10(b) of the Regulation. To summarize:

- where the Commission finds that an infringement of Community law entails a loss of own resources and that the Member State concerned refuses to pay compensation, it sends it a 'demand letter' asking it to calculate the amount of own resources involved and to pay that amount by a stated deadline (see points 4.25 — 4.27 below).

Where the Member State responds favourably to the letter, the problem is thus settled at the pre-litigation stage.

Where it does not, the infringement procedure provided for in Article 169 of the EEC Treaty applies;

- where the disagreement between the Commission and the Member State is largely on technical points, the Commission, for the reasons given in reply to paragraph 4.21, considers it better to continue discussing the matter with the national authorities before initiating infringement proceedings. In this

sense a reservation gives an opportunity for the situation to be studied in greater depth, which often leads to an agreement with the Member State before legal proceedings have to be initiated.

This pragmatic approach has produced results in most cases, even if discussions have sometimes dragged on before solutions agreeable to both sides and compatible with the regulations are reached. In many cases the Commission, long before a fresh control is carried out, has persuaded the Member State concerned to supply the information it requires to correct the VAT own resources base in the summary document which it draws up to conclude the control procedure in respect of each financial year.

Any problem on which joint agreement has not been reached is systematically followed up.

4.21. The Court refers to the number of reservations outstanding. In fact the number reflects a fairly normal rate of progress in clearing reservations, since 15 of them (out of 24) date from last year (1988), while the other 9 are spread over other years, and some of them are in any case now being cleared.

The 1981 United Kingdom case referred to is an exceptional case arising out of the difficulty of finding a valid method of calculation. It was finally settled during the control of the VAT base for 1987.

Where there is a case for continuing to seek a jointly agreed solution with the national authorities to a technical difficulty (e.g. finding and correctly evaluating data other than those normally available from statistical or accounting sources), it would serve no practical purpose for the Commission to set a binding deadline.

This is because:

- as, objectively speaking, there are difficulties involved, the national department concerned is not going to be able to produce the information required within a time-limit of a few months after the control has taken place;
- if a deadline were to be set but not adhered to, the Commission would none the less have to initiate infringement proceedings which, after a great deal of further delay, might result in the Court of Justice finding in favour of the Commission. The effect of such a judgment, however, could only be to reaffirm the obligation upon the Member State to comply with the rules, i.e. to seek out and supply the data needed to calculate the own resources base correctly.

4.22. The reservations made following verification of Member States' VAT bases have the sole purpose of indicating points which, the Commission considers, require further study. As it is not possible at the time the reservation is made to conclude that there will always be a liability for the payment of additional own resources, a centralized accounting record of all reservations is very difficult.

The Commission, however, records all outstanding reservations in a register which is in the process of being computerized. Bearing in mind the existence of the control documents and of the register, the Commission considers there is no risk that any reservation will not be followed up.

Consequences for own resources of breaches in VAT law

4.23. As far as infringements with adverse effects on VAT own resources are concerned, the periodic meetings between various Commission departments are only one of the types of contact made between them to coordinate their work.

As a result, the reduction in the regularity of these interdepartmental coordination meetings in 1988 did not occasion any delay in the Commission's work (incidentally, the meetings are now once again being held at the usual intervals).

4.24. The Commission has pointed out to the Court that, far from being disregarded, these breaches are being followed up in respect of their effects on VAT own resources.

As far as the first two cases are concerned, it was not possible to consider one of them, involving Greece, from the point of view of VAT resources until November 1988, the control of the statement of the VAT base for 1987, the first one presented by the Member State in question, was carried out. The other case, which involves a law which came into force in Italy on 1 January 1988, will be considered in 1989 during the control of the statement of Italy's VAT base for 1988.

With regard to the procedures already initiated by the Commission in respect of breaches of the common VAT system, the situation as regards own resources is as follows:

- the case involving Spain can only affect the VAT base for 1988: it will therefore be considered during the control of that base;

- the Commission entered a reservation in the case involving Greece during the control of the 1987 statement;
- as far as the case involving Germany (forestry) is concerned, the question of whether there are any consequences for own resources is being looked into with the Member State concerned.

Verification of adjustments

Interest on late payments

Partial payment of amounts due

4.25 – 4.27. Where an annual statement of the VAT base cannot be adjusted by joint agreement, the Commission sends the Member State concerned, as a preliminary to initiating a procedure for infringement, a 'demand letter' asking it to calculate the own resources at issue and pay them to the Commission by a certain deadline, after which interest for late payment will be charged under Article 11 of Regulation No 2891/77.

In most cases the Member State involved pays over to the Commission the amount of VAT resources it itself has calculated, either before the stated time-limit has expired or after the deadline.

In the first of these cases, interest in respect of late payment is obviously not charged; in the second case, pursuant to Article 11, interest on late payment is due from the Member State on the amount already paid for the period between the deadline set in the demand letter and the day on which payment is made.

In all cases, the data and methods of calculation used by the Member State to determine the amounts due are then checked by the Commission, usually during the next control of the annual statement of the VAT base.

Sometimes the initial calculation by the Member State has had to be adjusted following a control, with the Member State in question then having to pay extra VAT resources.

The Commission believe that an extra payment of this kind must be treated like any other payment of VAT resources following a control and resulting from an adjustment carried out in agreement with the Member State, under Article 10b(1) of Regulation No 2892/77 as amended. In the Commission's view, there is no late payment within the meaning of Article 11.

There is no provision in the rules currently in force which, in its view, would justify a request for payment of interest in respect of late payment on an extra amount paid by a Member State in this way.

Delayed payment of interest

4.29. When the deadline for the payment of the principal has passed without payment being made, it is now practice for recovery orders for the payment of interest to be issued.

4.30. When making late payments of own resources Member States rarely add any interest. The Commission is therefore obliged to calculate and to make a separate claim. This procedure has certain advantages since interest calculations are sometimes complex; errors may therefore be reduced. The fixing of a date for payment enables the Commission to follow up the claim and, if necessary, initiate infringement proceedings against any Member State which does not pay the interest due.

The Commission considers that its treatment of interest on late payments conforms with its own internal rules. In the Commission's view it has no right to set off against interest a payment specifically said to be for VAT own resources.

Article 11 of Regulation No 2891/77 only authorizes simple interest. There can therefore be no question of claiming interest on late payment of interest.

Conclusions

4.31. In view of the replies above, the Commission considers that it has acted effectively in recovering VAT own resources.

In the face of the multitude of legal, statistical and technical problems which have made determining the VAT own resources base a very complicated and difficult process from the outset, the Commission has chosen to follow a pragmatic line rather than adopt a strictly rigid approach which would not only have led to substantial numbers of disputes with Member States but, above all, would have made it even more difficult to apply satisfactory solutions. In most cases, in fact, such solutions have to be found by processing data which only

the national authorities are able to compile and supply to the Commission.

However, the Commission has always taken the necessary steps in the very rare cases in which it has proved impossible to reach agreement with the Member States in a manner compatible with the proper interpretation of Community provisions.

As far as interest in respect of late payment is concerned, the Commission has required the payment of this wherever such interest was due under the rules in force; it cannot therefore subscribe to the claim that 'of the 108 Mio ECU referred to in paragraph 4.17, 75 % was paid without interest'.

The Commission keeps its own procedures under constant surveillance and makes improvements wherever it deems necessary. The new opportunities for control provided by Regulations Nos 1552/89 and 1553/89 cannot be fully exploited unless the Commission gives some thought to its internal procedures.

TRADITIONAL OWN RESOURCES

Traditional own resources management

Financial information

4.33. The telexing of information about the monthly statement of own resources is a means for the Commission to obtain such information faster than if it had to wait for the full statements to be sent. It is as a result able to manage its cash holdings and monitor budget revenue more efficiently. Whenever the Commission issues orders for collection on the basis of telexes, it checks them against the more detailed information which most Member States supply later.

4.34. The Council entered the following statement in the minutes when it adopted Regulation No 1552/89:

'In order to simplify the preparation of budget estimates and facilitate checks Member States will study within the Advisory Committee on Own Resources what measures are to be taken to achieve a suitable breakdown of traditional own resources'.

The Commission has presented its proposals to the Committee, and they are being considered by the Member States.

Management information

4.35. It is true that some Member States do not send their annual and six-monthly reports in on time, despite reminders from the Commission and repeated requests contained in the summary of annual reports which it draws up and sends to the Member States. It should in fact be stressed that Regulation No 2891/77 specified no time-limit for the submission of six-monthly reports. The Commission will persevere in its endeavours to persuade the Member States to provide these documents in good time.

4.36. The content of the annual reports does indeed vary considerably.

The Commission has on several occasions discussed this problem with the Member States in the Advisory Committee on Own Resources. It has proposed a standard presentation containing the information it needs.

However, because of their own administrative structures, some Member States appear to be unable to supply the information requested by the Commission.

Impact of Commission inspections

4.37. As the tools used by the Commission can only be limited in their effectiveness, the degree to which they are effective has to be specified before they can be measured against an ideal standard. The main purpose of the inspection method, where there is, of course, scope for improvement, is to make sure that Community rules are being properly applied in the Member States, which is where the main responsibility lies for checking arrangements for establishing, accounting for and making available traditional own resources.

On average, the 26 annual inspection visits account for a total of 400 man-days of inspection per year, which the Commission regards as a proper figure. The Commission believes that when it comes to deciding on the number of

inspections to be carried out, the amount of own resources involved, in so far as it is taken into account, cannot be the determining factor. Otherwise the Commission would find itself devoting only a third of its effort to the inspection of traditional own resources, which would not be consistent with its aims.

The varying degrees of complexity of the national systems cannot be used as the sole argument to justify the number of inspections. These differences are reflected in the techniques applied in carrying out each inspection.

The subjects of the inspection are discussed at the end of the preceding year at a meeting attended by all the departments concerned. The choice is made by agreement on the basis of experience gained in the course of previous inspections and with due regard for the objective of checking whether Community rules have been properly applied and for the amounts involved in own resources terms.

A systematic follow-up of the financial results of inspections has not been possible, because Regulation No 2871/77 did not require Member States to inform the Commission of the payments concerned. Regulation No 1522/89, which replaces Regulation No 2891/77, however, includes such a requirement. A systematic follow-up will therefore become possible once the practical arrangements have been made as provided for in a statement entered in the minutes when the Council adopted Regulation No 1552/89. The Commission proposals are at present being studied by the Member States.

With regard to the problem of *force majeure*, the absence of an appropriate legal framework makes inspection in this area a particularly difficult matter. The Advisory Committee on Own Resources is looking into ways and means of rectifying this state of affairs.

Evaluation of Commission's supervision

4.38. In accordance with Regulation No 2891/77, the Commission is merely associated with the checks carried out by Member States, though Member States' systems are always checked during on-the-spot inspections. These systems are described in the inspection reports which are sent to the Court regularly. It should, however, be pointed out that the new Regulation No 1552/89, which replaces Regulation No 2891/77, gives the Commission autonomous supervisory powers which will enable it to play its part more effectively.

Legal framework

4.39 – 4.40. The Commission can never be in possession of all information necessary to verify the accuracy of the monthly payments of traditional own resources.

It could not verify each one of the millions of transactions each year that go to make up the figures that appear in the monthly statements of own resources accounting sent to the Commission in accordance with the Regulation.

Member States are required by the Regulation to send to the Commission a monthly statement of their own resources accounting. Adjustments may be made at a later date if they conform to Community regulations and recovery orders may in particular be amended as a result of the Commission's inspection activities. No purpose would be served by fixing a time-limit on such adjustments since the Commission does not issue definitive receipts stating that all sums due have been paid.

Consequences for own resources

4.41. With regard to post-clearance recovery, Article 9 of Regulation No 1697/79 stipulates that until the implementation of Community provisions specifying the relevant conditions, where, pursuant to Regulation No 1697/79, Member States have taken no action for the post-clearance recovery of duties, they are not obliged to establish the corresponding own resources within the meaning of Regulation No 2891/77.

Conclusion

4.42. The setting up of the autonomous inspection measures provided for in Regulation No 1552/89 will tighten up the management and control of traditional own resources.

In the Commission's view, revenue accounting procedures have already, as far as possible, been brought into line with expenditure procedures. As far as budgetary and accounting nomenclatures are concerned, greater detail would not in itself be of help in the management and control of own resources. What the Commission actually needs is more information from the Member States. The new Regulation No 1552/89 will be very useful in this respect.

4.44. This problem no longer arises since Regulation No 1552/89 came into force.

4.45. See the reply to paragraph 4.41.

Repayment or remission of import or export duties

Introduction

4.47. The Commission, like the Court, acknowledges the inadequacy of the financial and management information in monthly statements. This is why it has been doing its best for several years to persuade the Member States to improve the quality of the information they send it. Since the Council recognized the need for this when it adopted Regulation No 1552/89, the Commission has submitted new proposals to the Member States (see the reply to paragraph 4.34.).

Observations relating to the accounting aspects

4.51 – 4.53. The proposals for information to be supplied to the Commission (see paragraph 4.34) include information on corrections of previous establishments, and in particular those giving rise to repayments.

Observations relating to the application of the regulations and controls by Member States

4.54 – 4.56. In the Commission's view, no general conclusions about the procedures at issue throughout the customs territory concerned could be drawn from the Court's isolated observations.

The Commission would point out that the proper implementation of the Community Regulation in question is the responsibility first and foremost of national authorities. Wherever the Commission, in carrying out its inspections, has noted that these rules are not being applied, it has taken the necessary steps to remind Member States of the obligation upon them to ensure that the Regulation is properly applied. The Commission will draw the attention of Member States to the Court's remarks and the shortcomings it has identified, notably at meetings of the Committee on Duty Free Arrangements, pursuant to the procedures laid down in Article 25 of Regulation No 1430/79 and Article 10 of Regulation No 1697/79 ⁽¹⁾.

⁽¹⁾ OJ L 197, 3.8.1979.

The 'lack of uniformity' referred to in paragraph 4.55 is caused by the fact that the customs union is based on 12 different administrative systems involving different administrative cultures and bureaucratic traditions, and by accounting and case management techniques which are not always the same. This 'federal' structure which is a feature of the customs union can only be unified gradually by establishing provisions, both general and individual, which are increasingly uniform in character.

Conclusions

4.57. The Commission accepts the report's conclusions on this point. An attempt will be made to remedy the situation in the context of the customs code, which will entail a review of existing legislation.

4.58 – 4.59. See the reply to paragraph 4.47.

Incomplete customs declarations

Observations relating to the application of the Directive in the Member States

Implementation of the Directive in national customs law

4.66. The Commission is aware of the problems to which the Court refers and where appropriate, will invoke the Treaty, particularly Article 169. Furthermore, one effect of the entry into force of a customs code from 1993 will be to convert directives into regulations, which will then be directly applicable.

Registration of incomplete declarations

Acceptance of incomplete declarations and provision of a security

4.67 – 4.68. Under Article 2(2) of Regulation (EEC) No 1854/89 of 14 June 1989 on entry in the accounts ⁽²⁾, the practical procedures for this operation are determined by the Member States. The same is true of the practical procedures for the acceptance of declarations.

⁽²⁾ OJ L 186, 30.6.1989.

4.69. The adoption of the regulation referred to in the reply to paragraph 4.70 should put a stop to the Italian practice; a 'comprehensive' guarantee can in any case have effects identical to those of a specific guarantee.

4.70. The existing rules (Article 9 of Directive 82/57/EEC) already provide that the security given in conjunction with an incomplete declaration must be such that the customs authorities can at once enter in the accounts the amount of the security if, at the expiry of the period referred to in Article 7 of the Directive, the declarant has not supplied the details necessary for the final determination of the goods' value, or has failed to provide the missing particulars or documents.

Furthermore, a common position on a proposal for a Council Regulation on the security to be given to ensure payment of a customs debt has just been sent to Parliament for a second reading. This regulation will provide that, when customs law stipulates that a security is required, only public authorities in the strict sense will be exempt from that obligation.

Existence of excessive delays

4.71. As regards the Member States mentioned, whenever the Commission has detected delays, interest has been charged. The registration of the amounts involved is now governed by the Regulation on entry in the accounts of 14 June 1989 (see the reply to paragraph 4.67).

4.72. There is nothing in Community law which requires the Member States to keep registers of incomplete declarations.

Observations relating to the Commission's supervisory role

4.73. The Commission is aware that it has not so far been able to carry out a thorough check of the measures brought into effect by Spain and Portugal to implement the Directive.

It is only when information received from the Member States appears not to comply with Community rules that the Commission asks the States concerned to put forward their comments.

4.74. To rectify the situation arising from the Member States' varying interpretations of Article 7 of Directive 82/57/EEC and Article 10 of Regulation (EEC) No 1224/80, the Commission has set work in hand to bring the provisions concerned into line with one another. As the proposal to amend Article 7 of the abovementioned Directive failed to secure a favourable opinion from the Committee on General Customs Rules, it is planned to put before the Council a proposal to amend Article 10 of Regulation (EEC) No 1224/80.

Conclusion

4.75. See the replies to paragraphs 4.66 and 4.73.

The Community inward processing relief arrangements

Observations relating to procedures and controls

Authorization procedure

4.81. The Commission considers that the procedure for the decentralized consideration of economic conditions, followed by retrospective checks on inward processing authorizations by the relevant regulatory committee, as laid down by Council Regulation (EEC) No 1999/85, supplies all the safeguards needed.

4.82. With regard to the case found in the Netherlands, the Commission would draw the Court's attention to the fact that it has received no complaint or other indication suggesting that an inward processing authorization given under the conditions in question actually harmed the essential interests of Community producers. It may well, however, investigate this specific problem more thoroughly.

4.83 – 4.84. The Commission shares the Court's view that the simplified procedure for issuing authorizations (the system known as 'General Authorizations' — GA) is not covered by the Community rules on inward processing. Regulation (EEC) No 3677/86 lays down a specific procedure for the simplified issuing of authorizations. The Commission is in contact with the Member State

concerned with a view to establishing a situation in which Community provisions are complied with.

Lodging of security in the suspension system

4.85. The Commission considers that the proposal for a Regulation on the security to be given to ensure payment of a customs debt ⁽³⁾ referred to at 4.70 will resolve the current differences in practices as regards security.

The proposed arrangements governing discretionary security provide that in all cases a security will be required where there is no solid guarantee that a customs debt which has arisen or is likely to arise will be paid within the prescribed time-limit.

Customs controls

4.86 – 4.87. The Commission shares the Court's view that special attention must be given to the discharge statements submitted at the expiry of the time-limit for re-exporting. It will bring this matter to the Member States' notice.

Observations relating to the general management of the system

Release of goods for free circulation

4.89 – 4.90. The Commission shares the Court's concern regarding the volume of goods in question currently being released for free circulation, although the quantity of principal compensating products released onto the Community market after being subject to the inward processing relief arrangements with the suspension system has fallen appreciably in the last few years.

Legislation is being prepared to neutralize the unjustified financial advantage resulting from irregular extension of the time-limit for payment by charging compensatory interest, though without reducing the facilities which the system must allow Community traders exporting on international markets.

⁽³⁾ OJ C 30, 4.2.1983, p. 11.

The drawback system

4.91 – 4.93. The Commission will draw the Member States' attention to the need not to discourage full use of the drawback system. At the same time, it proposes to look at the provisions governing this system to see whether any additions need to be made.

Special situations

4.95. The Commission has already brought this matter to the notice of the Member State concerned and will take steps to ensure that Article 26(3) of Regulation No 3677/86 is complied with.

4.96. Existing Community rules stipulate that compensating goods obtained under the inward processing relief arrangements with the suspension system can only be transferred under a transit document. In addition, if an inward processing authorization with the drawback system is to be granted in respect of such products, there must be circumstances which justify their release for free circulation and all the associated formalities must have been complied with.

The Commission proposes to contact the Member State concerned to check whether the present situation is consistent with the relevant Community rules.

4.97. The Commission proposes to consider the inward processing transactions authorized in Italy in 1988 in respect of durum wheat to satisfy itself that all the conditions laid down by the relevant customs regulations have been fulfilled.

Administrative cooperation

4.98 – 4.99. The Commission agrees with the Court's conclusions with regard to the transmission of statistics by the Member States. Steps are currently being taken to ensure that all Member States exchange information as laid down by Article 29 of Regulation (EEC) No 1999/89.

Conclusion

4.100. The Commission shares the Court's view that it is essential for Community regulations to be applied correctly and uniformly. It is doing its utmost to ensure that this objective is attained and would point out that as early as 1987/88 it carried out a preliminary overall review of the national administrative instructions relating to the inward processing arrangements issued by the Member States. Several departures from Community rules were revealed by this review and the Member States concerned were approached with a view to solving the problems raised.

The Commission has had to initiate the Article 169 procedure in one particular case.

4.101. The Commission, with all the resources at its disposal, will continue to ensure that the Member States' obligations towards Community legislation are fulfilled. As regards interest on overdue payment, the drawback system and statistics in particular, it would confirm its replies to paragraphs 4.89 — 4.90, 4.95, 4.98 and 4.99.

CHAPTER 5

**The European Agricultural Guidance and Guarantee Fund,
Guarantee Section (EAGGF-Guarantee)
Management and budgetary control**

REPLIES OF THE COMMISSION

**CLEARANCE OF MEMBER STATES'
DECLARATIONS**

method based on a working document the practical application of which still has to be tested. The manual states that the 'levels of assurance and materiality' must be considered in the context of the audit work to be done. These concepts have since been quantified in an application memo drawn up by the clearance of accounts department.

General

The Commission notes that the Court's observations are based on an examination of part of the tasks of the departments responsible for the clearance of accounts. It would point out that in its replies to the Court's comments concerning 1986 it stressed that it would be unrealistic to assume that the systems based audit could be applied from year one to all the measures financed by the EAGGF and that introducing the system would require planning the funds and qualified staff over several years and the full backing of the Member States. In view of the complexity of the tasks to be carried out for a large number of measures in 12 Member States and the deadlines for clearing the accounts, this audit system can be implemented only gradually over a transitional period of about five years (see Annexes).

Staffing needs

5.7. The Commission is also aware, and commented on the matter in its reply to the Court's annual report for 1986, that the number of staff required for clearance work should be adapted to take account of requirements connected with the introduction of the systems-based audit, the growing number of measures and the increase in expenditure. Since the publication in December 1987 of the Court's report for 1986, three posts have been allocated to clearance work.

5.8. Staff requirements are re-examined annually on the basis of the material capacity of the department concerned to integrate and train new officials and the posts allocated to strengthening the qualified staff, taking account of the audit objective set in the audit manual.

Definition of objectives and working methods

5.5 – 5.6. The Commission is aware that the audit manual for checking EAGGF expenditure was not fully applied during the first two years and that there have been flaws in its application which should be ironed out, but which are inherent in the introduction of a new audit

The 1987 clearance planning process

5.9 – 5.11. The annual audit plan drawn up by the EAGGF takes account of the gradual implementation of

the systems-based audit and the 'ideal' plan, referred to by the Court, was drawn up by the EAGGF only to determine, for the transitional period, the audit priorities among the different measures financed by the EAGGF.

The method used by the EAGGF to draw up the audit plan was described in detail in point 1.3 of the summary report on 1986, which was sent to the Court. In particular, the choice of priorities as to which measures should be scrutinized is based not only on the scale of expenditure but also on the likelihood of errors being made because of the complexity of the regulations and the EAGGF departments' knowledge of the implementation of the measure in question. In judging the choice of priority measures or the progress made with the introduction of the systems-based audit, factors other than the amounts of expenditure involved have to be taken into account.

In addition, since the audit plan is drawn up by Member States, it is inevitable that the percentage of expenditure subjected to audit varies from one Member State to another. More particularly, in the case of Portugal, for which expenditure amounted to only 0.5 % of total Community expenditure declared for 1986, the initial audit plan was amended and supplemented with a systems-based audit of production aid for rape and sunflower seed, which increased the percentage of expenditure scrutinized to 76 %; however, this change does not affect the figure of 52 % established for all the Member States combined.

The Commission would refer to its replies to points 5.5 — 5.6.

Export refunds and milk products

5.12 – 5.14. According to the audit plans drawn up for the 1986 and 1987 clearance of accounts, the clearance departments concentrated most of their efforts on the systems-based audit of the intervention measures, since export refunds had been subject to systems-based audits since the 1982 clearance of accounts, before the audit manual was drawn up.

As regards intervention measures, the EAGGF examined 32 systems implemented by the Member States for 19 intervention measures for the 1986 clearance and 25 systems implemented for 14 measures for the 1987 clearance (see Annexes). As regards export refunds, the checks carried out in the 1987 clearance were restricted to an examination in six Member States of the alterations made to the systems since the EAGGF's previous audit.

In addition, the EAGGF checked the expenditure authorization procedures specific to this measure.

The Court chiefly examined the files relating to the 1987 clearance work on export refunds, and secondarily measures in the milk and milk products' sector.

Since the Court examined only two types of measure, the Commission expresses reservations as to the Court's conclusions on the working methods used for the clearance of accounts and the progress made in that area.

As regards the Court's comments in points 5.12 — 5.13 concerning the audits on export refunds, the Commission takes the view that the annual plan is sufficiently specific regarding the extent of the systems-based audits planned in six Member States. These audits are actually carried out on the basis of mission reports, while the documents describing, analysing and evaluating the systems are kept in the EAGGF's files. In addition, the Commission considers that the compliance tests and substantive tests were satisfactorily carried out on the basis of a detailed examination of files chosen using objective selection criteria.

As regards the Court's comments on the number of files examined in the check on expenditure in the milk sector (point 5.14), the Commission would emphasize that for the audit of intervention expenditure priority was given, during the first years when the manual was applied, to examining the systems.

These early audits had to be limited in a certain number of cases to scope B of the manual, i.e. a systems examination not followed by a substantive test. However, in those cases where the systems-based audit had to be restricted to a scope B, the EAGGF auditors always examined a sample selection of files in order to verify the application of the systems examined and the legality of the expenditure financed.

Impact of recent legislation

5.15 – 5.17. The Commission is in complete agreement with the Court's comments on the gaps in the information received from the Member States on their national controls. However, it would emphasize that, in this case also, it was the first time that new legislation was applied

and an improvement in the communications can therefore be expected.

The systems-based audit can only be implemented efficiently with the full backing of the Member States. The Commission will therefore not fail to insist that they fulfil their obligations arising from Regulation (EEC) No 295/88⁽¹⁾ and to have recourse to Article 169 of the Treaty where necessary.

Preventive role of the Commission

5.18. The Commission stresses the importance which it attaches to preventing in every way possible accounting errors made by the Member States.

As regards the Court's criticism on the three points it mentioned in this respect, the Commission points out that the clearance department is closely associated with the process of drawing up agricultural regulations. In addition, it is jointly responsible for the wide-ranging study currently under way in the different Directorates-General and departments of the Commission concerned with a view to improving the harmonization and clarity of inspection arrangements and is involved in the work on ways of simplifying agricultural regulations.

Moreover, the Commission stresses that the Member States are obliged to apply Community rules correctly. The clearance department, at the request of the Member States, gives its opinion on national implementing rules.

Furthermore, as regards the systems-based audits, the Commission's departments check the rules adopted by the Member States pursuant to Community legislation and their practical application.

Timeliness of audit observations

Delays in the audit work

5.20. In recent years, the clearance of accounts process has been greatly speeded up. Thus, the checks on expenditure for 1988 were begun as early as March 1989.

⁽¹⁾ OJ L 30, 2.2.1988.

However, the Commission takes the view that, to reconcile the basic requirements of the audit with the real capacity of its own departments and those of the Member States, the clearance decisions cannot be reached earlier than 15 September of the year $n+2$. It would also emphasize that the timetable for clearance in Regulation (EEC) No 729/70⁽²⁾ is indicative, not binding, as was made clear in the judgment of the Court of Justice of 27 January 1988 (Case 349/85).

Delays in resolving reserves in the decision

5.21 – 5.24. The Commission ensures that the number of files in respect of which clearance is postponed to a later date is as small as possible, and that they are cleared as quickly as possible. The reasons for this separation are always set out in the summary report. However, the importance of such separations should not be exaggerated. For 1986, the expenditure withheld from clearance represented approximately 0,6 % of total declared expenditure and the disallowed expenditure, under reserve pending re-examination, represented 0,06 %. Consequently, the Commission cannot subscribe to the Court's comments on this matter.

Role played by the Financial Controller (DG XX)

5.25. The Court's comments on a priori checks refer to the provisions in Title VIII of the Financial Regulation concerning financial flows between the Commission and the Member States.

The observations in Chapter 3 of the Court's report deal with the other a priori checks. In this respect it should be made clear, in relation to what the Court has said, that in implementation of the general provisions of the Financial Regulation Financial Control participates in:

- preliminary scrutiny of Community legislation, particularly as regards control rules and sanction arrangements;

⁽²⁾ OJ L 94, 28.4.1970.

- the work of the management committees when dealing with Commission proposals having financial consequences;
- inspections for purposes of fraud control;
- horizontal tasks, chairing interdepartmental working groups involving Directorates-General responsible for managing funds (study on leasing, rules for sampling and analysis for the EAGGF Guarantee Section, scrutiny of the harmonization of controls and sanctions).
- the 'olive oil control agencies' audit, the results of which have been set out in a detailed report;
- the current audit of 'methods for counting and identifying sheep', as expenditure is increasing in this area, which is open to fraud because it is difficult to monitor.

Conclusions and recommendations

In addition, it organizes:

- selective checks (points 5.26, 5.28 and 5.32 below);
- training activities for national controllers in the field of EAGGF expenditure;
- seminars on the legal protection of Community finances.

5.26 – 5.28 and 5.32. Financial Control participates actively and constructively in the clearance inspections while taking a global approach to assess the results of the verification activities. To this end, it participates in defining inspection programmes and objectives and the methods to be used.

As regards the resources mobilized for Financial Control's participation in clearance of accounts operations, the Commission would emphasize the magnitude of the operation which justified the extent of the involvement of Financial Control in clearing the backlog until two years ago and, more recently, in implementing the systems-based auditing method. However, it should be made clear that, in view of the range of control activities already described, the volume of work involved in auditing the expenditure managed directly by the Commission and the other miscellaneous tasks, the staff of the department concerned spend about 30 % of their time on clearance work, which represents full-time occupation for about five people.

As regards independent or selective checks, Financial Control has carried out three selective checks in the last 30 months:

- the 'beef preparations' audit, the results of which have been approved by the Commission and will lead to amendments in legislation;

5.29. The Commission is unable to agree with the Court's conclusions for the following reasons:

5.30. The Commission is of the opinion that the number of staff cannot be the only criterion used and that the quality of the work performed by the staff is also important. In addition, the number of staff has to be adjusted to take account of the requirements connected with the introduction of the systems-based audit. When increasing staff numbers account must be taken of the new posts available for taking on qualified staff and the material capacity of the clearance department to train new officials.

The Commission does not share the Court's view that it has adopted stopgap methods (see also the replies to points 5.20-5.21 above).

Furthermore, the Commission is currently exploring the possibility of contracting certain technical tasks to one or more private agencies, although the legal and budgetary difficulties should not be underestimated.

5.31. It should be made clear that the systems-based audit is, by definition, carried out during the financial year while the audit of expenditure declared for 1988 was commenced in March 1989.

5.32. As regards the reorganization of the clearance department which the Court proposes, the Commission takes the view that the current distribution of tasks arises from the requirements of internal control as defined in the Financial Regulation.

ADDITIONAL LEVY, MILK SECTOR

General

In April 1989, in view of the changes in the market situation and the special problems facing certain categories of producers, the Council invited the Commission to carry out an in-depth study on the workings of the system and, if necessary, to make the appropriate proposals, before 31 July 1989, to avoid market disturbances and discrimination between producers. The Commission adopted the report on 12 July 1989 (COM(89) 352).

On the basis of the conclusions in that report, the Commission considers that the system could not preclude all forms of differential treatment or structural adjustments, because of the differences in national, regional and even individual situations. It also considers that solutions to the problems of applying the system must be found for fear of hindering the rational development of the milk sector and ignoring the need to take account of individual circumstances which are felt to be discriminatory.

Although piecemeal adjustments of varying importance have been made to the arrangements, they are now sufficiently practical and coherent to be applied effectively. Producers or buyers have been freed from the constraints of the individual reference quantity for a given output; it is now possible to make use of the overall

guaranteed quantities and formulae but, at the same time, these alterations have been offset by reductions in the quantities not subject to the levy.

5.35. See the reply to point 5.21.

5.37. (a) The Commission has taken the necessary steps to clarify the situation in Regulation (EEC) No 3086/88.

5.37. (b) The financial consequences of non-compliance with Community regulations in the 1986/87 milk year are being examined by the appropriate services in the context of the 1987 clearance of accounts.

5.37. (c) See the general comments above.

5.37. (d) and (f) This point is being examined in the context of the clearance decision for 1987.

5.37. (e) The Commission stresses that it has made a very detailed study of the application of the quota arrangements and made the findings known to the Member States at the end of the first marketing year.

In addition, it replies regularly to the Member States' requests for interpretation (see reply to point 5.18). This was also the case as regards Council Regulation (EEC) No 857/84 ⁽³⁾.

⁽³⁾ OJ L 90, 1.4.1984.

*ANNEX***Measures subjected to systems audit during the 1986 clearance of accounts**

- (1) Public storage of cereals (Spain and United Kingdom).
- (2) Public storage of skimmed-milk powder (Germany).
- (3) Public storage of butter (Germany and the Netherlands).
- (4) Public storage of beef (Italy).
- (5) Public storage of wine and grape musts (Italy).
- (6) Aid for skimmed-milk powder for use as feed (France).
- (7) Aid for milk processed into casein (Denmark and Ireland).
- (8) Aid for skimmed milk for use as feed (United Kingdom).
- (9) Premiums for maintaining suckler cows (France and United Kingdom).
- (10) Financial compensation for the processing of citrus fruit (Italy).
- (11) Aid for processed tomato products (Portugal).
- (12) Production aid for rape and sunflower seed (Belgium and France).
- (13) Distillation of wine (France and Italy).
- (14) Ewe premium (Germany, France and United Kingdom).
- (15) Additional levy in the milk sector (Greece).
- (16) Co-responsibility levy on cereals (France, Belgium and Denmark).
- (17) Production aid for cotton (Greece and Spain).
- (18) Premiums for leaf tobacco (Greece, Italy, Spain and Portugal).
- (19) Export refunds (France: Onilait and FIRS).

Measures subjected to systems audit during the 1987 clearance of accounts

- (1) Aid for skimmed-milk powder (Italy and the Netherlands).
- (2) Public storage of butter (Belgium).
- (3) Preventive and additional distillation of table wine (Greece).
- (4) Storage of table wine and grape musts (Greece).
- (5) Storage costs, sugar (France).
- (6) Production aid for dried grapes and figs (Greece).
- (7) Aid for processed tomato products (Italy).
- (8) Premium for producers of sheep- and goatmeat (Greece, Spain and Portugal).
- (9) Variable slaughter premium for bovine animals and sheep (United Kingdom).
- (10) Private storage of beef (Germany and the Netherlands).
- (11) Public storage of beef (Ireland, Italy, Germany and the Netherlands).
- (12) Additional levy in the milk sector (Spain and Italy).
- (13) Production aid for rape and sunflower seed (Germany, the Netherlands, Portugal and the United Kingdom).
- (14) Production aid for soya (Italy).

CHAPTER 6

**The European Agricultural Guidance and Guarantee Fund,
Guarantee Section (EAGGF-Guarantee)
Organization and management of markets**

REPLIES OF THE COMMISSION

AID SCHEMES

being permissible only, in the Commission's opinion, in specific situations where the anticipated results justify the higher cost.

Common observations

The Commission has been endeavouring in recent years to include in its agricultural rules provisions providing for administrative penalties to ensure that the rules are properly applied.

6.2. The Commission acknowledges that the controls provided for do not always produce the anticipated results.

In general, the Commission draws attention to the Member States' responsibility to establish controls that are in line with Community rules. When carrying out its own controls in the context of the clearance of accounts and during investigations involving fraud and irregularities, the Commission has been unable to avoid the conclusion, particularly as regards the withdrawal of fruit and vegetables, the production aid for durum wheat and the ewe premium scheme, that the Member States' control arrangements are unsatisfactory. The financial penalties it has already imposed and intends to impose are clear evidence of the Commission's concern to ensure that the Member States introduce effective control mechanisms.

It is not the responsibility of the Community alone to legislate in all areas or to impose standard rules for the Community as a whole, disregarding the situations that are specific to each Member State. Having said that, the Commission notes that, where it has detected weaknesses in the audit procedures introduced by Member States, it has requested the latter to modify them, or has made the rules more stringent.

Thus, to take as an example one of the market organizations examined this year by the Court, the Commission has adopted a new regulation for cereals laying down the procedure governing the aid for durum wheat which includes specific control provisions and the penalties to be imposed in the event of failure to comply with the regulation.

In the case of the comment at point 6.2.(d), the Commission refers to its specific answers concerning the individual products.

The Commission recognizes the importance of physical controls but feels obliged to point out that all control procedures must also be assessed from a cost-benefit point of view. Consequently, priority may be given to documentary controls over physical controls, the latter

Regarding the adaptation of production to demand (point 6.2.(e)), the Commission takes the view that the measures adopted to control production, involving the introduction of budgetary stabilizers or in the context of the price proposal, are already producing their initial results and that measures it will propose to the Council concerning product quality will help alleviate existing shortcomings.

Withdrawals and processing of fruit and vegetables

6.3. While not challenging the figures and percentages quoted by the Court, the Commission feels obliged to comment that an alternative presentation of the facts, with no less accurate figures and percentages, could give an altogether different picture of the situation. During the period 1982/83 to 1986/87, the average percentage of fruit and vegetable production to which intervention applied was 7.1 % of the harvested production of fruit and vegetables subject to a market organization.

Set against intervention expenditure for the same period, withdrawals of tomatoes represented 8.1 % on average. The reason for this high figure was the exceptional level of withdrawals during 1985/86. The introduction of the stabilizers since then, however, has brought this figure down to 3.3 % for 1987/88 and even lower for 1988/89, if forecasts prove true.

It is not surprising that Italy accounted for the bulk of this expenditure since it was by far the chief producer of fruit and vegetables during the reference period. The Court should note, however, that the quantity of tomatoes withdrawn in Italy during 1987/88 accounted for only 12 % of total withdrawals while production there accounted for 59 % of total Community output (EUR 10). Withdrawals in Italy in 1988/89 were again down, representing no more than 5 % of total withdrawals. In the Netherlands and France, on the other hand, withdrawals amounted to 53 % and 39 % respectively (provisional figures).

Withdrawal of fresh produce

6.4.

(a) The percentage of products withdrawn from the market and destroyed referred to by the Court was reached for a very limited number of products only (citrus fruit).

The aim of the measures adopted in recent years by the Council as stabilizers or in the context of the price proposals has been to cut dramatically the quantities for which there are no normal outlets on the fresh produce market and to promote the use of processing. Thus, for example, withdrawals of tomatoes, which reached around 650 000 tonnes during 1986/87, fell to 42 000 tonnes, i.e. 0.50 % of production, for 1987/88 following the introduction of the stabilizers (EUR 10).

It must be borne in mind also that fruit and vegetables are perishables and that disposing of them in one of the alternative ways available under Community rules can only take place within a very short period following withdrawal. Accordingly, either they are left to rot or they are destroyed by growers to prevent them re-entering the normal distribution chain in one way or another. The uses to which products withdrawn from the market can be put are limited furthermore by transportation and processing costs and by the need not to create a glut on the market, even though the number of such uses has been increased steadily under the rules.

The Commission notes, in addition, that among the related measures adopted during the price negotiations for 1989/90 was the fixing of the minimum price to industry for oranges at the same level as the withdrawal price and the decision that all varieties could now be processed into juice. The object of this measure, which was applied also to small citrus fruit (mandarins, clementines, satsumas), was to encourage the disposal of these products for processing and their sale on the processed products market.

- (c) Since the proceeds of sales of fruit and vegetables used for animal feed accounted for less than 0.02 % of the total gross value of withdrawals declared by Italy in 1987, greater emphasis was placed during the controls on other aspects of the measure. The Commission undertakes, however, to make the necessary verifications when conducting the systems audit in this area.
- (d) In February 1989 the Commission conducted a thorough investigation in the citrus fruit industry in Italy regarding failure to comply with quality standards on the domestic market, the operation of producers' organizations and the control of market withdrawals. The financial implications of the investigation are now being studied and are being discussed with the Italian authorities.

In addition, in view of shortcomings noted in the procedure for the withdrawal of citrus fruit, an investigation of the conditions in which other types of fruit and vegetables are withdrawn will be carried out in Italy during the second half of 1989 and the first half of 1990.

- (e) In the context of the clearance of the accounts for 1987, the operation of the three organizations in question was again reviewed on the basis of additional information sent by Italy and of a new on-the-spot inspection visit. This gave the Commission a

clearer picture of the organizations' compliance with the operating conditions laid down in Article 13 of Regulation (EEC) No 1035/72 (1).

The Commission is still considering the matter. A decision will be taken during the second half of 1989 (see also answer at point (d) above).

The matter is also being considered in the context of the study currently in hand concerning producers' organizations.

Processed fruit

6.5.

- (a) The Commission believes that the level of support fixed is the outcome of the application of the existing rules on the subject.

In accordance with the combined provisions of Regulations (EEC) No 426/86 (2) and No 1277/84 (3), the support is fixed on the basis of the trend of minimum prices to producers, processing costs and prices charged by third countries or prices 'determined' for imports or trade by the Community during a reference period. In view of the new situation regarding lemons, following the liberalization of imports into Italy, the Commission will consider the need to review certain aspects of the calculation of the support.

- (b) The Commission is aware of the control problems as regards products processed from fruit and vegetables.

The day-to-day physical presence of an inspector at each processing plant could, of course, improve the control arrangements. Every effort must be made, however, to ensure that the methods of carrying out the controls do not interfere with the normal operation of processing factories, which often have a continuous production cycle.

Title VII of Regulation (EEC) No 1599/84 (4) entitled 'Checks' imposes a number of requirements on processors (in respect of stock and other records,

proof of payment, etc.). It also leaves it to Member States to subject processors to any measures of inspection or supervision considered necessary.

- (c) The Commission will present to the Council, as provided for in the explanatory memoranda to the price proposals for 1989/90 (Volume I — COM(89) 40 final, p. 75), a report, together with proposals for regulations, which should answer most of the Court's comments, namely:

- a lowering of the guarantee threshold for currants;
- an improvement in quality;
- the possibility of adjusting the quantity withheld upwards on the basis of the harvest;
- the monthly increment to be paid to the producer will vary according to the purchasing period.

Conclusions

6.6. A distinction must be drawn between structural withdrawals and short-term withdrawals. The Commission's primary objective is, by continuing the stabilizer arrangements, to eliminate structural withdrawals gradually and thus achieve a better balance on the market. Short-term withdrawals are unavoidable, however, in that they are the outcome of unforeseen circumstances, such as, for example, weather conditions, which determine the annual volume of production and consumption. Withdrawal in this situation, even of high quality products, is inevitable.

The processing industry as a user of part of production must also be looked at from two different viewpoints. The bulk of the raw materials used by the industry consists of products with little value added for which there are no normal outlets on the fresh produce market. The basic concern of the industry, in this situation, is to obtain raw materials at low cost. For that reason it is mainly inferior quality products that are used for processing. Higher quality raw materials, on the other hand, account for a very limited proportion only of industrial outlets and consequently do not constitute a genuine solution to the problem of withdrawals.

(1) OJ L 118, 20.5.1972.

(2) OJ L 49, 27.2.1986.

(3) OJ L 123, 9.5.1984.

(4) OJ L 152, 8.6.1984.

The Commission considers the growing role of Community controls as being of the utmost importance. Under Regulation (EEC) No 1319/85 ⁽⁵⁾ eight inspection visits have been made in the various Member States since January 1988 (representing approximately 220 man/days).

6.7. Until now the Commission has always considered it undesirable to list destruction expressly among the options available for disposing of products withdrawn from the market. If the Court considers it necessary, however, to publicize this measure clearly in the rules, the Commission will make an appropriate proposal to the Council. In any case, the Commission regards this type of measure as being legitimate.

Production aid for durum wheat

6.8. It will be noted that according to the figures now available, including those supplied by the SOEC, production during the period 1986-88 fell by 8 %.

National controls

Identification and measurement of surfaces

6.9. The Commission's awareness of the problems of applying the aid scheme for durum wheat was so acute that it expressed its concern to the Court. As early as 1987 the Commission carried out an in-depth investigation of this matter in Italy. In June 1988 the EAGGF departments, basing themselves on the results of that investigation, provided the Court with detailed information in support of their reservations regarding the quality of the controls carried out in practice, the inadequacy of the measurement of surfaces, the shortcomings in the land register and the checking of duplicate requests for aid in respect of the same surface areas. The Court's findings are akin to those of the Commission.

On 19 June 1989 the Commission adopted Regulation (EEC) No 1738/89 ⁽⁶⁾ in place of Regulation (EEC) No 2835/77 ⁽⁷⁾. The new Regulation contains more specific control provisions, and provides for:

⁽⁵⁾ OJ L 137, 27.5.1985.
⁽⁶⁾ OJ L 171, 20.6.1989.
⁽⁷⁾ OJ L 327, 20.12.1977.

- the systematic checking of all applications in respect of a surface area of more than 40 ha;
- the raising of the minimum percentage of applications to be checked from 5 % to 15 % with a further increase if a significant number of false declarations are found;
- the systematic inspection and verification of durum wheat cultivation on all land in respect of which an application is being checked;
- the systematic measurement of surface areas held by an individual farmer;
- the measurement of fragmented surface areas as follows:
 - applications in respect of 2 to 5 plots: measurement of the largest and of a medium-sized plot;
 - applications in respect of 6 to 10 plots: measurement of the two largest and of a medium-sized one;
 - applications in respect of more than 10 plots: measurement of the two largest and three medium-sized ones.

Since this new Regulation entered into force on 21 June 1989 most of these provisions will be applied with effect from the 1990/91 marketing year onwards.

The Commission believes also that this new Regulation will standardize the application of the Community rules by the various national authorities.

Identification of varieties eligible for aid

6.10 – 6.12. The rules provide that in order to qualify for the aid durum wheat must have appropriate qualitative and technological characteristics, or have been grown from certain varieties approved by the Member States.

Until now the variety option only has been applied. The varieties of seed that may be sold are those included in national catalogues. They appear there only if they have the qualitative characteristics required by the market in durum wheat for the manufacture of meal and pasta

products. The control conducted by the EAGGF in Italy showed that the inspectors who carry out the on-the-spot checks are sufficiently familiar with durum wheat cultivation to recognize the varieties grown. They are genuinely concerned about the varieties of seed used and their listing in the national register. No significant problems came to light in this area. High quality, moreover, will be reflected in the market price.

Internal control

6.13. Article 11 of the new Regulation (EEC) No 1738/89 provides that in future Member States must take appropriate steps to prevent more than one application being submitted for a given surface area. These measures must be notified to the Commission. The latter, which consequently has a discretionary power in the matter, can ask the Member States to increase the severity of measures that seem to it to be ill-adapted to the aim pursued.

The Commission's supervisory and management role

6.14 – 6.17. Article 8 of the new Regulation (EEC) No 1738/89 provides for penalties to be imposed in the event of fraud.

If the check indicates an excess of up to 10 % but of not more than 1 ha in the area declared compared with that measured, the aid is calculated on the area measured less that excess.

If the excess exceeds the limits provided for, the application for the marketing year in question is rejected. In addition, the areas forming part of the applicant's holding during the marketing year in question are ineligible for aid in the following marketing year.

As the Court has been informed, the level of irregularity of 8 % to which it refers was the outcome of an analysis by the Italian authorities of the results of the +/-3 500 controls carried out as part of an enquiry under Article 6 of Regulation 283/72 ⁽⁸⁾.

⁽⁸⁾ OJ L 36, 10.2.1972.

Relative level of intervention prices and direct aid

6.18 – 6.19. Even though the intervention price was maintained for common wheat and fell by 11.4 % for durum wheat during the period 1985/86 to 1988/89, the level of the market price was seriously affected by the introduction of intervention purchasing at 94 % of the intervention price, the reform of the intervention system and the reduction in monthly increases. In addition, co-responsibility arrangements involving producers were introduced.

The nominal fall in the intervention price for common wheat is the result of bringing the price for durum wheat closer to that for common wheat. The chief aim of introducing a more realistic price ratio between the two is to dampen interest in substituting durum wheat and common wheat:

- at the level of production (substitution of durum wheat for common wheat);
- at the level of use (substitution of common wheat for durum wheat).

To offset the drop in income in regions which were traditionally producers of durum wheat and beneficiaries of the aid, the impact on producers' income of the reduction in the institutional prices was partly compensated for by increasing the aid (50 % only).

The agrimonetary system applies equally to durum wheat and to other agricultural products. The impact of the system on production is described in detail in the Commission's replies to the special report of the Court on the agrimonetary system (OJ C 128, 24 May 1989).

Selection of varieties

6.20. Varieties are entered in national catalogues only after being examined by the competent authorities. The examination focuses on the value for cultivation and use of the durum wheat variety, and especially on its quality characteristics.

Since durum wheat is intended solely for the meal industry or for pasta-making, those characteristics involve primarily its suitability for those uses.

Concluding remarks

6.21. Durum wheat represents no exception to the rule as regards a restrictive prices policy and the application of stabilizers. The policy is now being applied, together with the closing of the price gap between durum wheat and common wheat. The Commission takes the view that it is too soon yet to judge its impact on production. It wishes to point out to the Court that the users of durum wheat are pressing for a review of the policy on the closing of the price gap between durum wheat and common wheat. The users believe that the policy, together with the set aside arrangements, is making it increasingly difficult for them to obtain supplies of quality durum wheat on the Community market.

In spite of the difficulty of checking the variety of seed sown, the Commission considers it essential to continue to impose certain requirements in the regulations.

The new Regulation (EEC) No 1738/89 contains more specific control provisions and introduces penalties which should bring about an improvement in the situation.

6.22. The production aid for durum wheat is granted in areas of the Community that are traditional producers of this cereal and where the crop is of primary importance. As well as the price for durum wheat being fixed at a level that reflects a normal ratio between the price for durum wheat and that for common wheat, the aid scheme must ensure that the crop continues to be grown in the most suitable areas, while establishing balance on the market.

The Commission believes, furthermore, that the quality requirements laid down in the rules for durum wheat which is bought into intervention, as tightened up in 1987, are sufficient to meet users' needs. If the quality standard required for intervention were to be raised excessively this might result in production with no other outlet than intervention, with users being satisfied with a lower quality bought for less.

Durum wheat is imported in small quantities (approximately 100 000 tonnes in recent years), principally to meet the specific needs of certain industries for the manufacture of special products and frequently because of its colour (most of the Community output having an unsatisfactory yellow index).

*Refunds for production and use of starch***National controls**

6.27 – 6.31. Until the clearance of the 1988 accounts the Commission checked expenditure on production refunds by verifying payment files in the paying agencies of the Member States.

As it is particularly difficult to assess the reliability of the verification documents in these payment files, the Commission, during its work relating to clearance of the 1988 accounts, undertook a close examination of how these verification reports were established and how the control systems of the Member States could be improved. In addition, a systems audit of the production refund measures will be conducted in France.

The remarks of the Court will be taken into account during the Commission's verification work in the Member States.

Modified starches

6.32 – 6.35. The provisions introduced by Regulation 165/89 and which have applied since January 1989 were adopted following a close examination with all the bodies concerned of the practical problems arising during the movement of the goods.

The Commission considers that the modification, especially the insertion of Article 7(5), does not constitute a weakening of the control procedures, rather the contrary.

Article 7(4) of Regulation 2169/86, as amended by Regulation 165/89, now specifies that the proof stating that the modified starches have been incorporated according to the rules may be furnished by presentation of a declaration by the manufacturer stating that:

- in the case where the product in question is to be further processed, he will use this product only to manufacture products other than those listed in Annex I, and,
- he will sell the product in question only to a party who will agree to respect the same undertakings,

— he is aware of the provision of Article 7(5).

The controls are assured by Article 7(5) obliging the competent authority to check by appropriate means, including *a posteriori* spot checks, that this declaration has been complied with.

As far as the replacement of the T5 document is concerned, the Regulation states that the applicant may ask the competent authority for other documents to be accepted as equivalent, stating the grounds for such application and furnishing supporting documents including confirmation from the customs office or competent authority that the provisions have been complied with.

Thus, the Commission considers it has taken the appropriate precautions for this document to be one of valid proof.

A penalty for failure to comply with Article 7⁽⁹⁾ was inserted in the rules (equivalent to 105 % of the highest production refund applicable to the product in question during the previous twelve month period).

The Commission's supervisory and management role

6.36.

(a) While acknowledging that an on-the-spot examination of the problems is appropriate, the Commission discusses the arrangements regularly, at meetings of groups of experts from the Member States, and just as regularly hears the views of users and of those involved in practice, thus obtaining an overview of the situation of the industry.

(b) The Commission has the statistics it needs for keeping a close watch on the application of the scheme. It admits nevertheless that there were delays in the notification of the data by Member States when the new scheme was being launched.

6.37. The Commission will consider how and to what extent the control provisions — as laid down in the regulations — can be applied and, if necessary, adjusted, particularly as regards:

— their frequency;

⁽⁹⁾ OJ L 152, 8.6.1984.

— certain details relating to the nature and rate of the controls, evidence and certain tolerances;

— the concept of competent authority;

— the reports, if any, to be sent to the Commission on the controls carried out and the necessary evaluations.

Concluding remarks

6.38 – 6.39. The Commission will bring the Court's comments on the control of the aid scheme to the attention of the Management Committee and will consider the necessary improvements.

As part of the clearance of the accounts for 1988 it has begun a more thorough investigation of the scheme. The Court's comments will be taken into consideration.

Aid for skimmed-milk powder incorporated into compound feedingstuffs for calves

National controls

Overall findings

6.49. As stated by the Court the clearance of accounts department of the Commission has given a high priority to auditing the measure. Systems audits were carried out in France, the Netherlands and Italy in the framework of the clearance procedures for 1986 and 1987. For the 1988 clearance a systems audit is being carried out in Germany.

Recommendations to improve the national control systems were made after the visits to France and the Netherlands.

6.50. The Court's observations concerning the situation in Italy can be generally confirmed. However, the situation described under point 6.50(c) is not totally clear. The Commission recently reminded this Member State to carry out the controls provided for in the Regulations.

The findings of the systems audit carried out in Italy were not satisfactory. Consequently, for the clearance decision

for 1987 a disjunction is proposed for the expenditure related to Regulation (EEC) No 1725/79. The release of securities under Regulation (EEC) No 1624/76 will also be included in the disjunction.

6.52. The Commission, alert to the problem raised by the Court, has already taken steps, including:

- a thorough study of alternative analysis methods which could replace the existing method and measures for improving it, undertaken by a group of chemical experts;
- a reminder to Member States of their obligations regarding controls and a request to check the need to amend their national provisions in the light of the amendments to the Regulation.

A review of the control arrangements provided for in Regulation (EEC) No 1725/79 could be undertaken once the study referred to above produces some findings.

6.53. This aspect of the control arrangements will form part of the review referred to at point 6.52.

Commission Regulation (EEC) No 1624/76

6.54 – 6.61. The Commission shares the Court's concern regarding the application of Regulation (EEC) No 1624/76. For that reason it has presented the Council with a proposal to suspend these exceptional payment arrangements (COM(89) 448 final).

Frauds and irregularities

6.62. (c) (d) and (e) The Commission has also been concerned at the paucity of information being conveyed in some reports on irregularities, and in consequence the reporting format has been revised and is currently under discussion with Member States.

A system for rapid exchange of information between Member States and the Commission and between the Member States mutually (Scent), which existed already in the Directorate-General for the Customs Union, has been extended to the Directorate-General for Agriculture. When it becomes directly accessible to all national services dealing with EAGGF irregularities the flow of relevant information will be much prompter with subsequent benefits for follow-up enquiries.

The Commission confirms that adequate means now exist for coordinating anti-fraud efforts between Member States on reported irregularities.

In addition, bilateral meetings are regularly held under the auspices of the Irregularities Experts Group in addition to direct professional contacts between the authorities in the Member States involved.

The Commission would underline the very real cooperation which now exists between the EAGGF and the market divisions. The control arrangements in proposed Commission Regulations are systematically examined by the control services of the EAGGF. The results of the systems analysis undertaken by the clearance of accounts services are obviously available to all the other services which make use of them.

Each enquiry made by the Commission services is accompanied by an analysis of the appropriate national control systems, in order to obtain a detailed knowledge of the application of Community regulations. This essential element of preparation for the enquiry gives sufficient knowledge of the national control systems.

The Commission's management

Fixing the rate of subsidy

6.63. Until 1987 the objective, when fixing the level of the subsidy, was to dispose of as much skimmed-milk powder as possible under the scheme, the cost of which was invariably well below that of other disposal arrangements, such as pig and poultry feed and exports, which were operating at the same time. It is on the basis of that objective and the factors listed in Article 2a(1) of Regulation (EEC) No 986/68 that the Commission makes an annual critical assessment of the level of the subsidy.

With effect from 1988 the operational context altered substantially. This called for more active management of the scheme, based above all on SMP market trends and the level of public stocks. The Commission wishes to emphasize that, in the circumstances (namely, the large but unforeseeable changes in SMP prices and in the number of eight-day-old and fatted calves and the inelastic factors of calf production), a rigorous evaluation of the effects of an adjustment of the subsidy has not been possible.

6.64. As the Court itself points out in 6.42, the subsidy is still needed to prevent sales into intervention. Given the importance of maintaining that vital outlet the Commission has made gradual but cautious adjustments to the level of the subsidy. It does not feel that the level was too high.

6.65. The Commission is able to subscribe to the objectives set out by the Court as regards a desirable market-price level, but wishes to point out that the aid scheme for skimmed milk and skimmed-milk powder does not lend itself to precise short-term adjustments of SMP market prices (please see also the reply to 6.63).

6.66. The Commission is convinced that the possible benefits of the introduction of a tendering procedure for the subsidy would not be such as to offset the difficulties which — as the Court itself recognizes — would arise. Given the specific aspects of the calf-production sector, a comparison with the scheme for butter used in pastry making is not really valid, since the uncertainty which is a feature of tendering procedures is incompatible with the operators' requirements in terms of stability and long-term planning.

Management of intervention stocks in 1988

6.69. Since the end of 1986, when the Council reached agreement on a package of reforms in the milk sector, the Commission has pursued an active policy as regards the reduction of public stocks. The fast decline of SMP stocks in 1987 and 1988 is in keeping with that objective, since the Commission had ruled out the maintenance of public stocks as an instrument of market management. In April 1988, public storage was replaced by private storage, in line with the Commission's objective that the market should once again play a regulatory role.

The disposal of the stocks served to speed up certain inevitable structural changes and thus helped to restore more rapidly a balance on Community and international markets. This in turn has meant a faster process of adjustment of aids and refunds. The sharp reduction in public stocks and the said adjustments have had a positive impact on expenditure.

6.70. The type of management advocated by the Court, and its impact on the budget are based on certain assumptions which are valid only in an ideal situation.

Concluding remarks

6.73. The Commission refers to its detailed replies set out in points 6.63 to 6.70. It feels that, having regard to the circumstances, the subsidy was set at an appropriate level.

The advantages which would more than make up for the drawbacks of a tendering procedure have yet to be proved.

The ewe premium in the sheepmeat sector

National controls

General

6.80 – 6.90. On 24/25 July 1989 the Council took a decision of principle in the sheepmeat and goatmeat sector and, since then, has adopted an amendment to the market Regulation concerned (Regulation (EEC) No 3013/89 of 25 September 1989, OJ L 289 of 7 October 1989). When drawing up the detailed implementing rules the Commission will take its own findings and the comments made by the Court into account.

Rate of on-the-spot visits

6.91. The Commission has used an inspection rate of 5 % only as an absolute minimum, below which corrections were applied. It is the Commission's view that in the case of verification on a sampling basis the Member State concerned must increase its minimum inspection rate in cases where significant irregularities have been established.

With regard to Italy and Greece control visits have recently been carried out and recommendations and proposals are currently being prepared.

The Commission wishes to point out, regarding the information available on the rate of visits in Italy and in Greece, that it is aware of the national provisions specifying a minimum rate of 20 % in Italy (Article 9 of the Decree of 28 December 1987) and 10 % in Greece (Decision of 18 May 1989).

Physical flock count

6.92. Article 5 of Commission Regulation (EEC) No 3007/84 states that the 'competent authorities designated by Member States shall ensure administrative supervision supplemented by means of systematic or random inspection visits to check the number of eligible ewes stated in the application for a premium' while Article 6 states that 'if the actual number of eligible ewes recorded during a check...'

From the above it is clear that physical counts must be carried out if the number of eligible animals is to be accurately established. With regard to it being impossible in some cases to physically count the sheep, Member States must adapt their provisions to suit the local circumstances.

For instance in the Highlands of Scotland, where sheep are only brought down three or four times a year, controls are arranged in advance to coincide with the natural flock movements.

Permanent flock register

6.93 – 6.95. The Commission has looked into the use of the permanent flock register in the United Kingdom and in Denmark. In addition to animal movements, such a register should include births, deaths and animals lost.

In the context of the new rules the Commission will consider whether developing such a flock-registration system could usefully improve the control arrangements.

Marketing timetable

6.96 – 6.97. See general comment (6.80-6.90).

Statistical reconciliations

6.98 – 6.100. Although the current market-organization rules do not specifically require that information be communicated as to the number of eligible animals, the Commission has regularly asked the Member States to provide that information, and has submitted it for

analysis to the Management Committee. The new rules should require that such information be sent on a given date and in accordance with a specific layout.

A preliminary statistical investigation has started into increases in the numbers of animals for which aid is claimed, in particular in Italy, Greece, Spain and Ireland.

The decision that an inquiry should also be carried out pursuant to Article 9 of Regulation (EEC) No 729/70 in respect of the ewe premium was based in particular on that factor (see also 6.101 to 6.104 below).

The Commission's supervisory and management role'

6.101 – 6.104. In recent years the aid scheme in the United Kingdom, Ireland, France, Greece and Denmark has undergone close scrutiny in the context of the clearance of accounts. In the light of the results of those inspections the Commission has addressed to the Member States a number of recommendations which will be taken into account when the new rules are drawn up, in a process of close cooperation with the EAGGF departments responsible for control.

Furthermore, because of the contradictions between premiums paid and statistics (see reply to 6.98-6.100) and of the reservations about the quality of the control arrangements applied in the Member States, the Commission undertook an inquiry under Article 9 of Regulation No 729/70 into the operation of the sheepmeat premium.

It was decided that Commission services would visit at least three Member States. They have already completed a mission to one of these Member States which was also subject to the Court's audit. The Commission has concluded that the control arrangements in this Member State already visited were inadequate and did not therefore fulfill the Member States' obligations under Article 8 of Regulation No 729/70. Furthermore on the same occasion, a number of frauds of substance were uncovered and as a result steps have been taken to effect a very significant financial correction. (See also the replies to the general comment in 6.80-6.90).

Concluding remarks

6.105 – 6.107. The Commission will ensure that its new proposals drawn up following the agreement reached within the Council on 24/25 July 1989 take into account the Court's criticism as regards the control arrangements.

COMMON ORGANIZATION OF THE MARKETS IN THE SUGAR SECTOR

Principles and characteristics of the common organization of the markets (COM) in the sugar sector

6.111. At Community level the common organization of the market in sugar covers a complex range of operations (in particular the management of carry-over stocks, Community production, imports from non-member countries, intra-Community trade, exports and consumption) which affect not only Chapter 11 but also Chapter 10 revenue, and budgetary expenditure under Chapters 11, 25, 27 and 28.

For every quantity of sugar imported by the Community an equivalent quantity of sugar and isoglucose is re-exported, and the expenditure concerned should in theory be offset by the revenue from import levies. Under agreements with the ACP States, the overseas countries and territories, India and the GDR, and the Treaty of Accession of the Portuguese Republic, however, all or part of those imports are exempt from the levy.

The net cost of those imports on preferential terms (i.e. without a levy or with a reduced levy), the part of the production refunds corresponding to the 60 000 tonnes normally used by the chemical industry, and the various aid-payment measures are chargeable to the general budget and not to Community growers, since these cannot be held responsible for expenditure arising not from their own production but from special exemption provisions.

Main features of the system for granting and paying export refunds on sugar

6.114 – 6.120. The Commission wishes to point out that the various aspects referred to in this part of the Court of Auditors' report do not concern the sugar sector alone. On the contrary, they consist of rules and procedures applicable to all exports of agricultural products, with the exception of the tendering procedure for the refund, which applies to a few CAP sectors only.

Findings and recommendations of the Court

Checks on the authenticity of licences

6.122 – 6.124. The Commission shares the Court's views on the importance of the figures set out in the export licences, in particular in cases where the licence shows the rate of refund applicable. Accordingly, apart from the notification from the paying agency to the agencies which issue the licences, which is referred to in the Court's report, other rules have been adopted in order to ensure the authenticity and accuracy of the documents in question. In this respect, reference may be made to Articles 24, 27 and 28 of Regulation (EEC) No 3719/88 on the arrangements for licences in respect of agricultural products.

Checks on the origin of the sugar

6.125 – 6.127. While recognizing that checks on the origin of the sugar at the time of export cannot be fully verified if there are no supporting documents, the Commission wishes to point out that in this particular case the documents which are currently required should be seen in their correct context.

The Commission feels that only continuous and direct supervision which allows the sugar to be monitored from the time it leaves the sugar mill (in the case of Community-grown sugar) or the refinery (in the case of ACP sugar) until it reaches the port of loading, can provide a guarantee as to the origin of the sugar. Since sugar — in particular white sugar, which accounts for nearly all the exports concerned — can be melted and is nearly always in the form of homogeneous crystallized sucrose (99.5 %), any other measure or additional document would still not provide a guarantee of success.

Giving the name of the sugar mill on the export declaration and submitting the transport and any storage documents prior to export would present a number of practical difficulties. In so far as the sugar must be exportable from any location in the Community, irrespective of where it was produced, the information specified by the Court would call for the setting up of a control system which, in the Commission's opinion, would not provide greater guarantees than the current arrangements.

Member States are, however, expected to carry out additional checks — and indeed do so — in case of doubt.

The Commission wishes to point out, moreover, that the 'high-risk' quantities (sugar imported from non-ACP States which may be re-exported with a refund) are very small in relation to the total annual volume of sugar exported under Community supervision (about 3 million tonnes).

The final Community supply balance for the marketing year from 1 October 1987 to 30 September 1988 points to the following:

(1000 t white sugar)

Imports of sugar, without further processing, from non-member countries

(a) ACP sugar	1 421	not subject to control
(b) sugar imported from Portugal with a reduced levy	157	intended for Portuguese refineries; aid for refining is paid subject to a check on the destination
(c) sugar imported into the Federal Republic of Germany	23	traditional trade with the GDR (internal trade, clearly marked by the German authorities)
(d) sugar imported into Italy	8	intended for the free zones at Aosta, Gorizia and Trieste, for local consumption
(e) other imported sugar	4	(high-risk quantity)
	<hr/>	
Total	1 613	

Customs controls of goods at the time of export and control records

6.128 – 6.129. The Commission shares the view expressed by the Court that customs controls of export refunds are of major importance.

The Commission is currently implementing, with the customs departments of the Member States, a control programme in the field which is similar to that advocated by the Court.

The amended proposal for a Council Regulation on scrutiny of the payment of amounts granted when exporting agricultural products (COM(89) 290 final of 15 June 1989) will, in the context of the implementing rules adopted by the Commission, provide an opportunity to review the practical aspects of physical checks. Consideration could then be given to the introduction of a

procedure whereby the document used for control has an entry made in it and is forwarded to the paying agency.

Customs controls when sugar is deposited in bonded warehouses

6.130 – 6.131. Entry into a bonded warehouse is subject to customs control of the product (quantity and characteristics). At present, Article 5 of Directive 69/74/EEC ⁽¹⁰⁾ provides that the goods must be presented to the customs in order to be allowed into the warehouse. The authorities may, however, waive this requirement.

The Commission wishes to draw attention to the fact that a process of approximation of the provisions on bonded warehouses is currently under way. Council Regulation (EEC) No 2503/88 ⁽¹¹⁾ on customs warehouses will be applicable one year after the date of entry into force of the implementing provisions laying down the detailed rules concerned; it will then be possible to introduce more detailed control arrangements for products deposited in a bonded warehouse under advance-financing arrangements.

When the goods are removed from the warehouse the customs authorities accept the export declaration; the product also undergoes the same customs checks.

Relations between the paying agencies and the customs authorities: nature and forwarding of documents

6.132 – 6.135. In the Member States the export declaration is still used for purposes other than to provide proof for the payment of refunds: it is also used for tax purposes such as VAT, direct taxation, etc. That is why the copy of the SAD for the person making the declaration (the exporter) is handed to the person concerned for the purposes referred to above.

The paying agencies should send back the export declarations to the customs offices in order to check and confirm the information they contain.

As to whether the document to be presented should be the T5 or the single document, the Commission feels that the choice depends mainly on the type of administrative structure set up by the Member States.

⁽¹⁰⁾ OJ L 58, 8.3.1969.

⁽¹¹⁾ OJ L 225, 15.8.1988.

In the context of the reform of customs procedures in anticipation of the single market in 1993, however, the documents used could be reviewed in an attempt to produce a single form encompassing all the documents which may currently be used in accordance with Article 3 of Regulation (EEC) No 3665/87.

Under Article 47 of Regulation (EEC) No 3665/87, it is the operator who must take the necessary steps to present a complete file as evidence of his entitlement to the refund.

The Commission accepts that sending the documents through administrative channels offers better security, but such a procedure is not necessarily fast.

Efficiency of paying agencies

6.138. The Commission feels that the objective of the Community measures can be achieved only in so far as the aid payments to those entitled to them take place within a reasonable period. Paying the refund within two months of the presentation of the file meets that requirement.

Conclusions concerning export refunds on sugar

6.139 – 6.141. The Court's conclusions are not applicable solely to sugar-sector products; they are of a more general nature and are valid for all exports which give entitlement to a refund, irrespective of the agricultural sector concerned.

The Commission is aware of the importance of those comments and will continue in its efforts to improve the Community rules. The harmonious application of those rules does, however, also call for a very real effort on the part of the Member States.

The documents used (the SAD, the T5 and the licence) are forms which offer sufficient guarantees as regards the print. Although they meet the requirements laid down in the Community regulations concerned (in terms of shape, paper quality, print and pattern), there is no absolute guarantee that no one will ever attempt to forge or falsify them (see also replies to points 6.122 and 6.133).

Summary of the system of self-financing

6.144 – 6.146. The Commission would like to emphasize that the preceding self-financing system covering the marketing years from 1981/82 to 1985/86 operated on a multiannual basis and that the Council closed the accounts concerned by way of Regulation (EEC) No 934/86 of 24 March 1986. That Regulation introduced the elimination levy covering, in respect of the marketing years from 1986/87 to 1990/91, the 400 Mio ECU deficit which was recorded as not having been covered by the basic and B levies in 1981/82 to 1985/86.

On the other hand, following the adoption of new measures involving major improvements, the current self-financing system for the marketing years from 1986/87 to 1990/91 operates on an annual basis and makes sugar and isoglucose producers fully responsible for the cost of disposing of their surplus production.

It should be noted that a supplementary levy has been applied since 1986/87 in the form of a special elimination levy for 1986/87 and 1987/88, which served the same purpose but which was known under a different name.

The Commission wishes to point out that the current cumulative-recording method applies to the five marketing years which are covered by the current quota system, i.e. including 1986/87 and 1987/88.

Quality of the data taken into consideration

6.149. Self-financing is defined in the basic Regulation (Council Regulation (EEC) No 1785/81) as a system whereby the producers themselves meet in full the cost of disposing of the surpluses of Community production over consumption. The method used for calculating the production levies closely follows that definition.

By deducting the quantity corresponding to consumption from that corresponding to production (within A and B quotas) in the marketing year concerned the Commission obtains the figure for surplus Community production for that year.

Concerning the calculation of the amount of the levies applicable to that quantity (only the overall amounts are known and this long after the marketing year is over, and growers are not responsible for some of the quantities disposed of, in particular exports corresponding to quantities imported) the Commission feels that the

present method of calculation, as laid down in the Community rules applicable, is the only one which is feasible and which can ensure that the actual expenditure is fully charged to Community producers.

The Court refers to the possible use of licences for 95-105 % of the quantity concerned. The Commission feels that its method of calculating the actual average refund should be based on the quantities shown in the licences, since a system of accounts based on the quantities in each export and production document cannot be justified (it is by no means certain that the results produced by such a calculation would be much different from those recorded under the present system).

6.150 – 6.151. The Commission feels that the method for calculating production levies takes into account the actual costs and does not adversely affect the verification of self-financing by marketing year.

The levies are recorded on an aggregate basis both in the case of the self-financing arrangements for 1981/82 to 1985/86 and the current arrangements.

This machinery is essential if the Commission is to fix the amounts of the levies to be paid by producers within a reasonable period before 1 April of the marketing year concerned in the case of the advance payment, and before 15 October after that marketing year in the case of the definitive amounts.

True, in a very small number of cases, some Member States are unable to provide the Commission in good time with all the final figures needed for calculating the levies, mainly because of detailed checks carried out by the Member States in respect of the data concerned.

The Commission is accordingly obliged either to fix the amount of the levies on the basis of estimates supplied by those Member States or to postpone the fixing and collection of the levies by up to a year. The Commission has opted for the former, but wishes to assure the Court that such cases are rare in relation to the total, since they do not account for more than 1 % of the levies concerned. Besides, the definitive figures may, under the aggregation system, be incorporated in the calculations made at the time of the first fixing following notification by the Member State concerned.

The Commission notes that that system has so far given rise to no legal or practical problem in all the years it has been in use. The Commission accordingly sees no reason

to change the basic system for full self-financing in this sector, since it feels that there should be a certain continuity in the rules concerned.

Accounting aspects

Verification of the achievement of self-financing by means of budgetary procedures

6.152. The Commission does not share the view expressed by the Court in this part of the report. The Court's analysis is based mainly on Table 6.8, which shows a balance chargeable to Community growers, i.e. not covered by the levies fixed. The Commission sees two possible objections to such a presentation of the facts.

Firstly, the Table includes only revenue and expenditure entered in Chapter 11 'Budget revenue and expenditure,' when sugar-sector amounts in other chapters (in particular Chapter 10 'Revenue' in the case of import levies for sugar and isoglucose) should be taken into account.

Secondly, in line 2 of part II, only refunds corresponding to imports pursuant to the 'Sugar' Protocol to the Lomé Convention and the special agreement with India have been deducted when in fact the refunds corresponding to all imports should be deducted while taking the consequences of stock movements into account.

The Community sugar and isoglucose market does not cover only trade linked to Community production. Other quantities of sugar and isoglucose, for which Community producers are not responsible, enter the Community with a zero, full or reduced levy. Those imports serve to increase by a similar amount the quantities to be exported with a Community refund. Accordingly, the refunds stem not only from those exports of Community-produced sugar but also from quantities exported as a result of those imports. For the latter, levies are collected and entered in Chapter 10 or are charged fully or in part to the Community budget in the case of imports to which special conditions apply.

It should be noted also that stock movements affect the short-term assessment of the breakdown of the costs between Community production and imports, because of

the possible differences between the quantities of sugar which may be exported in respect of a particular marketing year and the quantities actually exported.

The Commission refers to the version of the Table herewith.

The Commission would like to draw attention to the fact that self-financing was introduced as far back as 1968, when the first Regulation on sugar was adopted. Full self-financing was applicable in 1981/82 to 1985/86 and its period of validity was extended to include the marketing years from 1986/87 to 1990/91 by way of Council Regulation (EEC) No 934/86 of 24 March 1986.

For the purposes of managing the system of self-financing the Commission has to work on the basis of the marketing year specified in Council Regulation (EEC) No 1785/81 (1 July to 30 June). In accordance with the procedure laid down in Article 28 the Commission draws up, at each fixing of the levy, a working paper which in effect constitutes a document for the verification of self-financing in the sector. That working paper contains all the data which the Commission feels is required in order to make an overall assessment of the balance between expenditure and revenue. The document also includes a statement of income and expenditure showing that the objective of self-financing has been achieved.

Thanks to that working paper, the expenditure recorded in respect of each marketing year in accordance with the method applicable under the Community rules concerned can be crosschecked with the expenditure as determined by way of the implementation of the budget. There is very close cooperation between financial departments in the EAGGF and the sugar-market management sector. That cooperation has developed in order to ensure close monitoring of developments as regards budgetary discipline.

The Commission would like to point out that the average loss used for recording the share of the costs chargeable to Community producers is based on the refunds shown in the export licences and the production-refund documents issued in respect of the marketing year concerned. The costs taken into account accordingly reflect the true costs.

Entry of expenditure and revenue in the accounts

6.153. Thanks to the cooperation of the Member States the Commission has the information needed to achieve the objective of self-financing in the sugar sector. The Commission can understand the Court's wish for a

substantial justification of the Member States' expenditure. It doubts, however, whether the additional data will justify the cost of the extra work involved.

6.154. The draft monthly statement of the own-resource accounts of the Member States (see 4.33) calls for an accurate breakdown of the levies in the sugar sector. At all events the Commission will ensure that any such information is in writing.

Ex-post controls

6.156.

- (a) The clearance of the 1986 accounts was the first which was based on the systems audit method. However, the introduction of this method can only be gradual: during the 1986 clearance attention was focused on the systems in force in the paying agencies. During the checks for the 1987 clearance the measure 'reimbursement of storage costs' (item 1110) was the subject of a systems audit in France and of a selective control in the Netherlands and Belgium.
- (b) The Commission felt that Spain and Portugal should be allowed to set up a system and adapt it in the light of Community requirements. The Commission is planning to conduct checks in the sugar sector in those two Member States in November 1989.

The Commission has, in past years, analysed the national systems applicable to sugar. After concluding that the systems drawn up by the Member States were satisfactory as regards verifying and making available own resources accruing in this field, the Commission has turned to controls in other, financially more sensitive fields.

Effects on the budget of trade divergence concerning sugar exports

6.157. The Commission again confirms that the calculation of the total loss takes actual expenditure into account and that the achievement of self-financing is controlled.

The change in trade flows to the benefit of Dutch ports is the result of several factors including: a 'privileged' geographical location and efficient port facilities, the

speed with which the administrative departments involved in the procedure for the granting of export refunds operate, the movement of currencies within the 2.25 % margin of the EMS and the fact that there are neutral margins in the agrimonetary system.

As it has already stated in its replies to the Court's special report on the agrimonetary system the Commission hopes that a return to single agricultural prices will be possible in the context of the single market.

Conclusions

6.158 – 6.159. The Commission gives confirmation of its correct application of the Community rules on self-financing in the sugar sector and of the full coverage by Community growers on an annual basis of the costs arising from the disposal of their surplus production.

Table 6.8 — Alternative version drawn up by the Commission

Part A: Self-financing in the sugar sector: revenue and expenditure in 1986/87 and 1987/88

	1986/1987		1987/1988	
	tonnes	ECU (A)	tonnes	ECU (A)
I. Production surplus for which costs are chargeable to Community producers				
1. Sugar and isoglucose produced within A and B quotas	12 790 202,8		12 667 697,8	
2. Consumption	10 951 772,7		11 155 242,7	
3. Surplus	1 838 430,1		1 512 455,1	
II. Expenditure				
4. Totals in respect of export-refund documents issued for:				
(a) products exported without further processing (Chapter 11)	3 083 383,7	1 392 332 151	3 229 148,7	1 454 601 449
(b) processed products (Chapter 25)	357 310,0	156 352 902	399 408,0	174 182 161
5. Totals in respect of production-refund documents issued for quantities in excess of 60 000 t (Chapter 11)	75 570,0	21 257 028	121 153,9	49 051 260
6. Total expenditure	3 516 263,7	1 569 942 081	3 749 710,6	1 677 834 870
7. Average loss				
(a) 1986/87 = $\frac{1\,569\,942\,081}{3\,516\,263,7}$		446,48 ECU/t		
(b) 1987/88 = $\frac{1\,677\,834\,870}{3\,749\,710,6}$				447,46 ECU/t
III. Revenue				
8. Production levies payable by Community producers and intended to cover the expenditure arising from the disposal of their surplus production ((3) × (7))				
(a) basic levy		136 921 227		135 572 990
(b) B levy		447 100 841		443 094 410
(c) special elimination levy		227 026 898		101 642 929
(d) aggregate adjustment		+9 773 305		(-3 547 170)
(e) Total: levies	1 838 430,1	820 822 271	1 512 455,1	676 763 159
9. Balance due to imports chargeable to the importer (Chapter 10) or to the EAGGF (Chapter 11), including the impact of stock fluctuations [(6) - (3)] × (7)	1 677 833,6	749 119 810	2 237 255,5	1 001 071 711
10. Total	3 516 263,7	1 569 942 081	3 749 710,6	1 677 834 870

Part B: Assessment of self-financing

	1987 ECU (B)	1988 ECU (B)
11. Chapter 11 expenditure		
(a) export refund	1 515,8	1 566,2
(b) production refund	33,4	63,0
12. Amount deducted in respect of expenditure chargeable to importers or the EAGGF ⁽¹⁾	1 549,2	1 629,2
(a) 1987 = 446,48 × DR 1,082 × 1 380 523,6 t	666,9	
(b) 1988 = 447,46 × DR 1,089 × 1 897 847,5 t		924,8
13. Balance chargeable to Community producers	882,3	704,4
14. Production levies collected	845,0	755,1
15. Difference ((14) - (13)) ⁽²⁾	-37,3	+50,7

⁽¹⁾ Chapter 11 expenditure only, i.e. excluding processed products, entered in Chapter 25, plus 'traditional' production refunds on 60 000 t (eg. 1987: (9) - (4(b)) + 60 000 = 1 380 523,6 t).

⁽²⁾ The difference is due to the fact that the marketing and the financial year do not coincide.

CHAPTER 7

Community aid for the development of the Portuguese economyREPLIES OF THE COMMISSION**THE REGULATIONS AND THEIR FINANCIAL IMPLEMENTATION***Pre-accession aid*

7.8. The Commission will examine what practical action could be taken in response to the Court's observations.

OBSERVATIONS CONCERNING PRE-ACCESSION AID*Coordination of activity and communication of information*

7.18. Since the beginning of 1988 the Commission has been making a great effort to improve monitoring of the aid in question. As a first step in view of the differences found in the accounting procedures between the departments monitoring the aid, the whole scheme has been computerized, although because of technical constraints this was not completed until June 1989. A very detailed unified picture of the financial situation is now available.

The monitoring departments will moreover visit Portugal in October 1989 to carry out on-the-spot verifications and examine files with the Portuguese authorities and will, together with the *Fundo de Financiamento das Acções Pré-adesão Portugal-CEE* and the Directorate-General for European Integration, assess the success of the first eight years of the pre-accession aid and draw appropriate conclusions for the period to conclusion of the operation in 1992.

7.19 – 7.20. As far as projects in agriculture were concerned there was initially some coordination by the Ministry of Agriculture, which turned out to be inadequate. The Commission, following on-the-spot visits, drew the Portuguese authorities' attention to the situation at the beginning of 1987 and this led to the assumption of responsibility for coordination by the Directorate-General for the European Communities at the Ministry of Foreign Affairs.

7.21 Where the agricultural side is concerned the Commission has continually insisted to the Portuguese authorities that the obligation to transmit reports on the progress of work be respected. From 1988 onwards a serious effort has been made by the authorities to ensure that annual implementation reports are sent regularly and on time and almost all the agriculture reports have been sent. Their content should permit assessment of the state of implementation.

Delays in putting agreements into effect

The visit mentioned at 7.18 will enable the Commission to examine with the Portuguese authorities those projects

whose lack of progress indicates special difficulties. The mission reports will be available to the Court.

7.23. Although it is true that the projects were not carried out before accession the agricultural projects are none the less closely linked to accession and designed to enable Portugal to adjust to Community standards (e.g. extension of the FADN and AMIS networks to Portugal, adjustments to comply with Community provisions on public health, standardization of marketed products, etc.). It should also be noted that the transition period for agriculture lasts up to 1995 in certain cases.

Project financing

7.25 – 7.27. As agreed with the paying agency, at the end of 1988 79,05 % of the first instalment and 58,88 % of the second instalment had already been paid by the Commission in DM.

The Commission will try to persuade the Portuguese authorities to adopt the arrangement recommended by the Court and will examine with them both the best way of ensuring procedural rapidity so as to reduce the volume of assets on deposit and the use to be made of DM project balances and the revenue from the assets in the account.

With completion of the unified monitoring system in June 1989 there is no longer any question of Commission departments using different exchange rates.

7.28. The Commission will ask the Portuguese authorities to ensure that all advances made to projects by the paying agency are drawn from the Portuguese budget and not Community funds.

Fundo monitoring and control of project implementation

7.29 – 7.30. This has been discussed several times with the Portuguese authorities, who agreed with the Commission in March 1988 that verification of the accuracy and regularity of supporting documents would be the responsibility of the *Fundo de Financiamento das Acções Pré-adesão Portugal-CEE*.

7.31. Tables showing the full amounts of Portuguese budget contributions to all projects since the beginning of pre-accession aid were sent to the Commission by the Portuguese authorities on 11 July 1989. Since the beginning of 1989 the summary tables of expenditure sent by the *Fundo* include the amounts paid out by it from the Portuguese budget even where there has been no simultaneous payment from Community funds.

Monitoring and control of project implementation by the Commission

7.32. Since June 1989 the Commission has quarterly tables of expenditure for each project and annual reports on the state of advance of the work. In the case of certain very large projects specific clauses impose other obligations such as consultation of the Commission before issuing certain calls for tender or placing certain orders. Moreover, information visits to Portugal have been a regular occurrence and have comprised review meetings at the relevant ministry, inspection of files at the *Fundo* and on-the-spot visits to projects in the course of implementation. The information gathered allows comprehensive monitoring and should permit assessment of all results expected and achieved by the end of the operation.

From the point of view of economic results, with the onset of the concluding phase of pre-accession aid a comprehensive analysis of the aid's impact should be made on the basis of all data in possession of the different departments, gathered not only from the implementation reports provided by the Portuguese authorities but also from direct verification by inspection on the spot and from review meetings with the paying agency and the national coordinator.

7.33. In regard to the position of officials of the Press and Information Office responsible for co-signature of payment orders the Commission wishes to make the following points:

- verification and detailed monitoring of the projects are carried out by the Commission in Brussels;
- the Commission officials in Lisbon are duly kept informed of events that are likely to justify suspension of payment for a project and they are in a position to acquaint themselves with the overall situation of projects;

— lastly, the Lisbon office has recently been provided with a set of instruments enabling the exact financial situation of projects to be more accurately determined.

OBSERVATIONS REGARDING THE AGRICULTURAL DEVELOPMENT PROGRAMME

National regulations and implementing instructions

7.37. The difficulties encountered in the initial stages over priorities and selection criteria related to the launching of the Pedap and the difficulty of assessing in advance what interest the various programmes would arouse in farmers. Now, in the second stage of the various specific programmes, the Portuguese authorities incorporate indicators permitting more refined selection of projects. The study programme for analysis of Portuguese agriculture set up following adoption by the Council of Regulation (EEC) No 3464/87 modifying the Pedap will include further work on these indicators.

Economic guidelines have been defined in various programmes, on completion of which an analysis will be made by the Pedap Monitoring Committee. The Commission is none the less aware of the importance of assessing economic impact and has accordingly made recommendations to the Portuguese authorities on the occasion of committee meetings and inspection visits.

7.38. The national administration's files on projects have been restricted so far to technical aspects, the economic aspects having been examined more at the level of the programmes as a whole.

7.41. The Commission notes that the programmes have gradually been adjusted to the specific nature of the situation in Portugal. They were negotiated with the Portuguese authorities and have been positively received in Portuguese farming circles. It is true, however, that there are difficulties on the administrative side and these should be examined with the national and regional authorities.

7.42 – 7.43. The Commission notes that Protocol No 25 authorizes structural aid leading to increases in produc-

tion in all sectors in the course of the first stage. Portugal is also exempted during that stage from the Community disciplines applied to the agricultural markets. For four sectors only (wine, olive oil, processed tomatoes and sugar beet) do the disciplines adopted for the Community as a whole apply.

Olive growing

7.45 – 7.46. The Commission has asked Portugal for information on these points for use in discussion of the Court's observations.

7.47. It is regrettable that no decisive action has yet been taken on the olive register, this being due in part to preparation and launching of a call for tenders for its compilation. Expenditure under the heading of preparation of the register is included in the application for reimbursement for 1989.

Irrigation

7.48. The programme has two objectives: small-scale irrigation and provision of water for livestock. It was foreseen that irrigation would lead to an increase in production of maize, sunflower and fodder crops, which given the provisions of Protocol No 25 does not exclude other products. The Commission has, however, asked the Portuguese authorities for additional information on the products mainly affected.

7.49. In view of the smallness of fields it would have been practically impossible to prevent the situation described. In any case little of the wine from vines around these properties is marketed as it is mainly drunk by its producers.

Drainage and soil conservation

7.51. The Commission regrets the poor level of recourse to advisory services and farm plans but is happy that farmers have shown interest in drainage itself. The resulting improvement in growing conditions has direct economic effects. The programme has consequently been replaced by one covering the whole country with the

objective restricted to soil improvement and conservation.

7.52. The Commission has asked the Portuguese authorities to check the points raised by the Court.

Agricultural and sheep-rearing development programme in the Mértola municipal area

7.54 – 7.55. The Commission has asked the Portuguese authorities for details of the findings of the control operation that Ifadap was to carry out following the Court's observations.

Agricultural training centres and health protection associations

7.56 – 7.57. The Commission has expressed its reservations to the Portuguese authorities. It must be conceded, however, that the urgency of certain work and the strong demand for training mean that it is not always possible to take account of the desire to standardize tendering procedures and construction features.

7.58 – 7.59. The Commission is aware of the difficulty of identifying the animals but considers that some control is possible and is asking the Portuguese authorities for details.

CONCLUSION

7.60. The lack of organization and coherence in the programmes is being given particular attention by both

the Portuguese authorities and the Commission in the Monitoring Committee's study programme and in the preparatory work for implementation of the reform of the Funds.

7.61. Protocol No 24 made a distinction between short-, medium- and long-term objectives but Regulation (EEC) No 3828/85 did not take it up. The Commission has on several occasions expressed its concern to the Portuguese authorities regarding implementation of measures dealing with difficult priority objectives such as improvement of land structures. A study programme as provided for in Article 2 of Regulation (EEC) No 3828/85 has now been launched, its formulation having proved complex.

7.62. The Commission points out that Pedap has been and continues to be attentively monitored by the various departments involved. It proposed the creation of a Monitoring Committee, set up following adoption by the Council on 17 November 1987 of Regulation (EEC) No 3464/87. The Committee, which has already held two meetings (in 1988 and 1989), will be primarily concerned with analysing achievements hitherto and proposing the necessary improvements.

Encouraging results have been achieved since Pedap was launched, both financially and as regards approval and implementation of the 21 specific programmes covering a substantial proportion of the range of measures scheduled.

Frequent contact between the Portuguese authorities and the Commission has permitted close monitoring of the various programmes. Ceilings to be observed for EAGGF-Guidance assistance have been drawn up and scrupulously enforced for the various types of operation. The Portuguese authorities have been informed as difficulties have arisen of the attitude to be taken on the eligibility of expenditure incurred.

7.63. The Commission will act so as to take the greatest possible account of the recommendations of the Court in its conclusions to Chapter 7.

CHAPTER 8

The European Regional Development Fund (ERDF)REPLIES OF THE COMMISSION

INTRODUCTION

During the 1988 financial year, the Court made an assessment of the impact of industrial projects assisted by the ERDF. The Commission considers that the following conclusions *inter alia* may be drawn from that assessment:

- in terms of productive capacity utilization and profitability, the results of the industrial projects examined were acceptable;
- however, the influence of the projects assisted on the regional economy and on employment was still confined to their direct effects.

While it cannot be disputed that the new Member States (Greece, Spain and Portugal) have given absolute priority to infrastructures on which their future development depends, it is not surprising, particularly at a time of difficult economic circumstances, that the propensity to invest in industry — all countries taken together — is declining sharply.

The increase in ERDF assistance in the form of part-financing of programmes has contributed to the contraction in the proportion of industrial projects proper, a trend which, in view of the new forms of assistance available such as global grants and interest-rate subsidies, will no doubt intensify as the reform is put into effect.

Job-creation conditions

THE ROLE AND IMPORTANCE OF AID TO INDUSTRY

The proportion of aid to industry

8.6 – 8.12. It is true, as the Court stresses, that the proportion of ERDF assistance allocated to industrial projects is small and that the percentage (if possible, 30 %) which the Member States, in submitting their applications, and the Commission should have endeavoured to ensure in accordance with Article 35 of Regulation (EEC) No 1787/84 (ERDF Regulation) is far from having been achieved.

8.13 – 8.14. The changes in the rules governing the ERDF have enabled policy to be more closely tailored to economic reality, which is characterized in large industries by capital-intensive investment aimed at enhancing competitiveness and in small firms by the removal of an obstacle which prevented them from taking advantage of the assistance available.

Moreover, since the criteria for determining eligibility for regional aid vary from one country to another, the new rules have guaranteed more uniform treatment of Member States' applications.

Industrial projects and the regional development programmes (RDPs)

8.15 – 8.16. The Commission acknowledges that the RDPs on which its decisions have been based have not always been very accurate in defining industrial development policies and strategies or specific objectives capable of promoting job creation. The reform of the Funds, with its consistent and precise definition of the content of Community support frameworks, should make it possible to take better account of the problems peculiar to individual regions and of possible solutions.

THE IMPACT OF INDUSTRIAL PROJECTS ON REGIONAL DEVELOPMENT

Method

8.17 – 8.18. The proportion of projects that have been abandoned is surprising, amounting as it does to a quarter and to as much as a third in some countries. However, over the 11 years in which assessments have been made, the economic situation and world market have been particularly unstable, and a fair number of traditional industries have had to make substantial and rapid adjustments (restructuring, mergers) in order to survive, and this at a time when obvious new gaps in the market have not been opening up.

For the purposes of comparison, it would be desirable (see also the reply given to points 8.19-8.29) to possess the same figures for all projects in receipt of regional aid that has not been reimbursed by the ERDF, since the selection procedure at national level (see the reply to point 8.71 below) generally leads Member States to submit to the Commission only those projects which are considered most likely to succeed. The Commission has asked Member States on many occasions to inform it promptly of any decision modifying national aid arrangements (withdrawal or reduction); an examination of cases in which no payment had been made for four years — the statutory period after which action must be taken — revealed that some projects had been abandoned one or more years earlier without the Member State having notified that fact to the Commission, thereby preventing rapid use of the funds decommitted.

8.19 – 8.29. In order to assess the impact of industrial projects and the quality of ERDF management by examining how effective industrial projects had been in contributing to the achievement of Community objectives, the Court, using a standard questionnaire and

converting the criteria laid down in the regulations into quantified indicators, conducted a survey among a sample of firms which had received ERDF assistance during the period 1975-85.

The Commission acknowledges the Court's effort and, as part of the reform of the structural Funds, it intends to analyse as closely as possible the method used, particularly as regards:

- the sampling techniques applied,
- the quantitative indicators selected, and
- the techniques used for gauging the indirect impact of industrial projects.

As with abandoned projects (see the reply to points 8.17-8.18 above), it would be desirable to possess the same figures for all the projects in a particular region that have received regional aid not reimbursed by the ERDF.

RESULTS

Impact on production

8.30 – 8.42. In these paragraphs, the Court makes a large number of observations which broadly confirm what the Commission departments already knew in a less systematic and precise form.

Thus, more than two thirds of the projects examined reveal a level of production corresponding to 75 % or more of total installed capacities.

Projects involving the extension of activities in existing firms are generally less risky than those involving the creation of new firms: the firm, since it bases its judgment on experience and on demand, is better placed to make a realistic forecast. Consequently, extension projects may tend to be favoured by central government and financing agencies alike.

Investments in peripheral regions have a higher failure rate. The Commission puts this situation down in part to shortcomings in the regions concerned, particularly as regards basic infrastructures (transport, communications), shortcomings which can hamper supplies and

restrict not only commercial relations but also the possibilities of recruiting skilled labour, which sometimes has to be imported.

Likewise, it is clear that the large production lines installed by industries with a national, European or indeed worldwide outlook neither find nor seek specific outlets for their products in these regions, which are characterized by small markets. Account should, however, be taken of what the situation would have been in those regions if the projects had not been located there.

Impact on employment

8.43 – 8.64. It should be recognized that, even leaving aside projects that were not successfully completed, job-creation forecasts have not always been met, particularly where new firms have been created.

However, as the Court itself indicated in its special 1982 report on job creation and maintenance, any attempt to forecast job creation is risky. This is especially true with projects for creating new firms. The Commission would point out that the Court's observations tally with those made by itself on several occasions in reports drawn up following inspection visits.

In traditional industries, which were once major providers of jobs and which have had to undergo restructuring, State aids have tended to favour capital investments aimed, for example, at upgrading factories to a level of automation compatible with competitors rather than job-creating investments.

It has not always been possible, even with the provision of specific training, to find the level of skills required for newly created jobs among a firm's existing staff or among workers made redundant by other firms in the region. This was true primarily of attempts to redeploy steelworkers or, more generally, manual workers in unpleasant occupations demanding above all physical strength and stamina, and older experienced people who have worked in only one or two industries.

In rural areas, firms must learn to live with various traditions — help with harvesting and grape-picking, hunting, etc. — which cause high levels of absenteeism at certain times and must provide social facilities —

canteens, transport services — in order to overcome problems linked with a low-density settlement pattern and with a lack of local services.

In virtually all regions, unemployment affects the same groups: young people, women and older workers. The cause is often a lack of skills or of sufficiently varied work experience to cope with redeployment involving training, or the fact that certain national policies give priority to recruiting young people rather than people who might qualify for other social benefits such as early retirement.

This problem exists in both less-favoured regions and regions whose economy is expanding, and requires a more specific response than that any which the ERDF can provide.

The Commission considers that, in the economic context of the less-favoured regions, the fact that a project safeguards jobs, even if fewer than initially forecast, contributes to the region's development.

The impact of aid on the decision to invest

8.65 – 8.67. It is only natural, as the Court points out, that ERDF assistance should seldom have influenced the decision of firms to invest or their choice of site. This is because ERDF assistance is not generally paid to the investor, but to the administration (national or regional) which has granted aid to the firm.

It is for this very reason that, for a number of years, the Commission has stressed that, as a rule, ERDF assistance for industrial investments has less impact on regional development than ERDF assistance for infrastructure investments.

The only exceptions are those cases in which ERDF assistance comes on top of national aid, but these are few and far between. Indeed, the Member States (and often the Commission) consider that national aid is already at an 'appropriate' maximum level and that there is no need for additional ERDF assistance since this would constitute an unjustified 'gift' to the investor.

Moreover, in those still quite rare cases in which the ERDF part-finances a (national or regional) aid scheme, the recipient firm is clearly not interested in the 'origin' of the aid it receives from the national or regional authority managing the scheme.

GENERAL CONCLUSIONS

8.68 – 8.70. See the replies to the previous points.

8.71. It should be remembered that, under the terms of the legislation previously applicable to the ERDF (Regulation (EEC) No 1787/84, and the earlier regulations), ERDF assistance for industrial investments generally took the form of reimbursements to Member States — or exceptionally in recent years, of part-financing of large projects — of half the aid granted by them under their own regional aid schemes, with the national public expenditure eligible being incurred as from the twelfth month prior to the receipt by the Commission of the application for assistance. This meant that industrial projects submitted to the Commission had already been subject to a two-stage selection procedure at national level, i.e.:

- first, by the national financing agencies (banks, national authorities, etc.) with a view to the granting of national aid;
- and then, subsequently by the national body responsible for selecting, from all applications submitted, those which were to be transmitted to the Commission.

The Member State concerned thus assumed responsibility for the soundness of the project.

In addition to being examined for their eligibility according to formal criteria (e.g. investment of more than 50 000 ECU, location in an area or region covered by a national regional aid scheme), industrial projects selected at national level and submitted to the Commission for an ERDF grant were assessed on the basis of:

- the criteria set out in the Regulation (in particular the project's contribution to the economic development of the region, but also the situation in the industry concerned), and
- the priorities set out in the Regulation (in particular, project located in priority area at national level, industrial project helping to create new jobs as well as safeguarding existing ones).

When Regulation (EEC) No 1787/84 on the ERDF came into force, a method of *ex ante* assessment embodying these criteria was devised by the Commission for use by

Member States in respect of their applications for assistance. The various elements required for this assessment were subsequently incorporated into the application forms. One result was that Member States began to take closer account of them when preparing their applications for assistance.

It should be noted in this connection that it was only after the entry into force of the ERDF Regulation — and then only for large industrial projects (costing more than 15 Mio ECU) — that the Member States were required to indicate in their applications the results of a suitable profitability analysis.

All of the industrial projects selected for ERDF assistance following the aforementioned *ex ante* assessment procedure were submitted for consultation to DG III (Internal Market and Industrial Affairs) and DG IV (Competition) as an integral part of the *ex ante* assessment stage.

Projects giving rise to sectorial objections from those two DGs were withdrawn after a detailed bilateral examination.

The selection carried out within the Commission led to the rejection of 24 % of the applications selected by Member States. The Commission considers that it would not have been appropriate to eliminate some of the remaining projects, particularly as the Commission, ever since the ERDF was set up, has invariably been called upon to increase ERDF financing for industrial projects.

8.72 – 8.73. It is reasonable to believe that the reform of the Funds, by reinforcing the impetus already provided by the NPCIs (National programmes of Community interest) and, in so doing, fostering greater cooperation with regional authorities and by pinpointing more accurately the problems in particular areas, will enable a closer link to be established between aid to industry aimed at promoting job creation and aid to infrastructures. It should nevertheless be borne in mind that, in the run-up to 1992, individual regions cannot live in self-sufficient isolation and will be increasingly dependent on relations with other regions, chiefly through infrastructures, which will still have to be created at national or European level.

Moreover, unless they operate at a strictly local level, firms show a clear tendency, when setting up new plants, to choose sites where infrastructures and services, indeed other firms in the same sector, already exist. The Commission is aware, as a result of its inspection visits, of the cases in which industrial projects have been abandoned because, for example, a rapid access road has not been built.

8.74. As the Court stresses, the reform of the structural Funds should help — through the establishment of Community support frameworks, which are currently under negotiation — to improve the link between ERDF-assisted industrial projects, on the one hand, and the regional and sectorial context into which those projects must be fitted, and the problems which they are intended to solve, on the other.

8.75 – 8.76. The Commission acknowledges the importance of the Court's efforts concerning the *ex post* assessment of the impact of ERDF assistance. As

announced in its replies to the Court's 1987 report it is willing to examine with the Court the method used by the latter to assess industrial projects in connection with the methodology it is developing for the reform of the Funds.

When adopting the Community support frameworks, which it is in the process of doing, and the various forms of assistance, the Commission will do its utmost to guarantee the effectiveness of the measures it will take as part of the partnership with Member States envisaged by the reform of the Funds.

CHAPTER 9

The European Social FundREPLIES OF THE COMMISSION

SPECIFIC OPERATIONS

Introduction

9.1 – 9.5. There is a fundamental difference between the specific operations and the preparatory studies and pilot schemes which they replaced in 1984: specific operations must be part-financed which means that responsibilities are shared with the Member States at each stage of a project, from submission of the application for aid to implementation and checks.

The provisions concerning specific operations were no different from those applicable to ESF measures as a whole, notably as regards rules for submission of aid applications.

We would point out that the specific operations were discontinued on entry into force of the new regulations on the reform of the structural Funds.

Applications for aid

9.6. Renewal of training programmes for several years was approved only where the subsequent programmes involved successive adjustments in the light of previous results.

Admissibility

9.7 – 9.8. The comments on the way the forms were filled in cannot be considered to bear upon certain features peculiar to the specific operations alone. As a rule the information requested on the form was obtained directly or by means of annexes; the sending of the latter was encouraged in the particular case of specific operations. Where necessary the forms were completed during the processing of the aid applications following requests for additional information. As regards point 9.8, the Commission would point out that on-the-spot checks were also made.

Eligibility*Innovatory aspect*

9.9 – 9.11. The Commission would point out that for the purpose of determining the scope of innovation it identified — within the action programmes decided upon by the Council — certain sets of measures regarded as particularly significant to innovation and grouped into three main areas ⁽¹⁾:

- experimenting with new job profiles;
- changing the process of integrating specific groups into society and jobs;

⁽¹⁾ See annual reports on the activities of the European Social Fund, notably the thirteenth (1984 financial year p. 88 *et seq.*) and the sixteenth (1987 financial year, p. 53 *et seq.*).

— restructuring of vocational training.

The 'innovatory nature' of aid applications was assessed by reference to this framework (eligibility criteria): the chief explanation for the large number of applications rejected as not eligible from the outset. The aid applications considered eligible were then examined and the selection made by comparing them on the basis of the degree of innovation. Accordingly, over half the applications submitted for specific operations were rejected each year, mainly for lack of an innovatory aspect. At all events, the two criteria which the Court cites by way of example (see point 9.9: the setting-up of firms and the use of computers) have never constituted *per se* the bases for selection of specific operation projects.

Innovation was also assessed in the light of the socio-economic context and the degree of development attained at regional level. Such assessment aims to encourage the transfer of innovation to the economically weaker regions. Such transfers are not, however, a systematic repetition of experiments carried out elsewhere. Where a transfer was approved it was because the project involved sufficient adjustments giving reason to believe that the innovation could be introduced successfully in a less-favoured region.

9.12. The concept of innovation has been expanded upon, notably in the annual reports on the activities of the ESF (financial years 1984 to 1987) ⁽²⁾. The definition was settled in January 1989. Where the Commission departments considered that a specific operation was being submitted only for financial gain, the projects concerned were rejected.

Examination of effectiveness and exchange of experience

9.13 – 9.14. The Commission has taken no initiative in respect of this kind of operation since it was aware of the shortcomings in the legal background. The Commission would point out that Article 5(3) of Decision 83/516/EEC was not compulsory. Since it did not regard the conditions as particularly favourable, it took no steps in that direction. It reserves the right to examine the matter again in the context of the new regulation.

⁽²⁾ See annual reports on the activities of the European Social Fund, notably the thirteenth (1984 financial year p. 88 *et seq.*) and the sixteenth (1987 financial year, p. 53 *et seq.*).

Selection

9.15 – 9.16. The selection criteria laid down in the eligibility requirements, notably the criterion concerning the 'innovatory aspect', proved to be sufficiently strict so that each year only the applications totalling less than the amount of resources available could be selected. For that reason it was unnecessary to use additional selection criteria pursuant to the management guidelines.

In 1984 (a transitional year and the first year of implementation of the new rules following the review in 1983) some organizations artificially divided their operations covering more than 100 persons into two or more applications to comply with the limit. The Commission stated this clearly in its thirteenth report on the activities of the ESF ⁽²⁾. However, the Commission further pointed out that failure to meet the priority conditions — notably that concerning the 100-person limit — did not have negative effects as the appropriations available enabled all eligible applications to be granted Fund assistance.

9.17. As early as 1984 the Commission defined 12 areas for intervention, later increased to 14, grouped into three main areas (see reply to points 9.9 – 9.11).

(a) By virtue of their innovatory nature the specific operations were expressly intended to form a possible basis for future Fund intervention under the heading of general operations. This principle was laid down clearly in the management guidelines ⁽³⁾. It was also confirmed in the new rules following the reform of 1988 ⁽⁴⁾.

(b) The intervention for target groups who have failed or dropped out constitute only two of the topics identified under specific operations. They are not programmes in the sense that might be given the term nowadays, but are certainly more than isolated interventions without any future or common link.

Implementation and follow-up of decisions

9.18. The problems mentioned here — which are not peculiar to specific operations alone — were taken into

⁽³⁾ For example, Guidelines for 1984 to 1986, OJ C 85/04 of 10 January 1984, point 3, third indent.

⁽⁴⁾ Article 1 of Regulation (EEC) No 4255/88.

account in the context of the new rules following the 1988 reform, the concern being to share responsibilities between the Commission and the Member States.

9.19. The problem of monitoring was generally applicable to the former Fund following the 1983 review. It could not be solved under the regulations in force then. Following the reform of the structural Funds, the Commission now has legal instruments for the purpose of following up Fund intervention. As regards the decommitments, the problem should also be solved under the new programme management, the implementation of follow-up machinery and the improvements in examining aid applications.

9.20. The improvements in hand to the computer systems should bring advances in the direction advocated by the Court.

9.21. The Commission intends to arrange for a breakdown of costs by major training categories and by Member State which should enable analyses and comparisons of expenditure to be made following project implementation. At all events, since 1985 the computer records have contained — for each file — information from which the real costs could be analysed following implementation. The 1978 report also contains details for cost analysis purposes ⁽⁵⁾. The Commission would point out that on-the-spot checks were also made.

9.22 – 9.24. The examination of effectiveness and/or the exchange of experience were priority criteria in the guidelines, but were not applied since the selection on the basis of eligibility criteria alone was sufficient to eliminate operations exceeding the available resources.

The Commission takes the view that under the working conditions obtaining since 1984 it could not have developed its activities any further, notably in respect of the examination of effectiveness and the exchange of experience. Under the new conditions proceeding from the prospects for the doubling of the structural Fund's resources in five years and also from the legal context of the 1988 reform the Commission may develop fresh initiatives.

⁽⁵⁾ See COM(88) 701 final of 2 December 1988, p. 52 and Annexes B, pp. 97 to 175.

Assessment of the results

9.25 – 9.31. Any measure of assessment can be conceived only as part of a series of coherent measures oriented towards attainment of one or more objectives. Programme management, which was merely possible (not compulsory) for the specific operations, would have called for the introduction of a far more detailed set of rules than those proceeding from the 1983 review. The necessary arrangements were laid down under the 1988 reform. As regards point 9.28, the Commission would refer to the reply to point 9.17 (b).

Conclusion

9.32. The Commission acknowledges the limits of the experiments carried out on the basis of specific operations. Today, however, the situation is somewhat different given that — in the context of the 1988 reform of the structural Funds — specific provision has now been made for a detailed set of rules to deal with programme management, follow-up and assessment of the on-the-spot checks and monitoring against a background of responsibilities shared between the Community and the Member States in accordance with the principles of partnership, complementarity and subsidiarity.

Turning to the other matters raised in the conclusion, the Commission would refer in particular to its replies to points 9.15 – 9.17 (effect of guidelines), 9.31 (programme management), 9.9 – 9.12 (eligibility and innovatory aspect) and 9.21 (cost/benefit analysis).

RECOVERY OF UNWARRANTED PAYMENTS

Introductory comments

9.38. In accordance with the rules following the 1983 review, there could be about 24 months between the time when an advance was paid and the time it was paid back, without the debtor being formally considered to be in arrears.

Under the new rules following the 1988 reform of the structural Funds, these periods will be shorter since applications for payment of the balance must be submitted within six months (instead of 10) of the end of the year concerned or actual completion of the measure.

Furthermore, there is no additional three months to enable Member States to submit justification for the expenditure accounting for the advance (if the application for payment of the balance is not submitted by the due date).

As regards exceeding the deadlines set in the debit note, since the 1988 reform of the structural Funds provision has been made for interest to be charged on sums not repaid by the due date in accordance with arrangements to be drawn up by the Commission (see Article 24(3) of Regulation (EEC) No 4253/88).

9.39. Revenue relating to the full amount of an advance which bears the particulars required to identify the individual case is regularized automatically. Cases concerning unrequested repayments covering only part of an advance have to be examined and this has so far been a necessary condition for the issue of recovery orders. Each department responsible carries out the examination in accordance with its timetable; priority is usually given to examination of cases concerning payments. The Commission will take the internal steps required to ensure that its departments establish as rapidly as possible recovery orders concerning cases of partial repayment (computer monitoring of such cases).

Observations on the implementation of the practical measures listed in the memorandum of 25 May 1988

9.42 – 9.43. The Fund authorities will again draw the attention of the national authorities to their obligation to repay unused funds received from the ESF without awaiting a request to do so and to the need to accompany any unrequested payment with the information required to identify the file relating to the repayment as soon as it arrives.

In future, the problems encountered as regards repayment deadlines and the identification of revenue could be solved by the implementation of the monitoring machinery provided for under the rules following the 1988 reform of the structural Funds (Article 25 of Regulation (EEC) No 4253/88).

9.44. See reply to paragraph 9.39.

9.46. Following the work of December 1988 debts were set off for the first time in April 1989. Before April 1989 the simple fact that the Fund authorities had declared their intention of setting off debts in certain cases had

given rise to unrequested repayments. However, the Commission has noted that, in the view of the Court, the setting-off recovery procedure should be applied to the first payment to be made, even if it is an advance. The Member States' authorities will be notified pursuant to the moves mentioned under points 9.42 and 9.43.

9.47. In June 1989 a file of cases where all available means to obtain the repayment requested had been exhausted was passed on to the Legal Service. The secondary liability of the Member State concerned had also been invoked in vain.

9.48. The Commission is pursuing its efforts directed at the Member States with a view to accelerating repayments and reducing as far as possible the number and volume of pending claims; nevertheless, it is aware that as regards the latter, practical results depend largely on action by third parties such as banks which should be supplied with the accurate data needed to identify files.

Other observations on Community procedures

Shortcomings in Community rules and management which explain the size of the sums unduly paid as advances

9.49 – 9.52. The weaknesses to which the Court refers as regards the assessment of applications for assistance form the nub of the problems to be solved under the reform of the structural Funds in 1988. The solution found provides for far more detailed assessment procedures than in the past; via the submission of national plans and the preparation of Community support frameworks they lead on to the stage of operational programmes and individual schemes. Moreover, the implementation of follow-up machinery within a system based on principles such as decentralization and partnership with the Member States (which confers genuine responsibility on the national authorities) should help to reduce to an exceptional minimum cases where advances are paid without any *quid pro quo* in terms of implementation.

Where the calculation of expenditure is concerned, a breakdown of costs by major training categories and by Member State is now being worked out. Such a breakdown should help to prevent most of the situations which culminate in overestimates. In addition, the linear reduction often mentioned by the Member States as a

cause for failure to implement operations, will no longer be used to balance the volume of applications with that of appropriations available. Finally, under the new rules decisions approving applications for aid will now be taken before the operations commence which should encourage the implementation of operations in accordance with estimates.

9.53 – 9.54. Under the new rules following the 1988 reform, Article 24(3) of Regulation (EEC) No 4253/88 lays down clearly that in the event of recovery of unwarranted payments, interest may be charged on sums not repaid.

Furthermore, in its proposal amending the Financial Regulation⁽⁶⁾, the Commission proposed the establishment of a new Article 48 aimed at embodying in the Financial Regulation itself the principle of charging interest where unwarranted sums are not repaid. In the common position adopted on 18 July 1989 the Council was unable to approve this principle. However, it is possible that the situation may be remedied in the context of consultations with the European Parliament.

In any case, even without recognition of this principle in the Financial Regulation (which would be generally applicable), the Commission has to lay down the implementing procedures for Article 24 of the Coordination Regulation⁽⁷⁾ applicable specifically to the structural Funds.

The Commission departments intend to undertake that task without delay in compliance with the procedures laid down in Title VIII of Regulation (EEC) No 4253/88.

9.55 – 9.56. This kind of problem should be solved in the future in the context of the partnership with the Member States, making the assessment of the files fully reliable.

Weaknesses in the procedures for the recovery of unwarranted payments

Establishment of entitlements

9.57 – 9.61. In the statement which it will be sending to the Member States on recovery, the Commission will

⁽⁶⁾ COM(88) 838 final of 21 December 1988.

⁽⁷⁾ Council Regulation (EEC) No 4253/88 of 19 December 1988.

recall the obligation to be notified without delay of any change in the circumstances on which the decision approving assistance was based. In particular, the Member States will again be asked to make repayments without any specific request. The Commission has noted the Court's view that the 10-month period for submission of applications for the final payment is not justified in straightforward cases where advances have to be repaid for operations not carried out.

The Commission will ask the Member States to notify as soon as possible the files for which the general expenditure is equal to or less than the advance.

Guarantee of the successful completion of the operations

9.62. The Commission is looking into this matter. Of the two ideas (guarantee of successful completion and secondary liability), it is the latter which was incorporated in the rules following the reform of the structural Funds in 1988 (see reply to paragraph 9.47).

Procedures for drawing up, issuing and following up debit notes

9.63. No more collective debit notes have been issued since the trial in 1986.

9.64. The due date on the recovery order is fixed automatically by the Accounting Officer on the last day of the month following the sending of the debit note. If that rule were applied by the Authorizing Officer the debit note might arrive at destination too near the due date in view of the lengthy administrative procedures and the number of stages in the procedure.

9.66. The Commission will look into what action it could take on the Court's suggestions.

File management

9.67. An official has been assigned to the account since 1987 in order to establish and follow up recovery orders. In June 1989, the ESF authorities obtained direct access to the CORE computer records.

9.68. The ESF authorities have taken the measures required to remedy this situation.

9.69. This problem will be solved thanks to the monitoring measures pursuant to the rules under the 1988 reform of the structural Funds.

Lost revenue for operations eligible for ESF assistance

9.70. Revenue could be reused thanks to the simplification of the procedural rules in 1987 and inclusion of a special reference in the 1988 budget. This possible reuse is still theoretical, however, since the revenue which could be reused was entered only from June 1988 (date when the 1988 budget was approved) and above all at the end of the financial year.

Comments on the national procedures

Shortcomings in the national procedures for applying for final payment

9.71. As the Court has pointed out, successful functioning of all the rules following the 1988 reform of the structural Funds requires not only the strengthening of Community administrative structures, but also a parallel effort on the part of the national authorities responsible for ESF matters. To this end the Commission intends to make use of its opportunities for intervention in the field of technical assistance following the 1988 reform.

Monitoring of the implementation of operations and monitoring of excess payments (before receipt of debit notes) by the relevant national authorities

9.72 – 9.78. The questions raised by the Court will be solved by implementation of the provisions on monitoring set out in Article 25 of Regulation (EEC) No 4253/88.

Late repayment of debts and insolvency of the final recipients of ESF payment

9.79 – 9.85. Where speeding up repayments is concerned, the charging of interest cannot but have favourable consequences. The Commission departments responsible will endeavour to define as precisely as possible the concept of secondary liability.

Conclusion

9.86 – 9.87. The Commission shares the Court's view that everything possible should be done to speed up the establishment of recovery orders and the identification of revenue. As regards practical measures to be implemented to that end, it would refer to the undertakings given in reply to the various points of the report. The Commission would also point out that it has set off debts against claims in many cases. Lastly, the problems of application raised by all the provisions following the 1988 reform, notably those concerning Articles 21, 23 and 24 of Regulation (EEC) No 4253/88 are now being examined.

CHAPTER 10

Transport

REPLIES OF THE COMMISSION

INTRODUCTION

10.1. The Commission is in full agreement with the Court that infrastructure policy can make an important contribution to the cohesion of the Community. However, it considers that because of the intensive operations of the structural Funds in the peripheral regions, transport infrastructure policy (Article 580) has, in addition, a particularly important role to play in those regions which do not qualify for ERDF assistance.

10.2 – 10.4. The Commission regrets as much as the Court that the Council has not reached agreement on the multiannual programmes as proposed by the Commission in 1986 (medium-term programme)⁽¹⁾ and 1988 (action programme)⁽²⁾. The fact that there is no basic legal act covering a period of several years is the reason why in some respects the action taken to date has not been very satisfactory, as observed by the Court. The Commission is continuing its endeavours to obtain Council agreement on a multiannual programme. To this end, it presented to the Council a communication accompanied by a modified action programme proposal⁽³⁾. The main thrust of this new proposal is to target the programme even more narrowly by concentrating on only seven major projects. It also envisages using the appropriations available for financial support as components of financial packages, particularly interest subsidies.

With regard to the regulations for specific purposes in the period from 1983 to 1988, the Commission would emphasize that all the projects, without exception, selected for Community support under these regulations contributed towards the completion of a network of Community interest as proposed in 1986.

⁽¹⁾ COM(86) 340, 27.6.1986.

⁽²⁾ COM(88) 340, 16.6.1988.

⁽³⁾ COM(89) 238, 5.6.1989.

LINKS WITH THE COMMUNITY'S
STRUCTURAL FUNDS

10.7. The Commission recognizes that the objectives of regional policy and transport policy, while different, do cover common ground when it comes to improving the accessibility of disadvantaged regions.

Improving coordination between these policies and their financial instruments is a constant concern of the Commission and this is why, for example, the Directorate-General for Coordination of Structural Instruments (DG XXII) was set up in 1986.

As far as transport is concerned, it should be remembered that there has always been cooperation between the Commission departments responsible: the Directorate-General for Transport (DG VII) is consulted on the projects of the Directorate-General for Regional Policy (DG XVI) and vice versa. Moreover, Article 2 of the proposal for an action programme⁽⁴⁾ contains the express provision that any of the Community's financial instruments may be used for transport projects of Community interest.

COMMUNITY DECISIONS TO GRANT
SUBVENTIONS

10.8 – 10.10. The Commission would stress that its authority regarding the selection of projects has never been compromised. It feels that it is important not to underestimate the effect, on a Member State's decision concerning a project, of the possibility of obtaining financial support. The Commission also considers that granting financial support enables the Community to

⁽⁴⁾ COM(88) 340, 16.6.1988.

secure completion of those projects which are most important for the network of Community interest.

It is clear that with a multiannual programme adopted by the Council the Commission could take more upon itself and urge the Member States to submit applications for projects of priority importance to the Community but not yet started. Even so, the long lead-times (8 to 15 years) required for planning and completing projects must be borne in mind. In any case, the Commission can only select those projects for which a financial contribution from the Member State is guaranteed.

THE MEMBER STATES' TREATMENT OF FUNDS RECEIVED UNDER THIS PROGRAMME

10.11 – 10.14. The Commission agrees with the Court that Community support should not have the effect of correspondingly reducing the national budget allocated to the transport infrastructure sector.

The Commission first tried to solve this problem by making provision to channel grants direct to the authorities or undertakings concerned or to the bodies authorized to receive Community support. But this proposal was rejected during discussions in the Council because Member States insisted that grants should be paid to them.

As an alternative solution, the Commission therefore plans to introduce into all future grant decisions a restrictive clause preventing Member States from using grant funds for expenditure other than transport infrastructure.

TRANS-EUROPEAN ROUTES

10.15 – 10.16. The transport infrastructure network of Community interest consists of national inland sections and frontier sections. The Commission agrees with the Court that transfrontier links should be given the attention they deserve with a view to completing the Community transport network. That this has been done will be clear from the list of projects for which Community support has been granted.

With regard to the two links mentioned by the Court, the project for a British road link to Holyhead and Ireland is

one of the projects given priority in the recent communication to the Council ⁽⁵⁾. The Commission is also aware of the urgent need to improve the road in Spain from Valladolid to Vilar Formoso in Portugal and hopes to find a solution involving, if necessary, the ERDF.

THE SIZE OF THE COMMUNITY SUBVENTION

10.17 – 10.20. The Commission considers that, since Community intervention is designed to act as a catalyst, high rates are not necessarily essential to get projects started.

The actual rates of support vary from one project to another according to their individual financial viability and thus depend on the various packages put together to finance them. In future, the Commission intends to provide fuller details of the kind of financial package put together for projects receiving support, and this should demonstrate more clearly that Community action is being taken on a sound basis.

DELAYS IN CARRYING OUT ASSISTED PROJECTS

10.21 – 10.23. The Commission can confirm that, besides encouraging new projects, the aim of its programme is to speed up the implementation of projects which are in the Community interest. The Court mentions projects whose original schedules have suffered long delays. These are due in part to unexpected technical difficulties and in part to lengthy official procedures. It may also happen that budgetary problems prevent Member States from keeping to schedule. Given the high level of national funding, the Commission has to acknowledge the problems that Member States have sometimes come up against.

The lessons to be learned from this are firstly, on the one hand, that in future the Member States should be more cautious when drawing up their plans, and secondly, that in its grant decisions the Commission should allow for the

⁽⁵⁾ COM(89) 238, 5.6.1989.

risk of delays and should require the beneficiary State to provide guarantees that deadlines will be met, possibly with a financial penalty clause.

DELAYS IN SUBMITTING CLAIMS FOR LATER TRANCHES OF SUBVENTIONS

10.24 – 10.26. It is true that delays by the Member States in submitting payment claims do cause the Commission problems in managing the budgetary payment appropriations. However, the Commission attributes the delays to cumbersome national administrative procedures.

MONITORING BY THE COMMISSION OF THE IMPLEMENTATION OF THE TRANSPORT INFRASTRUCTURE PROGRAMME IN THE MEMBER STATES

10.27 – 10.29. The Commission has always carried out on-the-spot checks of all projects after completion, before paying the final tranche and closing the accounts. However, since this policy has been running only since 1982 and because of long lead-times only a very small number of projects have been completed.

10.30 – 10.31. The Commission recognizes the value of on-the-spot inspections to supplement the checks made on the basis of interim reports. The Commission has prepared a programme of on-the-spot visits to the main current projects for the second half of 1989. Moreover, at the meeting of the Infrastructure Committee on 20 April 1989, the Commission earnestly requested the government representatives to provide detailed documentation on the progress of projects, notifying any changes which had occurred. This request will be systematically repeated at future meetings of the Committee.

The Commission is also planning to include in future decisions clauses which require that Member States provide annual reports.

10.32. So far the Commission has never, after discussion with the Member States concerned, considered that suspension or cancellation of financial support is justified.

10.33. The Commission is aware of the importance of monitoring programmes and for this reason it has drawn up a programme of on-the-spot examinations; and it is planning to require Member States to provide more information, as explained in its answer to points 10.27-10.31.

CONCLUDING REMARKS

10.34. It is the Commission's opinion that, allowing for the many constraints described above, the measures taken since 1982 merit a more positive assessment (see answers to points: (a) 10.8-10.10, (b) 10.11-10.14, (c) 10.17-10.20 and (d) 10.21-10.23). The Commission would emphasize that in spite of the many difficulties it has managed to bring about the completion of a large number of projects with important implications for the network of Community interest.

10.35. The Commission is careful to pay particular attention to projects actually in frontier areas (or in coastal areas). Nevertheless it does recognize that it is also important to improve internal links with these projects in the Member States, particularly where there are bottlenecks, since they form an integral part of the network.

10.36. See answer to points 10.21-10.23 and 10.33.

10.37. The Commission is continuing to do everything in its power to obtain agreement from the Council on the amended action programme for the period up to and including 1992. One of the main points of the communication is, precisely, concentration on a limited number of projects. They all relate to trans-European routes of indisputable Community interest.

10.38. In order to improve links between the transport infrastructure programme and the structural policies, the Commission will ensure that its departments work even more closely together to implement or prepare Community regulations. More frequent use of financial packages for infrastructure projects, as proposed on 5 June 1989, ⁽⁶⁾ will mean the direct involvement of all departments or institutions concerned with the preparation of these combined funding packages. Moreover, the Directorate-General for Transport will be systematically associated with projects covered by Community support frameworks.

⁽⁶⁾ COM(89) 238, 5.6.1989.

CHAPTER 11

Financial and technical cooperation with non-member StatesREPLIES OF THE COMMISSION

GENERAL

The Commission would like initially to make two remarks of a general nature: in the case of food aid, the Commission — as compared with other aid donors — makes a special effort to monitor the use of counterpart funds; furthermore, the management of these funds must take into account the country's macroeconomic conditions, and cannot therefore discount the monetary, budgetary and financial implications which any decision on the allocation of resources may have. That is why the actual use made of the counterpart funds must be examined case by case and cannot be governed by rigid general rules which would not take into account the specific situation peculiar to each country.

**COUNTERPART FUNDS FROM FOOD AID
IN SOME AFRICAN AND ASIAN
COUNTRIES**
Introduction

11.1 – 11.2. It is laid down in Council Regulation (EEC) No 3972/86 that food aid intended for sale should be used to make a direct contribution through counterpart funds to the execution of annual or multiannual development projects, sectoral operations or development programmes, and in particular those which encourage food production in the countries concerned.

The use of counterpart funds as laid down by this Regulation is not confined solely to projects which further the agricultural development of the beneficiary countries. The interpretation of these provisions must not in fact be too restrictive in order to encourage, as far as possible, the development of these countries.

With the reform of food aid at the end of 1986, the Commission progressively tightened up the procedures for the establishment and use of counterpart funds, as follows:

- shorter deadlines for the establishment of counterpart funds (three to six months after the arrival of the products);
- stricter conditions governing sale (local prices) and the level at which funds can be established (world prices);
- special accounts requiring two signatures and bearing interest (where this is compatible with the beneficiary country's religious practices);
- stricter and more systematic monitoring of the use of resources.

The effects of the reform of food aid had not yet fully made themselves felt in all countries.

*Confirmation of previous studies***Composition of resources**

11.3. The Commission considers that the beneficiary countries' economic difficulties should not be underestimated.

Losses or theft occurring during transshipment, warehousing or overland transport are usually the result of inadequate port infrastructure and/or national means of transport. The Commission is aware of these problems and has amended the rules in order to assume greater responsibility for transport up to the delivery stage. Supervision of the mobilization of the food aid by monitoring agencies has reduced the problems of loss or theft during transport.

Unforeseen circumstances (drought, flood) may cause the Commission to change the delivery terms and distribute the food aid free of charge. In such a case the change has to be justified by the need to avert an economic disaster.

The possible charging of the costs of unloading or warehousing, where applicable, against the proceeds from the sale cannot be considered excessive. It may even be economically justifiable to bear such costs in order to prevent deterioration during storage or distribution, which would ultimately have much more serious consequences for the beneficiary country.

The Commission nevertheless shares the Court's view that the products must be sold at a sufficiently high price so that they are not in competition with local products. The Commission would nevertheless point out that selling prices must correspond to the prices normally charged for equivalent products on the beneficiary country's market, in order to allow the products to be marketed.

These general rules must nevertheless be applied specifically in relation to the country's economic situation. It is true that, since there are a large number of beneficiaries within the one country, revenue is built up as sales transactions occur and not all at once, i.e. following the delivery of the goods at the port. The Commission has changed the conditions governing the granting of aid in

line with the Court's wishes, so as to reduce the time taken to establish the funds.

Use of funds and other types of allocation

11.4. Wherever possible, the Commission endeavours to set time-limits for the use of the counterpart funds.

11.6. The Commission considers that the principle of this type of financing represents an excellent form of use in development terms. The Commission is therefore of the opinion that it is not really possible to exclude uses such as those contested by the Court (Senegal, Mali), particularly if the country concerned has launched an economic adjustment programme which requires very careful use of counterpart funds.

The use of counterpart funds in projects financed by the EDF (Zambia) or other suppliers of funds (Mauritania, Bangladesh) is not only desirable but is actually encouraged. A country is not asked to incur further investment expenditure when there are not enough funds to finalize the financing of projects already under way.

11.7. From 1987, the Commission has applied provisions in order to ensure that, in the agreements with the beneficiaries on the implementation of food aid, the conditions governing the establishment of the funds are stricter and more explicit and transparency of the management of the funds is guaranteed.

These funds must be established within, at the most, three to six months, at world delivery prices, i.e. at the price which the beneficiary would have paid if the goods had been imported. A rapid decision must be taken, by common accord between the Commission and the beneficiary, on targeted and well defined projects.

These funds must also be used mainly but not exclusively for rural development projects, account being taken of the economic, climatic and sociological difficulties experienced by the beneficiary countries.

New types of application for counterpart funds

Multilateralization of counterpart funds

11.8 – 11.10. The programme for the restructuring of the cereals market (PRMC) in Mali is still very frequently quoted as one of the examples in Africa of successful cooperation among food donors, resulting in fruitful discussions between these donors and the government on national cereals policy reform.

The Commission also considers that the administration of the PRMC should be further improved. That is why it will shortly present to Mali conditions governing the use of the next instalment of Community aid which should enable it to be kept regularly informed of the destination of Community funds, the use being made of them, and also the financial management of the funds and accounting procedures. A deadline will be laid down for the use of these funds (see also the reply to point 11.3 concerning the supervision of the delivery of the aid).

11.11 – 11.12. The substitute aid was provided to ensure continuity of revenue for financing development projects.

Food aid is granted by the Commission only in the event of a food shortfall in the recipient country. The counterpart funds generated by the sale of such aid are needed throughout the commitment period when used in multiannual programmes. They are therefore paid direct if the recipient country has a surplus in a given year (in kind in the case of Mali).

Senegal has only once received substitute aid and the following year did not receive any (food or substitute) aid from the Community since the Community was not bound by a multiannual commitment.

Financing of food strategies

11.13 – 11.15. The introduction of food strategies and their financing are based on the results expected in the medium and long term. The aim is to enable a country to

achieve self-sufficiency in food; the focus should be on products which already form part of the population's diet and for which it has the necessary human and physical production capacities.

The food strategy takes into account existing consumption requirements, through food aid which corresponds to nutritional habits; the proceeds from the food aid are incorporated into an overall policy of support geared to increasing local production in order to meet these consumption requirements in the longer term. As stressed by the Court, beneficial effects have already made themselves felt (Senegal, Mali). Furthermore, seasonal purchases and storage operations have also had convincing results. In Mali, the use of resources from the PRMC (including financial contributions from the Commission) enables products to be supplied from surplus areas to shortfall areas.

Conclusion

11.16 – 11.17. Since 1987 the Commission has set in place machinery for monitoring effectively the management of counterpart funds. The conditions governing the sale of products and the establishment and use of counterpart funds have been further improved. As a result of the reforms introduced by the Commission a clear improvement in the way counterpart funds are established and managed is now discernible.

Information is now more systematically available, and reports are provided regularly. Monitoring enables improvements to be made. The funds are not managed in a sophisticated way, any more than the food strategies are, and no outside interference is caused in the beneficiary countries' administration. On the contrary, they constitute general policies, which are drawn up in conjunction with the beneficiaries and in coordination with the other partners, and which take account of the beneficiary countries' changing economic situations.

Lastly, the Commission would point out that a study is at present being conducted by an outside consultant with the aim of improving the accounting administration of the system.

COMMUNITY AID TO PAKISTAN

Financial and technical cooperation with Pakistan

Delays

11.19. The question of delay in implementation has long been recognized by the Commission and is, as the Court's report states, structural in nature. In addition to the reasons quoted by the Court there is also a constraint inherent in the federal system of government in Pakistan. The Commission has been attempting to reduce these delays as much as possible, in particular through the Commission's Delegation in Islamabad, and has been to some extent successful, in particular in relation to financial transfer to projects.

Planning error

11.20. The Commission considers that the problems are not caused by a planning error as such but by factors which occurred during implementation. The Court has quoted as an example of poor conception the solar energy project, NA 80/08. This project was conceived as a pilot project, in locations which had been the subject of a written assurance by the Government of Pakistan that the national grid would not reach those regions in the foreseeable future. During implementation the GOP had some difficult staff problems which led eventually to the sacking of the project manager. In addition the Pakistani Government was unable readily to identify possible alternative sites for the project, which eventually led to the Commission's proposal to terminate the project with expenditure only at 50.1 % of commitment. The roads project (NA 84/16) in Baluchistan was conceived as an emergency short-term support for refugees in the region. Long-term planning was not therefore given the emphasis that would have been appropriate were the project conceived for the benefit of the Pakistani population.

11.21 – 11.23. Since the initiative for the livestock project (NA 79/4) as well as project administration rested with the Asian Development Bank (ADB), the role played by the Commission in the preparation and implemen-

tation was relatively limited until it was noted that in some project elements there were major difficulties. The project was indeed ambitious and the Commission had no grounds to question at the outset the managing capacity of the ADB. The Community-financed components had received a lower priority than the Bank's own financing. This had, *inter alia*, led to an imbalance in production of milk affecting the project as a whole. For that reason the decision to terminate the administration agreement was taken in 1987, and the remaining elements of the project are now being successfully administered by the Commission.

11.24. While there have been long delays in the implementation of the Karachi fisheries project (NA 81/1), once the structural difficulties had been overcome, such as those mentioned, the project works commenced and construction is now under way as expected. While there have been losses because of the delays, the benefits for future fishermen and consumers are undiminished.

Technical assistance

Pakistan's reticence

11.25. The Commission agrees that the utility of technical assistance in a project is sometimes challenged by a recipient country. There is often a feeling that the comparatively high cost of expatriate technical assistance means a diversion of available funds from other areas, for example equipment purchases. In addition the recipient, erroneously in the case of the Community grant, sees this as a charge to the country. However, the position of the Commission is generally as follows:

The technical assistance requirement is determined in the light of the nature and activities of a project. The resultant cost is added to the other project costs and will not therefore reduce the activities planned. The important point is that the Commission clearly explains and the beneficiary clearly accepts all that is involved in a project before it goes ahead. Moreover, the evolution of the Community's cooperation with Asia now demonstrates a need for technical assistance in the area of management, and, not only at the level of technical transfer, leading to a structure including a 'Management Unit', incorporating technical assistance, responsible to the national administration for project implementation.

With regard to the solar energy project, the Pakistani authorities, who agreed originally that a turn-key installation was appropriate, did not permit the completion of the contract awarded to the suppliers of the solar station with regard to installation.

In the Buner development project the level of technical assistance was reduced following an assessment of need for effective project implementation. The Commission is satisfied that the level of technical assistance finally decided for this project is appropriate.

Additional work

11.26. Article 13 of the contract concluded between the beneficiary government and the consultant referred to a list of possible additional services, linked with those provided for under the terms of reference of the contract. These additional services could be requested by the contracting authority, or proposed by the consultant and approved by the contracting authority. They were accepted by the Commission's departments, and no riders to the contract were required. On the basis of this Article, the Commission paid DM 358 000 for the additional works invoiced by the consultant. Since September 1986, the Commission has nevertheless demanded that a rider be attached to the contract for any additional service.

Pakistani contribution to projects

11.27. The Commission has been very careful in the choice of projects in Pakistan in recent years to limit the participation if possible to one lead agency with, if absolutely necessary, a clearly defined methodology for liaison with regard to specific activities.

Transparency of Pakistani financial networks

Choice of partners

11.29. Where it has noted difficulties with cofinancers, the Commission has taken the appropriate action to ensure that Community funds have been utilized effectively.

Maintenance

11.30. The Commission recognizes the difficulties with regard to maintenance, and takes every opportunity to stress this need in discussions with the Pakistan Government, especially since the government authorities are normally responsible for these recurrent costs, supported when appropriate by the Community for the necessary equipment, etc.

Aid to Afghan refugees in Pakistan

General remark

The Commission wishes to stress the humanitarian nature of this aid; it is being provided as a result of an initiative by Parliament, in response to the obvious need for action in the face of a problem which is constantly worsening. Since 1984 the Commission budget has earmarked financial resources under Article 936 for refugees, displaced persons and others who have left their country of origin in Latin American or Asian developing countries, at an intermediate stage immediately following the emergency stage and preceding the definitive integration stage, involving either integration in a host country or return to the country of origin. These are intermediate measures designed to facilitate and support the afflicted populations' own efforts and they are usually implemented by international organizations and/or the appropriate NGOs.

Absence of management rules

11.32. In the light of the objectives of this form of aid and the resulting need for quick decisions, and great flexibility in methods of intervention, it is difficult to compare this aid with conventional development aid as provided for by Articles 930 and 931. The same is true, all other things being equal, of the cofinancing of development microprojects worked out and implemented by NGOs (Article 941) on their own responsibility.

Initially, the Commission adopted a pragmatic approach with the aim of using the resources entered in the budget for this purpose as quickly and as effectively as possible, but methods of intervention and financial procedures were subsequently worked out (financing agreements and standard contracts) and they have been constantly improved in the light of the experience and comments of the supervisory authorities.

Multiple financing

11.33. It is true that, for certain projects, the Commission has had to accept multiple financing, and this makes it more difficult to audit the accounts. This is due either to UNHCR internal rules, which exclude the financing of expatriate staff and administrative costs, or, in certain cases, to inadequate resources under Article 936.

The Commission therefore adopted the principle that, from the beginning of 1989, it should no longer accept multiple financing, other than for very large projects. Even for these projects, it now requires precise identification of the project components covered by Community financing. In all cases, the NGOs must finance, from their own resources, at least 15 % to 20 % of the cost their projects.

In the specific case of the NGO AICF, the AICF had insisted on its autonomy and did not accept a contract through the UNHCR. In order to avoid interrupting the health programmes for refugee women and children, the Commission therefore financed some of the activities direct with the AICF, in particular those not covered by the UNHCR (expenditure on expatriate staff, administrative costs), and others via the UNHCR. The formula was also chosen as a way of keeping a closer check on the financial management. A clarification is also called for concerning UNHCR-NGO relations: the UNHCR does not finance NGO projects but uses NGOs to implement its programmes.

11.34 – 11.35. The cofinancing with the NGO *Solidarité Afghanistan* of a vocational training centre in Peshawar was explained in detail in the Commission's preliminary position transmitted last May. The Commission cannot share the Court's view, since the training centre, which also serves as a hospital, is indeed being properly used. The final implementation report on the project has arrived. It is true that the building costs were higher than planned, since the building area was extended, and a training scheme for Afghan workers which was not initially planned must be considered as useful preparation for the workers' return to their country. The Commission bore only 60 %, and not 100 %, of the building cost. The project did not lack precision, but the NGO had to cope with cofinancing difficulties because other sources of financing did not honour their undertakings. It is nevertheless true that the Commission also detected some problems of consistency in the financial management in Peshawar and Liège, the NGO's head office.

11.36. The Commission shares the concern expressed by the Court. Before any decision is taken on financing, the uncertainties regarding content and financial com-

ponents must be dispelled. In certain cases it is difficult, however, to obtain a precise definition.

Relations with the UNHCR

11.37. As regards the financing of projects with the UNHCR, account should be taken of the specific role played by that organization. Its main purpose is not to 'administer finance for refugees' but to provide legal protection for refugees and ensure that the relevant international conventions are applied. The UNHCR is nevertheless increasingly called upon to administer activities of a social and economic nature for the refugees under its protection. The implementation of these projects is often handed over to UN operational agencies (such as the Office for Project Services, the World Health Organization, the International Labour Office) or to NGOs, and this does indeed cause certain complications in financing or the allocation of responsibility.

The Commission has therefore made it a rule to finance through the UNHCR activities which are geared to self-sufficiency projects for refugees and which tie in with the UNHCR's protective role. This difficult role is made easier when the UNHCR is at the same time the vector of humanitarian aid, since this greatly enhances its power of negotiation with the government authorities.

In cases where legal protection of refugees is not a requirement or where provision has already been made for such protection, the Commission considers it preferable to give direct support to bodies or departments that are engaged in the supply of aid to refugees.

The rules described above were applied when the decision was taken this year to extend support for AICF operations in Pakistan's Baluchistan province.

The Commission has excellent working relations with the UNHCR: as a result of the working meetings and close coordination introduced a few years ago, there has been a considerable improvement in the transmission of reports consolidated on an annual basis. The fact that the UNHCR programme/project is subject to an annual budget creates problems, however, for multiannual refugee settlement projects.

Community food aid to Pakistan

11.39. The Commission is in discussion with the Government of Pakistan with regard to the utilization of the counterpart funds, which will be used to support Pakistan's own rural development programmes.

11.40. The Government of Pakistan requested the Commission to redirect Community food aid to the Thar desert region. The agreement was given on condition that the World Food Programme (WFP) be charged with the supervision of the redistribution. While they attempted to carry out these tasks to the best of their abilities, for an extended period there were major security problems in the region. Nevertheless, a report on mobilization was finally presented to the Commission in 1989.

11.41. The agreement between the UNHCR and the WFP dates from 1987, but was not actually applied until 1988. Food aid from the Community for Afghan refugees was not made available to the WFP in Pakistan until 1988; before that it was forwarded by the UNHCR. Since the food aid was mobilized in the second half of 1988, the first report concerning arrival and/or distribution reached the Commission in February of this year and it was sent to the Court.

11.42. The NGOs' local partners do not always have the training required to produce implementation reports. In order to make matters easier for them, the Commission is at present drafting a model to be used for reports, and this model will be sent to all the NGOs to enable them to meet their obligations more easily.

Conclusion

11.43. As regards aid to Afghan refugees, the Commission notes that the visits to the field made by the Court representatives enabled them to ascertain, as Commission staff and consultants had done, that the operations provided for in the projects examined were useful and had been carried out effectively and efficiently for the benefit of the refugees.

The Commission considers that management procedures must remain as flexible as possible. They are internal rules aimed at rapid, effective implementation, combined with optimum supervision. These rules are being constantly improved and the Commission will take the Court's remarks into account.

CHAPTER 12

Staff and operating expenditureREPLIES OF THE PARLIAMENT

STAFF EXPENDITURE

Management of interpreters

12.10 – 12.11. Since it became operational on 1 April 1989, the GERI data-processing system ('management of meetings and interpreters') has enabled Parliament to obtain complete statistics on the number of interpreting days worked by interpreters. It also simplifies the task of recruiting and allocating interpreters. (The 'management of meetings' function of this system has been available since 1 February 1988).

Observations applicable to a number of institutions*The Agreement with the IACI and application of the Agreement*

12.12. (a) The remuneration for which Article 5 of the Agreement with the IACI provides is fixed for a full working day and is indivisible (Article 13 of the IACI code of professional ethics). Consequently, interpreters are available for each full day covered by their period of employment.

However, in order to reduce the costs of accommodation, waiting and travelling and the *per diem* allowance, interpreters take up their duties at the beginning of the first meeting on the first day of their employment. Any other arrangement would result in an unjustified increase in the costs of interpretation.

12.12. (b) The rates of the tax imposed on the remuneration of part-session auxiliary interpreters are not arbitrarily fixed by Parliament's administration; these rates are applied by analogy with the provisions of Regulation (EEC) 260/68 on the tax applied for the benefit of the European Communities; they are also applied by the administrations of the other institutions.

In cases 43/84 and 111/84, the Court rejected the claim that the status of a freelance interpreter is the same as that of a temporary or auxiliary staff member, mainly for reasons to do with the duration of the contracts involved. Since Article 78 allows exceptional arrangements for the recruitment of part-session auxiliaries the reason put forward by the Court in the above two Cases would seem to be inapplicable to the case of part-session auxiliary interpreters. Besides, the application by the European Parliament of Article 78 to the case of its part-session auxiliary interpreters was not criticized by Advocate-General Darmon in Case 43/84.

12.12. (c) The management centres in Brussels and Luxembourg undertook a joint study to determine whether freelance interpreters were fulfilling the obligation to have 'one place of business at a time'. No inconsistencies with financial implications were found in the declarations examined. The services concerned will continue to carry out checks at regular intervals.

Agreements in respect of the reimbursement of expenses

12.13. The fixed-rate method used by Parliament has the advantage of being easy to apply and requiring few staff. As the Court remarks, this method gives virtually the same result (a different of 1 ECU) as the real cost method.

Management of interpreters by Parliament and the Commission in Luxembourg

12.14. The situation described by the Court results from the application of the provisions of Articles 8, 9, 29, 30 and 31 of the IACI Agreement.

Absence of computerized management methods

12.25. Parliament installed a computerized management system of its own because the system in Brussels was not transposable. According to a data-processing consultant engaged on this project, there were serious flaws in the Brussels system. In the first place, it was of a relatively old design, having been brought into service 12 years earlier. Secondly, it had been developed on an ICL system, for which Parliament had neither the equipment nor the expertise. Thirdly, adapting the Safir system would have taken a long time and been six times more expensive than developing the GERI system. And fourthly, potential users had expressed certain criticisms about the Safir system. In these circumstances, and in accordance with the conclusions of the data-processing consultant, it was decided to develop the GERI system. On 1 February 1988, the 'meetings' functions of this programme were brought into operation, while the 'management of interpreters' functions were brought into service first on an experimental basis and then, on 1 April 1989, on an operational basis.

12.25. (a) Selecting the interpreters to be employed is only one of the many tasks that have to be performed by the Heads of Division of the Directorate for Interpretation. They must also keep a watch on the quality of the

interpretation provided and assist with the professional training of interpreters.

12.25. (b) The professional profiles of interpreters and recruitment costs have always been regarded as key criteria for the selection of freelance interpreters, even before the installation of data-processing facilities. There are in fact a number of non-computerized documents, which are well known by the interpretation service and regularly used, and which give valuable assistance to the official responsible for selecting freelance interpreters.

12.25. (c) An analysis of the working time of interpreters must also take account of the consequences of the cancellation or alteration of meetings, which frequently occurs in all the institutions concerned (Parliament, Commission and Court of Auditors). All of the resources made available for meetings and, in particular, the interpretation facilities, have to fit in with the timetable and venue fixed — subject to change — by the political authorities.

Daily subsistence allowance

12.26. The amount of the daily subsistence allowance is that paid to officials. It is slightly higher than the amount applicable in the other institutions, but it must be pointed out that, consequent upon the decision of the Bureau of 13 May 1986, the rate applied by Parliament is moving closer to that of the other institutions. The discrepancy should disappear next year. Parliament is prepared to join in the efforts to achieve harmonization in this area.

REPLIES OF THE COUNCIL

STAFF EXPENDITURE

Agreements in respect of the reimbursement of expenses

12.13. It is true that, in respect of the JICS, the Council is in the position of a client. Until now, it has not been involved in establishing the fixed sum paid for each interpreter. It is studying the possibility of obtaining fuller information in order to obtain a clear picture of the situation.

12.27 – 12.28. The Council does its utmost to ensure that dates for medium-term meetings are adhered to. However, the constant development of dossiers makes it very difficult to keep to a timetable planned far in advance. Given this situation, the Council authorities are obliged to plan for meetings even if they are not absolutely confirmed.

The Council's share of the total interpreting days managed by the JICS is about 40 %. The Council thus accounts for approximately 40 % of the JICS's general expenditure, which explains why this expenditure is invoiced as a fixed sum expressed in interpreting days, in particular of the month of August.

The Council is to undertake a thorough examination of invoicing methods, with the relevant department of the JICS, to help it to improve the system and overcome difficulties.

12.29. The problem here was due to two factors:

- the late arrival of JICS invoices (normally three to four months after the services provided);
- a considerable increase in the number of interpreting days over and above what had been estimated, and

the considerable increase in the daily rate, the amount of which is known only at the end of the financial year.

To deal with these difficulties, decisions on the commitment and payment of all available funds are based on a provisional invoice which the JICS sends before the end of the year.

12.34. As stated above, a joint effort by the JICS and the Council is under way with a view to greater transparency of operations.

REPLIES OF THE COMMISSION

STAFF EXPENDITURE

Interpreting expenses

Introduction

12.4. The management role of the European Parliament and the Commission in Luxembourg takes the form of periodic consultations and the sharing of administrative tasks.

tax pursuant to Article 78 of the Conditions of Employment of Other Servants. The Commission decided that, for the sake of equality of treatment, 'the arrangements deriving from Article 78 of the CEOS, solely as far as taxation is concerned, should be extended to all freelance interpreters engaged by the Commission on behalf of the various Community institutions, all of whom may be required to service Parliament's sittings, and therefore to make them subject to Community tax'.

(c) This matter has been examined jointly by the management departments in Brussels and Luxembourg, which did not find any incorrect statements with financial implications. However, the departments concerned will carry out periodic checks.

Management of interpreters

12.8. The Commission would point out that it does not have any permanent interpreting staff in Luxembourg.

Agreements in respect of the reimbursement of expenses

Observations applicable to a number of institutions

The Agreement with the IACI and application of that Agreement

12.12. (b) Since 1983, conference interpreters engaged on behalf of Parliament have been subject to Community

12.13. Updated invoicing arrangements for the Safir system were forwarded to the institutions concerned in August 1989 by the JICS (Joint Interpreting and Conference Service). The departments in Brussels and Luxembourg will endeavour to harmonize their procedures.

Brussels management*Reutilization*

12.16 – 12.17. In accordance with Article 22 of the Financial Regulation of 22 December 1977 reutilization operations, in both revenue and expenditure, must be recorded in special accounts appearing in the Commission's revenue and expenditure account.

The purpose of the system of reutilization, in both design and operation, is to prevent an excess of appropriations in Item A 1170 (Freelance JICS interpreters). The revenue, incorrectly referred to by the Court as appropriations, is used in the course of the financial year following the year in which it was received.

The amount of revenue recovered in 1987 for reuse in 1988 totalled 17,0 Mio ECU at 31 December 1987. During 1988 the Commission, in accordance with the rules in force, spent a total of 15 Mio ECU on emoluments for freelance interpreters. The revenue which had not been used at 31 December 1988, totalling 2 Mio ECU, was entered in Article 540 of the statement of revenue (Miscellaneous revenue available for reuse (Article 22 of the Financial Regulation) but not used).

Between 1 September and 31 December 1988 the Commission recovered a total of 20 Mio ECU in repayments from the other institutions in respect of the services of freelance interpreters provided and paid for by the Commission. This amount has been used to pay freelance interpreters with effect from 1 January 1989.

System of expenditure

17.18. (a) Data-capture is the responsibility of two different units. Furthermore, payment is not made until the data have been checked against the programme for assigning interpreters to meetings as implemented. There are plans to assign responsibility for preparing the data concerning payments to a separate financial department.

(b) Under the internal rules on the implementation of the budget (Commission section), the Commission has delegated its authorizing powers to the Director-General of the JICS and the Director-General for Personnel and Administration, according to their respective responsibilities. Given the division of responsibilities between the two Authorizing Officers appointed by the Commission, the supporting documents are kept by the Joint Interpreting and Conference Service.

(c) Financial Control carries out periodic on-the-spot sample checks. Regular targeted checks will be conducted once the on-screen approval procedure has been introduced as part of the modernization of control procedures; a systems audit is currently under way to establish the degree of reliability required before the electronic procedure can be introduced.

Data-processing packages

12.19. The Commission would stress that the Safir system, introduced in 1975, has fulfilled its role, although technological development has been such that it has some technical shortcomings. In order to overcome these, the Commission has introduced Pearl, a new data-processing package designed to supplement Safir, with particular reference to the assignment of interpreters to meetings.

12.20. The reasons why interpreters have two numbers are as follows:

- in Luxembourg, the information is taken from the European Parliament's data-processing package, and therefore carries a Parliament number;
- in Brussels, the same information is taken from Safir, and therefore carries the interpreter's Safir registration number.

It would be possible to create a new field in the APEX database, containing:

- for Brussels: the number of the freelance interpreter in Parliament;
- for Luxembourg: the number of the interpreter in the Safir system.

This field would provide a secondary access key. The Commission would stress that creating a new field would involve a major technical adjustment.

12.21. The interface between the Safir package (data preparation) and the APEX package (processing) allows proof totals to be drawn up to monitor the technical quality of transmission before and after the transfer of the information. The totals are compared after each transmission.

Luxembourg management

Advances paid by the Commission

12.22. Considerable efforts have already been made to reduce these delays, with the result that the amount referred to by the Court has been almost completely settled (by July 1989, 4 306 ECU was still outstanding).

Hotel expenses

12.23. The exceptions authorized by the administrative department in Luxembourg are justified in view of the more limited choice of hotels in Luxembourg compared with Brussels. They are based on Article 11 of the 1984 Agreement with the IAIC and Article 9 of the Agreement which entered into force on 1 January 1989.

Conclusions and recommendations

12.33. See reply to paragraph 12.12 (b).

12.34 – 12.35. Responsibility for implementing the budget is dealt with in Article 18 of the Financial Regulation. Since Parliament's Secretariat is located in Luxembourg, the Commission was obliged to negotiate with it on the issue of a harmonized base for financial rights.

12.36 The Commission would refer to its replies to paragraphs 12.16 and 12.17. It would also add that in its preliminary draft budget for 1988 and in the most recent proposal for amending the Financial Regulation, dated 21 December 1988, it proposed that a new section be entered to accommodate all the appropriations of an interinstitutional nature. The budgetary authority rejected these proposals.

12.37 The Commission would refer to its reply to paragraph 12.19.

OPERATING EXPENDITURE

Joint Sickness Insurance Scheme

The financial management of the Scheme

Growth of revenue and expenditure

12.44. The Court's conclusions are based on average figures and percentages for the years from 1980 to 1987, which saw a change in the level of contributions (1983) and a period of high inflation (1980 to 1984). An analysis of the period 1984 to 1988 would be more representative and would produce an average rise of about 11 % per year.

The Scheme's operating surplus

12.45. Other causes of the deficit include the increase in the average age of persons covered by the Scheme, the rise in the cost of medical services and the fall in recruitment levels.

12.46. Steps are currently being taken to adjust the rate of contributions and the reimbursement arrangements.

Presentation of the accounts

12.49. (a) The Commission has taken note of the situation described by the Court. For practical purposes, the figures may be deemed to be final at the end of February of the second financial year following the year in question. The multiannual nature of the accounts enables revenue and expenditure for any year to be compared exactly, giving an accurate picture of the financial situation of the Scheme. This system, moreover, is used by other sickness insurance schemes which operate on the basis of the financial year. The charging of expenditure on the basis of the date of payment, which was the practice in the various institutions before the creation of the Joint Scheme, meant that existing deficits were not evident until later.

(b) The national schemes allow a longer period than the Joint Scheme (e.g. two years in Belgium), with the result that invoices from clinics are sometimes very slow in reaching members.

12.50. In view of the quite substantial surpluses, larger provisions were made between 1980 and 1986. These have now been readjusted to reflect the real situation more accurately.

12.51. Periodic checks are carried out at the Brussels Settlements Office to ensure that the advances balance tallies with the accounting balance and to enable advances outstanding for more than a year to be recovered.

In a handful of exceptional cases, however, recovery may prove difficult. A study is currently in progress in all the institutions designed to improve debt recovery generally.

12.52. Details of the cash balance are given in the overall balance which is supplied to all members of the Management Committee and, on 31 December each year, to all the institutions. The Commission is willing to look into the Court's proposals.

Approval of the Scheme's accounts

12.53 – 12.54. The Commission agrees that it would be desirable to review the rules governing accounting and financial control, in the context of the review of the structure and operation of the Scheme by the working party of Heads of Administration.

Observations relating to the Scheme's organization

Powers given to the various bodies

12.55 – 12.56. The abovementioned working party will also be asked to review the distribution of powers between the Scheme's various bodies and the different institutions.

The composition of the Management Committee

12.57. The Commission nonetheless feels it desirable for the officials administering the Scheme to be represented on the Management Committee, in order to ensure that the Committee's deliberations are relevant to the day-to-day work of the Settlements Offices. The exact form which participation should take will be reviewed when the

mandates of the Commission administration's representatives are next up for renewal. Obviously, the aim is to arrive at a committee with the necessary professional competence whose impartiality is guaranteed.

Staff made available to the Settlements Offices

12.59. (a) It is true that no express provision is made in the Scheme's rules for making officials from other institutions available to the Settlements Offices. However, it was necessary to come up with *ad hoc* solutions in order to cope with the workload of the Offices during a period of staff restrictions in the Commission, the aim being to share out the work fairly. The Commission would like to set up an interinstitutional structure.

(b) The working party referred to above will be conducting an urgent and detailed examination of the practical problems which have arisen, particularly in Luxembourg.

(c) The Commission is endeavouring to persuade the other institutions to reach agreement in advance on the profiles of the officials to be made available. The Council recently agreed to this procedure.

Centralization and decentralization of the Settlement Offices' work

12.61 – 12.63. It is true that there has been some decentralization and delegation of responsibilities. However, this takes place either on a well-defined basis of delegation of powers and management tasks, as is the case in the Council, or, in the case of Parliament and the Court of Justice, in order to speed up the processing of claims. There are few instances of duplication of work, and wherever possible responsibility for taking decisions on matters relating to the rules to be applied remains with the Settlements Office. One of the tasks of the working party of Heads of Administration will be to rationalize this system.

The system of registering members

12.65 – 12.66. The existing computerized system provides the Central Office with a list of persons covered by the Scheme. Entitlements in respect of sickness insurance cover are always established and entered in the system by the Central Office (manual data coming from JET, Berlin, Dublin, etc.) or by the Settlements Office (computerized data from Sysper or other sources). The Sickness

Insurance Scheme has its own files, for which it is entirely responsible. In any event, it would hardly be economical to reproduce the entire procedure of entering the personal data, already carried out by the personnel departments in each institution, in the Central Office or the Settlements Offices.

In Luxembourg, the monitoring of files is made more difficult by the existence of four institutions making joint use of various personal files. In Ispra, the adjustments required to align the files kept by the two Directorates-General concerned are being made by computer.

12.67. The Settlements Offices have no choice but to refer to the various institutions for general information concerning persons covered by the Scheme and further details concerning membership.

Control in respect of the Scheme's revenue

12.68. Checks are carried out by the financial section on the monthly level of contributions in each institution. Checks on contributions are also made by the salaries departments of each institution and the various Financial Controllers.

Payments made by the Scheme

12.70 – 12.72. The Commission is aware of the need to introduce uniform controls of the operations performed by the Settlements Offices. The present budgetary climate makes the availability of controllers a problem, although it is now an established priority that some should be provided. At the same time, efforts are under way to set up an integrated computerized system to monitor and classify the data. As regards the controllers, targeted inspections (by category of treatment, type of membership, period covered, etc.) would appear to be the most cost-effective; experiments are currently being conducted at the Brussels Settlements Office.

12.74. (a) The Commission concedes that the present situation is not ideal. However, in the absence of a decision assigning express responsibility for preventive medicine to the Settlements Offices, the Commission felt that they were the most appropriate structure for carrying out the tasks involved.

(b) The Management Committee itself has noted this anomaly and made proposals to overcome the problem in the series of amendments proposed in its opinion No 3/89. It is proposed that the screening tests carried out on officials be charged direct to the budget of the institution, and that the officials concerned will not then have to undergo the annual check-up.

(c) The scope and frequency of the examinations and tests are determined on the basis of sex and age. All examinations are optional.

The role of the Medical Officer

12.78. One Medical Officer is a full-time official. As for the Court's wish to see all Medical Officers employed full-time, the volume of work would not appear to justify this (except in Brussels). The difficulty faced by Medical Officers in opposing the opinion of a colleague is comparable to that encountered by supervising doctors in most of the national systems.

12.79. One of the changes proposed in Management Committee opinion No 3/89 is the definition of the criteria for determining what constitutes excessive fees. These are to be fixed in terms of the percentage by which the ceilings provided for in the rules are exceeded, although other possibilities are also being considered.

The adjustment of ceilings

12.80. Although rules do exist on this subject (see Article 18 (6) (g) of the rules drawn up by joint agreement), it has always proved difficult to lay down a strict timetable for adjusting the scale. This is largely because the fees charged in private medicine are not necessarily in line with economic trends in a given country. The Scheme's managers have always sought to ensure that the ceilings applied correspond as closely as possible to the fees actually paid by members, in order to provide a maximum of reimbursements within the limits set in the Staff Regulations. Unfortunately, it is not possible for the Scheme to adhere to the official rates charged under the national schemes. The example quoted is that of a specialist practising under the national scheme in Belgium or Luxembourg. It must be stressed that specialists, not only in these two countries, who do not agree to be bound by the convention concluded with their national scheme may charge rates well in excess of the official ceilings. However, in the interests of transparency and simplicity, the Commission intends to look into the

possibility of making the adjustments to the scale automatic to some extent, provided that a workable index can be found.

Conclusions and recommendations

12.81 – 12.83. The Commission hopes that the conclusions of the working party of Heads of Administration will produce a number of reforms to the Scheme, enabling the decision-making process to be speeded up while guaranteeing a certain degree of surveillance, either by the Management Committee or by the Heads of Administration within the framework of the Staff Regulations.

12.84. (b) Steps are being taken, in particular by means of computerization, to make data more uniform and harmonize control methods.

(c) The Commission's departments are currently engaged in reassessing the preventive medicine system.

(d) A step has already been taken to achieve this in the context of the revision of the rules referred to above.

12.85. The accounting system is in the process of being brought fully into line with the new plan of accounts.

12.86. This view is shared by the Commission, the Management Committee and the Heads of Administration. The Management Committee recently delivered an opinion, endorsed by the Heads of Administration and shortly to go before the Staff Regulations Committee, which provides for changes to the rules along the lines suggested by the Court, and for restriction of expenditure in certain areas, accompanied by an increase in revenue in the form of the contributions to the Scheme.

THE EUROPEAN SCHOOLS

The Schools' social security scheme

Sickness insurance for teachers and equivalent staff

12.94. Negotiations have commenced between the Commission's departments and a representative of the Board of Governors to attempt to eliminate the irregularity.

12.95. Teachers' claims are settled on exactly the same basis as those of officials; there is, therefore, no difference in the treatment of the two groups.

The negotiations referred to above are intended to clarify the principle of delegation of powers, with particular reference to monitoring entitlement.

12.96. The Commission will draw the attention of the Board of Governors to the Court's observations.

Relationship between the Schools and the Sickness Insurance Scheme of the European Communities

12.98. The Commission has requested the European Schools to contribute to the running costs of their scheme. The negotiations in progress will deal with this issue.

12.99. New procedures are currently being examined. The installation of a computerized central management system in the office of the Board of Governors' representative should eventually make controls easier.

The financial situation of the Schools' sickness insurance scheme

12.101 – 12.103. The Commission has taken note of the Court's observations and will of course raise the issue with the Board of Governors. It should be noted that the surpluses are reinvested and earn interest.

Sickness insurance scheme of the European University Institute in Florence

12.104 – 12.105 and 12.108. The Commission intends to open negotiations with the European University Institute on its relationship with the Community's Scheme.

12.106. The University Institute will be requested to take the necessary steps to comply with the rules on the monthly payment of individual and employer's contributions.

12.109. The conditions for a contribution by the University Institute to the running costs and other expenses of the Scheme will be examined in the context of the negotiations referred to above (paragraphs 12.104-12.105 and 12.108).

Conclusions on the management of the European Schools' sickness insurance scheme

12.110 – 12.111. See replies to paragraphs 12.94-12.103.

Relations between the Varese European School and the Italian Government

12.116. The Board of Governors of the European Schools, with the firm support of the Commission's representative, has for some years now been calling on the Italian authorities to make the necessary funds available to the Varese School. The authorities have always replied that the required draft law is being prepared.

REPLIES OF THE COURT OF JUSTICE**STAFF AND OPERATING EXPENDITURE**

12.10. In order to ensure a high quality of interpretation at the hearings, the Court of Justice requires all interpreters to study thoroughly the procedural documents in the case listed for hearing. Statistics based exclusively on the number of interpreting days would not do full justice to the work actually done. The Court of Justice will shortly establish a system enabling all the work done to be accounted for.

12.12. In order to benefit from the better conditions of a uniform market common to all the institutions, the administration of the Court of Justice has declared itself in favour of the proposal of the Commission, which presided over the negotiations between the institutions and the IACI. It has, however, reserved the position of the Court of Justice, as a judicial body, on the agreement as a whole.

REPLIES OF THE ECONOMIC AND SOCIAL COMMITTEE**STAFF EXPENDITURE***Interpreting expenses*

12.30. The Committee notes the Court's comments and can assure it that since 1988, appropriations under this budgetary item have been monitored regularly by the competent Authorizing Officer.

12.31. There is always an overlap in settling interpreting bills. During a financial year, interpreter days are charged by the Commission at a provisional rate. In or around June the following year, the Joint Interpreting Service sends a request for final settlement for the previous year based on the final true rate.

The delay referred to by the Court was due to slippage in sending documents between the Joint Interpreting Service and the Economic and Social Committee.

From the end of financial 1989, the Committee will commit the requisite funds to cover the entire interpreting costs for the year on the basis of a preliminary bill which it will obtain from the Interpreting Service before the end of the year.

CHAPTER 13

Loans, borrowings and interest-rate subsidiesREPLIES OF THE COMMISSION

GENERAL COMMENTS

As the Court points out in its conclusions (paragraph 13.19), it is in the nature of the financial activity associated with borrowing and lending operations, because of the technicalities involved and the speed with which certain decisions have to be taken, that the Directorate-General concerned should enjoy a degree of flexibility and autonomy in the conduct of its business. In the area of management, too, it must be given the possibility of operating in accordance with generally accepted practice in financial circles (conducting negotiations by telephone, moving at speed, placing operations on the financial markets and so on).

Given these special features, the management rules for the Directorate-General, as set out below, are designed to ensure that a balance is struck between the necessary autonomy for the Directorate-General responsible for managing borrowing and lending operations and the obligation to notify the Commission of its decisions.

The Commission would point out that the principles underpinning Euratom, EEC (NCI) and EEC (balance of payments) borrowing and lending operations were laid down by Council Decisions of 29 March 1977, 16 October 1978 and 17 February 1975. These basic decisions were followed by a series of implementing decisions.

These include, in the case of NCI, the cooperation agreement between the Commission and the EIB (last revised in April 1987) and, in the case of Euratom, the Commission decision of 26.10.1977 (COM(77) Min 448, item XII), which, in urgent cases, empowered the Member of the Commission responsible for credit and investments to contract loans on behalf of the ECSC and Euratom, provided that he notify the Secretariat-General in writing within 24 hours of so doing. The Member of the Commission responsible must also report to the Commission twice a year (before 30 April and before 31 October) on the use made of this delegated power.

Within the Directorate-General concerned, the Commission has set up an internal control service which reports to the Director-General and is responsible for monitoring operations on the basis of internal rules. These internal rules, which have to be approved by the Director-General, stipulate that the Directorate responsible for borrowing must send the Member of the Commission responsible a regular weekly note informing him of all borrowing operations which are at the final negotiating stage. If the Member of the Commission does not respond, a borrowing operation is regarded as having been authorized once the main conditions have been agreed between the Directorate-General concerned and the financial institutions involved. In such cases, telexes have to be sent to the Member of the Commission responsible and the Secretariat-General of the Commission within 24 hours of the operation having been concluded. The internal rules specify what information these telexes must contain.

The Commission is none the less fully prepared, in the light of the Court's comments, particularly in paragraph 13.11, to formalize and tighten up the existing rules to make for greater transparency in borrowing and lending operations.

The Directorate-General responsible has already embarked upon drafting a new version of its internal rules which will be submitted to the Commission for approval and forwarded to the Court for information. The Commission will give particular attention to making the rules more effective as regards decisions which are basically operational in character, with due regard for the Court's remarks at various points in this report.

INTRODUCTION

13.4. As regards budgetary guarantees, the Commission would stress that Articles 830, 831 and 832 have never been activated. As for Article 833, the operation in question has not yet been launched, pending the establishment of the legal basis.

SUMMARY OF FINANCIAL INFORMATION

13.5. In the Commission's view, Table 13.1 is better set out differently.

A table summarizing the financial information is annexed to this chapter. It makes a clear distinction between the two classifications (loan systems and interest subsidy systems).

OBSERVATIONS ON LEGALITY AND SOUND FINANCIAL MANAGEMENT

Control of borrowings

Findings concerning the structure of the system

13.11. The Commission would refer back to its general comments, in which it pointed to the rules governing borrowing and lending operations. It is fully aware of the importance of transparency in this field, and agrees with the Court's suggestion that the internal rules should be submitted to the Commission for approval.

13.12. To reduce to a minimum the risk of small slips, such as arithmetical errors, the Directorate responsible for borrowings has, since January 1989, had a 'back office' department which carries out cross checks based on the principle of separation of responsibilities to make sure that the information produced by those managing the schemes is reliable. These include checks into the accuracy of cost calculations.

In the same spirit, the Directorate-General responsible amended its internal rules in April 1989 to tighten up the checking procedures in each department.

13.13. The Commission can confirm that borrowing operations are always handled using a standard method

designed to secure the most favourable conditions possible for customers:

- either by invitations to tender, the normal practice with private operations or bank credits,
- or by working with bankers to seek out the most appropriate terms for public issues and private placements of bonds to make sure that the schemes chosen are the most advantageous available and are fully consistent with market conditions.

In the case of refinancing operations, the terms of each borrowing operation are always looked at with a view to determining whether there would be any advantage in refinancing and setting whatever refinancing terms are most economical for the customer.

Nevertheless, as stated in its general comments, the Commission is quite prepared to devise a standard method for calculating the cost of borrowings which will cover most cases, on the understanding that the very nature of the financing business requires a degree of flexibility to allow special cases to be accommodated.

13.14. In line with the undertakings given in its general comments, the Commission is ready to take up the Court's suggestions for improving the quantity and quality of information given in the weekly list.

The Commission considers, that the use of telexes, which has been the practice for a great many years, should continue to be regarded as an established method of conveying information under the urgent procedure to ensure that operations remain within the sphere of delegated powers, rather than as a means of control. Telexes should therefore continue to include only basic information about the operation concerned, as confirmation of the fuller information already supplied in the weekly list.

Implementation of rules

13.15. All NCI borrowings are made after the regular joint consultations between the EIB and the Commission, as laid down in the cooperation agreement concluded between the Bank and the Commission in April 1987; their purpose is to meet as yet unsatisfied requests to the Bank for loans. Euratom loans are given exclusively on a back-to-back basis.

As the Court requested in its annual report on 1984, wherever conditions and circumstances permit the Commission refinances borrowings. The procedures applied follow the same rules as those for borrowings contracted for the purpose of meeting requests for loans.

Furthermore, steps have recently been taken to clarify the conditions which have to be met before refinancing can be contemplated; these include an instruction to the department responsible to satisfy themselves that borrowers enjoying the early repayment facility are prepared to give that facility up in return for a reduction in the rate on their loans. This has led to the practice now followed of holding consultations with the EIB so that it can inform the customer of this provision in advance where NCI back-to-back operations are being carried out.

13.16. The Commission can state that the principal documents relating to most of the public operations or private placements of bonds were scrutinized by the Legal Service, since in most cases such operations require the issuing of an opinion which the Legal Service would not have given if the borrowing documents had not secured its approval. Most of the other borrowings were contracted using a standard contract. The Commission confirms that the Legal Service did approve the standard contracts.

Be that as it may, the internal rules are to be amended to abolish the routine requirement for a Legal Service visa on borrowing contracts; this will now only be required where the operations are not of the two standard types referred to above.

13.17. (a) The Commission is prepared to improve the content and presentation of the summary notes to make it easier to ascertain the reasons for the selections finally made.

(b) While the Commission did change its policy following comments from the Court (Annual Report, 1984, paragraphs 14.27 to 14.30), this does not mean that it has completely given up using traditional syndicates. Consequently, the reason why the Commission has on occasion still gone to traditional banking syndicates for certain types of borrowing operation is simply that such establishments are highly specialized and have well-established placing power. Wherever possible, however, the Commission has gone to *ad hoc* syndicates and confirms that it will use them as often as possible.

(c) The Commission acknowledges that the information given in the cases singled out by the Court was not always sufficient to enable a retrospective assessment

to be made of the criteria on which decisions by the managers responsible were based. The fact is that the rigid set of rules to be followed in such cases has not kept pace with the increasing complexity of the operations involved. Moreover, in line with everyday practice in the financial field, much of the negotiating is done by telephone, and the outcome of these types of conversation did not always emerge as clearly as might have been wished in the case files examined by the Court.

The Commission accepts that the Court's request is well-founded and modified the internal rules in the Directorate-General concerned in October 1989 to ensure that all the necessary information for justifying decisions is in future included in case papers.

Effects of system weaknesses

13.18. The Commission can state that all borrowing operations were concluded with the authorization of the Member of the Commission responsible for credit and investments, pursuant to the authorization procedures laid down by the rules in force at the time, but admits that in a number of complicated cases certain points should have been made clearer.

The nature of the operations handled by the Directorate-General concerned is such that, in the interests of efficiency, it has to take decisions on short deadlines if it is to carry out the tasks assigned to it by the Commission. These decisions may relate to the form of financing, the terms to be opted for in the light of market conditions or the choice of the lead-manager. However, as already stated in its reply to paragraph 13.14, the Commission shares the Court's view that quality and accuracy are vital in the information supplied to it by the Directorate-General concerned in the weekly list of planned operations, and will tighten up procedures in this field.

In addition, as already pointed out in the reply to paragraph 13.12, the internal rules on this point were in fact amended at the beginning of 1989, to improve the internal control arrangements within each department and cut the risk of errors to a minimum.

Conclusions and recommendations

13.19. The Commission would point out that the opinion of the financial market, which is in reality the final judge of its borrowing and lending activities, has

always been in its favour in that it is considered worthy (AAA rating) of the best available terms when raising its loans. It would add, however, as stated in its general comments and the various relevant points (13.11, 13.12, 13.13, 13.14, 13.16 and 13.17 (a) and (c)), that it has already started and will continue to take steps to enhance the transparency and effectiveness of the rules on borrowing and lending, with due regard for the degree of autonomy which the Directorate-General concerned must continue to enjoy.

13.20. (a) Work on producing the final version of the internal rules governing borrowing and lending has already started. In future these rules will systematically be approved by the Commission itself (see 13.11).

(b) Compliance with these rules will be checked by the internal control section, the independence of which is guaranteed by the fact that it reports direct to the Director-General.

(c) The Commission points out that steps in this direction were taken at the beginning of 1989. The purpose of establishing the 'back office' section in the Directorate responsible for borrowings (see 13.12) was to tighten up the checks on the correctness and reliability of that Directorate's decisions and the information it produces.

The Commission is also pledged to taking the following steps to make sure that the rules are applied more strictly:

- a standard method of calculating the cost of borrowing (paragraph 13.13) will be devised and annexed to the internal rules;
 - the content and layout of the summary notes will be improved so that the reasons for the decision taken in each case can be better understood and evaluated (13.17 (a));
 - in the case of public issues, the Director-General will give his prior approval on a summary statement designed for that purpose.
- (d)** The Commission considers that the urgent procedure needs to be retained because of the special features of the financial activity concerned.

However, it agrees with the Court about the importance of the Commission's being kept informed of operations in this field by the Directorate-General concerned.

The Commission would point to the measures it proposes to take on this matter (paragraph 13.14). These amount

to requiring more and better information to be included in the weekly list, though telexes will continue to be used as confirmation after operations have actually been concluded.

(e) Steps have been taken to ensure compliance with the obligation to notify the Loans Directorate in advance (see paragraph 13.15).

As regards the other points raised, the Commission will do its best to carry out refinancing operations by deadlines compatible with the date on which repayment of the borrowing to be refinanced falls due and the periods of notice negotiated in the various cases.

Interest subsidies provided under Article 772 of the general budget

3.27 – 13.28. Budget Article 772 was created for the purpose of providing interest subsidies on new, job-creating investment in Portugal. The interest subsidies were given on loans granted by seven Portuguese banks chosen by the Commission and the Portuguese authorities, for investment by small and medium-sized firms in that country. The subsidies are indeed intended to be channelled to developers through financial institutions.

The Portuguese banks finance lending operations of this kind according to their normal practice, which may include global loans contracted by them at commercial interest rates. Under Article 772, the contracts concluded between the Commission and the approved intermediary banks did not preclude the banks going to any particular source to secure financing for the loans receiving an interest subsidy. Therefore, as they had complete freedom of choice in where they went for funding, the banks were able, where appropriate, to take out global loans from the EIB.

As the intermediary banks give these loans at their own financial risk, the Commission's only function was to provide the interest subsidies after appraising the investment projects to be financed.

13.29. The Commission shares the Court's concern at the time taken for the second tranche of subsidies, amounting to 3.9 Mio ECU, to reach the seven Portuguese banks participating in the Article 772 scheme. When it has looked into the precise reasons for the delay, the Commission will take steps to recover from the Portuguese authorities the loss of approximately 20 000 ECU to which the Court refers.

The Commission will also take steps to ensure that similar problems do not occur when the third and last tranche of interest subsidies is paid.

ANNEX

**LOANS AND INTEREST SUBSIDIES PROVIDED IN THE COMMUNITY FROM THE
VARIOUS COMMUNITY MECHANISMS**
(Mio ECU)

A. LOANS

	ECSC	EURATOM	NCI	Balance of payments	EIB
1979	675,8	151,6	277,0	—	2 281,2
1980	1 030,7	181,3	197,6	—	2 753,2
1981	387,6	357,6	539,8	—	2 821,5
1982	740,6	361,8	791,0	—	3 453,2
1983	778,1	366,4	1 211,8	4 247,3	4 255,7
1984	825,5	186,0	1 181,8	—	5 031,1
1985	1 010,6	211,0	883,7	664,5	5 640,7
1986	1 069,2	443,2	393,0	861,7	6 678,1
1987	969,3	313,7	447,0	350,0	7 003,4
1988	907,8	—	356,5	—	9 118,3

B. INTEREST SUBSIDIES

	Annual payment systems			Capitalized systems	
	ECSC	Earthquake damage	Employment in Portugal	EMS	ERDF
1979	18,4	—	—	200,0	12,1
1980	59,1	—	—	197,0	—
1981	13,9	—	—	193,2	—
1982	29,8	3,0	—	209,8	—
1983	11,1	14,4	—	200,0	—
1984	40,2	24,4	—	—	—
1985	78,5	28,4	—	—	—
1986	39,0	28,6	—	—	—
1987	38,0	28,6	4,0	—	—
1988	41,6	27,8	3,9	—	—

PART TWO

The European Development Funds

REPLIES OF THE COMMISSION

OBSERVATIONS ON THE FINANCIAL MANAGEMENT

Rate of implementation of the EDFs in progress at 31 December 1988

3. The Commission has already initiated the procedure which should lead to the winding up of the fourth EDF for the end of 1990, and in any case before the entry into force of Lomé IV. Instructions have been given not to finance any more long-term operations.

The departments concerned are doing their best to close outstanding project accounts and are pressing ACP government departments to speed up the completion of current contracts.

Of 2 109 projects financed 365, i.e. 18 % of the total, have still to be wound up.

4-5. The Commission is fully aware of the slowdown in the rate of payment of aid from successive EDFs and has pointed this out on a number of occasions, notably in the report 'Ten years of Lomé', and most recently in the report 'Lomé III — Mid-term review'. This slowdown — which was also examined in the ACP-EEC Council Resolution of 7 July 1988 — is due to increasing emphasis in the later stages of Lomé II (fifth EDF) and even more so in Lomé III (sixth EDF) on agricultural and rural development programmes which involve much slower gestation periods than in the case of traditional construction-type projects. The introduction of quick disbursing import support programmes, which have assumed increasing importance notably in the context of the sub-Saharan debt programme, represents an important measure aimed at redressing the imbalance. There is also

considerable evidence of a speeding up of aid implementation under both Lomé II and Lomé III in 1988 and in 1989.

Note that the rate of implementation of the sixth EDF in terms of primary commitments (decisions), was on schedule at 60 % of the allocation by end 1988, less than three years after the entry into force of Lomé III (1 May 1986).

The implementation rhythm of payments is based on the nature of the programme financed and it is quite normal that large-scale rural development programmes of the type now being financed and which have high-policy priority for both the Community and the ACP States, involve implementation periods which largely exceed the duration of the relevant Convention. It was already indicated in 'Ten years of Lomé' that the total period for disbursement of amounts provided in each Convention is about 11 years.

The Commission cannot accept that the arrangements for defining and preparing projects are such as to impair their rapid implementation or that the Delegations are in any way remiss in this matter. On the contrary, the very scale and diversity of rural development programmes which represent upwards of 80 % of EDF financing demands careful and detailed planning and preparation of financing proposals to ensure the effectiveness of implementation of multi-component programmes. Delegations and their staff together with the ACP administrations and in association with the responsible Commission services are hard pressed to cope with the enormous volume of work involved in EDF implementation. The very scale of EDF operations — huge increases in the level of decisions and payments whose annual level rose by about 50 % between 1987 and 1988 and are still rising in 1989 — should also be borne in mind in considering the role played by the different executing agents of EDF aid.

Commitments of expenditure

8. (b) – 9. The Commission cannot agree with the Court's comments regarding the entry of commitments relating to emergency aid.

Article 203(6) of Lomé III provides that 'the detailed rules for the allocation of such aid shall be the subject of an emergency procedure'. Article 203(7) stipulates that 'the Community shall take adequate steps to facilitate the speedy action which is required to meet the urgent needs for which emergency aid is intended, including such measures as the retroactive financing of immediate relief measures undertaken by the ACP States themselves'.

In the light of these provisions and the short time normally available for approval of such measures, the Commission applies a simplified procedure whereby the financial commitment expressed in ECU is treated as a whole which in many cases cannot be split into secondary commitments. However, the Commission will endeavour to make secondary commitments whenever possible.

A Commission decision approving an operation is immediately followed by an accounting commitment (secondary commitment) against which payments are charged as and when they occur, even when they relate to different contracts. The Commission considers this to be the only procedure by which it is possible to cope with the urgency and variety of emergency aid operations.

Procedures for paying expenditure

Final clearance of the payments made in local currency

13. It takes some time to clear local currency payments because of the need to check banking operations against supporting documents which are returned by a variety of channels. It may be difficult to identify documents or match them with expenditure, so that further information must be sought from the delegations.

(a) The Commission has worked out a procedure for monitoring payments whereby a check-list (fiche de contrôle) is drawn up for each currency, making it possible to verify the accuracy and legality of each payment authorized.

(b) Where a commitment has been approved in principle (e.g. on an estimate for work by a public works department), a Delegate might exceptionally be allowed to submit the document to the national Authorizing Officer for signature and to issue the first payment order before the formal commitment procedure was complete at headquarters.

14. Whether the contract price is denominated in a local or a European currency, it must be complied with in those terms.

New procedure for payments in the ACP States

15 – 16. The expedited procedure for 'semi-direct' payments in foreign currency authorized in the ACP States is currently being evaluated by the various Commission departments concerned on the basis of a pilot scheme carried out in 1988 in three ACP countries. The Court will be informed of the findings.

Availability of supporting documents

17. As the Commission pointed out in paragraph 12 of the EDF section in its reply to the 1987 Report, it is aware of the problems the Court may encounter in finding all the supporting documents for a single file in one place. It is trying to improve matters, taking into account the constraints affecting the various parties.

The manual of instructions lays down detailed requirements for supporting documents according to the type of operation concerned (works, supplies, technical assistance, etc.). A new manual of financial procedures is currently being prepared.

Final clearance of payments

18. As the Commission pointed out in its reply to paragraph 10 of the Court's 1987 Report, the contractual documents providing justification for the sums to be paid are available to the officials responsible for authorization and monitoring.

Operations of the European Association for Cooperation

19. Regarding supporting documents accompanying payment orders which are kept in the EAC's files, the Commission considers that existing practice meets the requirements of internal supervision and management. The regulations concerned will be amended accordingly. The EAC's files are entirely at the Court's disposal.

Accounting corrections

20. The Commission would point out that transfer of payments from one accounting number to another is generally covered by a reversal note giving a brief account of the reasons for the change.

Payment certificates are not usually split into two payment orders but they can be charged against two or more projects, in which case there will be a single set of supporting documents indicating the various charges.

21. The decentralization of management means that many operations are cleared locally, in the ACP countries (Article 21 of the Financial Regulation), whether they are local payments or semi-direct payments authorized locally and made in foreign currency in Europe.

In such cases the certificate of services rendered (clearance) or payment certificates (authorization) are endorsed by the Delegations, which have all the necessary contractual documents.

Except in a number of cases explicitly provided for in the regulations, the supporting documents relating to payment are then sent to headquarters, which, although not in a position to duplicate the whole verification procedure carried out locally, ensures that they comply with the provisions of the Lomé Convention.

Where headquarters actually initiates authorizations, on the other hand (direct payments), it is responsible for the clearance and authorization procedure and will have all the supporting documents necessary for verification in its files, so that subsequent checks can be carried out.

Regarding the nature of the supporting documents the Commission would also refer the Court to its reply to paragraph 17.

Implementation of the general conditions for contracts

22. (a) The portions payable in local currency and foreign currency are stipulated in the contract in accordance with Articles 48(2) and (3) of the financial regulation. The tenderer's justifications are evaluated by the national Authorizing Officer and checked by the Delegate.

(b) Sometimes, if a contractor has ceased operations and no longer has a local bank account, he asks for the balance of a local currency payment to be paid in foreign currency with the agreement of the national Authorizing Officer and the Commission.

23. The Court's recommendation is sound but the banking practice prevailing in certain Member States is such that the Commission agreed to accept a time-limit on bank guarantees provided it expires no less than three months after the date on which provisional acceptance is deemed to have taken place or two months after the presumed date of final acceptance.

24. The Commission accepts guarantees in foreign currency even for the proportion payable in local currency, which considerably diminishes the risk envisaged by the Court.

25. The Commission shares the views of the Court. Specific directives are already given to the Delegations for individual cases, but a general instruction will be issued.

26. The Commission will do everything possible to heed the Court's recommendations and will draw the Delegations' attention to the points raised by the Court.

Cash management

Rate of replenishments and payments

27. In 1987 and 1988, setting aside Stabex, which accounts for a third of the total, 47 % of EDF spending was in the first half of the year and 53 % in the second, more or less continuing the trend of earlier years. Since forecasts for the current year are based on previous years' disbursement profiles, all the competent bodies considered it reasonable to call the annual EDF contributions to cover general spending in four equal quarterly instalments. In 1988, however, in order to take account of

the difficulty of forecasting exactly the level of expenditure under the debt and sectorial import programmes, two optional instalments were scheduled for July and December

As regards calls on contributions to Stabex resources, Article 55 of the sixth EDF financial regulation provides that half the available annual instalment must be credited to an interest-bearing account on 1 April and the remainder on 1 July. Thus calls on contributions in 1988 brought in 93 Mio ECU on 1 April and 1 July, which accrued interest until used to pay out transfers

28. Only three Member States were more than 10 days late in paying contributions. In each case the Commission contacted the Permanent Representation to remedy the situation as quickly as possible

The sixth EDF financial regulation provides for penalties in the event of late payment. This should bring about an improvement in the situation

The forecasts for payments to the EIB prepared each year by the cash-management department are based both on experience and on statistics supplied by the Bank. The 1988 forecasts for risk-capital operations proved fairly accurate

29. Payments into the accounts of the paying agents in the ACP States are made on the basis of monthly telexes from the Delegations giving forecasts of expenditure for the month ahead. The Delegations' estimates are in turn based on payment dossiers before the national Authorizing Officer. The reliability of estimates therefore naturally depends on the speed with which the ACP administration processes the dossiers

However, the cash-management department regularly checks actual spending against the Delegations' returns and if necessary calls for explanations of any major discrepancies. If the balance on a paying agent's account seems excessive payments into the account are suspended until the balance is down to one and a half to two months' expenditure

Operating conditions of bank accounts

31. The rates of remuneration on bank accounts differ. This is because the balance varies from one account to the other and the terms of remuneration have been negotiated with banks taking into account their costs. The rate for the ECU at 48 hours also varies from one country to another

Obviously, a unified rate of remuneration for bank deposits would simplify supervision and make for greater transparency. In this connection the cash-management department, together with the budget DG and the other institutions, is examining the possibility of getting uniform terms

32. Until July 1980 all payments in respect of special loans were made by a bank. Then the Commission opened an account with the EIB, which began to use it for disbursements in respect of loans. During the change-over period a number of payments were mistakenly sent to the first bank for execution, which necessitated an adjustment in the scale of interest to take account of the retrospective value date. In making the adjustment the bank mistakenly applied the lending rate, instead of the deposit rate. As a result, the account was debited by 49 733 ECU instead of 39 326 ECU. The 10 407 ECU wrongly debited was credited to the EDF in 1989

33. In looking at the way in which payments to the EIB in respect of risk capital and interest-rate subsidies are dealt with, it must be borne in mind that very little time elapses between the Bank's receipt of the disbursement request and the actual disbursement. Article 54(4) of the sixth EDF financial regulation stipulates that the Commission must pay the subsidy with the same value date as the Bank's disbursement. Since the Commission's supervisory procedure takes a certain amount of time it is often impossible to make the transfer to the Bank before the deadline. Since the same rate of interest is used by the Bank to make the adjustment as was used to calculate the interest on the original balances, there is no additional cost to the EDF

34. The EDF's cash-accounting service regularly compares the date of issue of payment orders with the date of their execution by the banks. Any anomalies are discussed with the bank concerned in order to improve the speed of execution

The financial statements at 31 December 1988

35–36. The Commission's aim in basing the EDF accounts exclusively on bank data as evidenced by statements is to ensure their reliability; but it has to draw up the balance sheet early enough to check it against the Authorizing Officer's accounts and get it translated into all the official languages by the final date for submission of the accounts, i.e. 15 April.

As a result, the accounts cannot include late returns from ACP central banks. The point at issue is not the reliability of the balance sheet but the variable lag between the balance sheet and the real situation on 31 December as subsequently ascertainable.

As regards notes 2.2 and 2.3 to the EDF's financial statements, it should in future be made clear that revenue and expenditure are entered in the accounts on the basis of facts certified by the banks.

37. The bank statement concerned was sent late, after the accounts had been closed, so the operation could not be included in the financial year 1988.

38. Article 10(4) of the sixth EDF financial regulation stipulates that the Commission may not enter expenditure into the accounts until it has carried out the necessary verification.

The 28 Mio ECU in the balance sheet is clearly shown as corresponding to operations awaiting final clearance. It represents approximately two months' local payments executed by paying agents in the ACP States, which were in the process of being verified when the balance sheet was drawn up. The Commission departments concerned try to clear old operations as quickly as possible, except for the rare cases where identification poses a problem.

39. The Commission does not accept that financial operations are omitted from its accounts. The time inevitably taken for accounting data to reach the Commission from its paying agents in the ACP States at the end of the financial year does not detract from the reliability of the balance sheet.

Final observation

40. While the Commission is constantly striving to improve the management of its procedures, it cannot share the Court's views concerning the reliability of the balance sheet.

Under the present organizational arrangements the functions of the Authorizing Officer and the Accounting Officer are quite separate and the EDF's chief Authorizing Officer and Accountant are appointed by decision of the Commission. The decision in turn provides for the chief Accounting Officer, who is the Director-General for Development, to appoint deputy Authorizing Officers, and stipulates that the Accounting Officer and his assistants shall be directly responsible to the Commission. The Accounting Officer and assistants carry out only those tasks appointed for them under the financial regulations, which provide that they shall be liable to disciplinary action and payment of compensation as regards any loss or deterioration of the monies, assets and documents in their charge where such loss or deterioration was caused intentionally or was due to serious negligence on their part (Article 41 of the sixth EDF financial regulation).

At a practical level the Accounting Officer and the Authorizing Officers obviously have to work closely together, since this is the only way of carrying out the necessary periodical cross-checking of the books.

The Commission therefore feels that the idea of having the Accounting Officer and the Authorizing Officers in different Directorates-General would in no way enhance the existing separation of their functions, but would considerably affect the efficiency of the two departments' day-to-day activities.

OBSERVATIONS ON THE PROGRAMMING OF AID UNDER THE THIRD LOMÉ CONVENTION (SIXTH EDF)

General considerations

The Commission feels that the Court's observations reflect a very different view of the whole concept of programming as established by the Lomé Convention. They fail sufficiently to reflect the complexity of the

situations which exist as the very manifestation of under-development in its many aspects.

The Commission feels it essential before replying to the specific points raised by the Court to indicate the three guiding principles of the programming process: focus, dialogue and coordination.

(a) **Focus:** With an approach based on the concept of policy dialogue, the only way for the Commission to attain a critical mass of aid to support policy reform is to focus it on a limited number of sectors. The aim of this concentration is not simply to boost production, it also concerns all the back-up measures needed to improve living standards, particularly in rural areas.

(b) **Dialogue:** This is the cornerstone of the programming process. The object of the exercise has been to support policy reforms at sectorial level.

The Commission has proceeded with pragmatism, thoroughness and determination. Where critical measures to which a country's government had committed itself at the programming stage were not carried out, the Commission continued with the dialogue and postponed the financing decision until such time as the measures — on which the viability of the operations financed depended — had been taken.

This was the case with Niger, Ethiopia, Cameroon, etc.

(c) **Coordination:** Coordination is obviously a demanding process which calls for a continuing effort on the part of donors. But never has coordination been taken as far as it is in the course of programming. There is coordination with the Member States involved in the recipient country, in the form of systematic discussions before the programming process is finalized. There is also coordination with the World Bank, which regards the Commission as a key interlocutor in its dialogue with other donors. There was constant liaison with the Bank during the programming process and this continued at the implementation stage. This enhanced coordination, based as it is on mutual trust and respect, made it possible to detect and resolve difference of approach or perception.

One example was with food security, where there is a potential conflict between the need to protect domestic markets and the broader aim of liberalization of imports prescribed in the structural adjustment programmes.

This type of conflict was resolved precisely by the exemplary coordination which took place both at Community level and between the Commission and the Bank.

The idea and practice of such coordination undoubtedly represent a step forward, as the Community's partners in cooperation readily agreed:

- the Member States, through the Council meeting of development ministers, has congratulated the Commission on the sound and thorough way in which the programming had been undertaken and has called, in the negotiating mandate for the new Convention, for this approach to be consolidated;
- the ACP States have indicated in the negotiations that they want to see the principle of focal sectors, dialogue and support for sectorial policy continued;
- the World Bank, which has a central part to play in the structural adjustment process undertaken by numerous ACP States, has congratulated the Commission on its work on sectorial adjustment and sought the benefit of its collaboration and experience.

Such testimony places the programming process in a more realistic light.

Observations on how the process of programming the sixth EDF is carried out

Identifying the concentration sectors

49. Obviously, the Commission feels there should be as little interference as possible with the selected focal sectors. Article 215(8) of the Lomé Convention does, however, provide for review of an indicative programme at the request of the ACP State.

50. For the purposes of Lomé III the term sector does not necessarily correspond to the traditional division of responsibilities between government departments. It corresponds rather to a consistent set of well-defined objectives, operational, identifiable and graspable enough to allow genuine focus.

A water supply policy, for instance, might require operations in the fields of rural development, infrastructure, health, training, etc. Similarly, in the field of food security, the encouragement of agricultural production will involve measures relating to transport, health, training and SMEs, etc.

51. Continuity of operations has been a major concern of the Community's and was taken into account in the programming operation in numerous cases. The aim was to maintain the thrust of Community aid in the field, subject to the revision necessary to take account of:

- thorough, systematic evaluations of operations already financed;
- evolution of political and administrative institutions;
- evolution of the macroeconomic framework and resultant general guidelines, which the programming process is designed to reflect.

Negotiation of indicative programmes

52 – 55. These paragraphs deal with the Court's assertions regarding the vagueness of the objectives and the non-binding nature of the commitments given by governments.

The Court's assertions would be justified if the programming process was taken in isolation from cooperation as a whole. The dialogue on which the programming exercise is based does not end with the establishment of the indicative programme.

Programming, identification of operations, financing, implementation and evaluation are all stages in a single process, successive interlocking elements in the temporal span of cooperation.

Turning specifically to detailed objectives and the practical means of achieving them, the actual content of the measures is defined in the course of the dialogue with the government and the preparation of the projects and programmes.

56. It is inappropriate to look for continuity between small-scale village irrigation schemes carried out in Phase I (fifth EDF) and those currently under way (sixth EDF).

The implementation of Phase I has to be looked at in terms of the objectives and context prevailing when the project was set up. Because of the drought the aim was to allocate small plots to as many people as possible and in that situation economic viability was not a consideration. It was a question of survival.

The main aim of operations under the fifth EDF was to boost the capacity for self-sufficiency against the backdrop of the crisis induced by the drought. The Podor programme under the sixth EDF, on the other hand, is part of a set of medium- and long-term operations aimed at developing the valley, with a broader range of objectives.

The partial failure of the gum-tree project is largely due to exceptionally adverse weather conditions. The basic concept of the project has not been called into question. It forms part of the 'integrated agricultural, forestry and pastoral system'. In the light of this experience the implementation of corresponding measures under the sixth EDF is being improved.

57. The Oso-Osokari road project was initially entered under the sixth EDF for cofinancing with a Member State to complete the Bukavu-Kisangani trunk road; it forms part of the Kivu development programme, one of the two focal sectors in the Lomé III indicative programme.

Completion of the project will considerably cut transport costs between Kivu with its rich agricultural potential and the Upper Zaire/Matadi/Kinshasa region, which traditionally supplies manufactured products to the region of the lakes.

The Government of Zaire has asked for the financing agreement for this project to be cancelled because the Member State concerned has volunteered to put up 100 % of the finance.

58. The Iringa project has not been carried over to the sixth EDF (Lomé III).

59 – 62. See reply to paragraphs 52-55.

*Final considerations***Better definition and quantification of objectives**

63 – 64. The indicative programme sets out general guidelines, not quantified targets or specific measures — these are defined during the preparation of the projects and programmes which are to support the sectorial policy identified at the programming stage.

Granting greater priority to the productive sector

66 – 67. In most countries the Commission has supported a food-security objective aimed at boosting production and improving living standards.

In pursuit of this objective the Commission, through dialogue with the authorities, has secured agreement on a series of measures designed to give producers the security and incentives needed to increase output: incentive pricing, reform of distribution networks, diminution of the role of various State bodies, privatization, etc.

Need to cover recurrent costs

68 – 69. The problem of recurring costs and the maintenance and operation of the productive system generally is a key concern of the Commission's. It is dealt with not in the context of the indicative programme but at the stage of planning and carrying out the individual operations.

Benefiting from past experience

70 – 71. It is not true that the results of past Community operations have been ignored in the programming exercise. They influence the guidelines negotiated with the authorities but have no place in the pre-programming document, which is a policy paper, not a country paper or guide to evaluation.

72. In whatever context the ACP commitments are undertaken, the Commission strives unceasingly both at central level and via the Delegations to see that they are complied with as far as possible, taking into account the specific circumstances of each country.