REPORT FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

Follow-up Report on the European Parliament resolution on 2000 Discharge for the General Budget
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SUMMARY

I/ Context

1/ Scope of the Follow-up Report

Article 276 of the Treaty establishing the European Community (EC Treaty) determines the discharge procedure. Its Paragraph 3 stipulates that "The Commission shall take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure [...]. At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of these observations and comments and in particular on the instructions given to the departments which are responsible for the implementation of the budget [...]." The Commission accordingly, at Parliament’s request, produces the present Follow-up Report which relates to the resolution voted by the European Parliament on 10 April 2002. This Report, as well as the one addressed to the Council, is sent to all the other institutions concerned by the discharge procedure.

2/ Object of the follow-up report

In accordance with the EC Treaty, the object of this Follow-up Report is mainly to present the action taken by the Commission or that which it intends to take in response to the comments contained in the discharge resolution in respect of the implementation of the general budget of the European Union for the financial year 2000 voted by the European Parliament on 10 April 2002.

I. **EFFECTIVENESS**

1. Notes that Commission effectiveness must be gauged on the basis of three criteria in relation not only to compliance with the objectives laid down by the political authority, but also to the speed and simplicity of the administrative and budgetary measures taken to realise those objectives, and to the best possible use of the budget resources deployed;

2. Takes the view that the following bases for that effectiveness must be examined as a matter of priority: the administrative machinery of the Commission; the various regulatory procedures and the system of checks; the respect by the Commission of the political priorities and budget guidelines as defined by the European Parliament;

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**Commission's reply:**

*The Commission has implemented a new management system (Activity-Based Management). By doing so, the Commission wishes to gradually increase cost awareness through integrated decisions on priorities and allocation of resources, objectives, planning, monitoring and evaluation of activities and to develop performance management by emphasising results rather than input control. This clearly shows the efforts the Commission has made and is continuing to make regarding this very important issue that represents a profound cultural change in management practices.*

*The first Annual Policy Strategy (APS), adopted in February 2001 for the year 2002, launched the strategic planning and programming cycle, linking political priorities, key actions and corresponding resources. Even if some inevitable weaknesses emerged within the assessment of this exercise, several improvements were noted concerning the second APS decision, adopted in 2002 for the year 2003, namely in the area of definition of priorities, corresponding resource orientations and a new structured dialogue with the European Parliament and the Council.*

*The Commission also reformed its Work Programme to provide better focus on political priorities and introduced a new system of operational programming to ensure more effective delivery on priority objectives.*

*Moreover, new supporting management tools were introduced for the first time in 2002: Annual Management Plans as key instruments to help management integrate priorities, objectives and resource allocation at the operational level and Annual Activity Reports aggregating information on outcomes and use of resources according to the principles of sound financial management (economy, efficiency and effectiveness).*

*However, this is a long-term and complex learning process which represents a major challenge for the success of the Reform, and some lessons have to be drawn by the Commission from those first exercises in order to make it more effective in the future.*
The administrative machinery of the Commission

3. Believes that Commission departments must be structured to ensure management with the utmost integrity and effectiveness; notes the administrative reform under way, some basic aspects of which were launched in the financial year 2000, and encourages the Commission to continue its efforts to ensure that results become visible as quickly as possible with regard, in particular, to reform of the external service according to the political guidelines adopted by the European Parliament and to the reform of financial management and control within departments;

Commission's reply:

Firstly, as regards human resources management, in order to make reform measures visible as quickly as possible the Commission has initiated a series of actions to fully exploit the potential for reform under the existing Staff Regulations. The Commission has adopted a large number of decisions implementing the new staff policy in all those fields that do not require modifications of the Staff Regulations. Until June 2002 the Commission has adopted decisions on:

- the conduct of administrative inquiries and disciplinary proceedings;
- mobility;
- guidelines for job descriptions;
- whistleblowing;
- social policy;
- the Mediation service;
- national experts;
- training;
- and the general provisions for implementing Article 43 and Article 45 of the Staff Regulations (appraisal and promotion).

Commission decisions and guidelines on further reform issues such as flexible working time, teleworking, financial liability (Article 22 of the Staff Regulations), moral harassment, advisers and heads of units are currently being prepared.

In addition to new rules, the reform entails organisational changes. A new “Investigation and Disciplinary Office of the European Commission” (IDOC) was set up early in 2002. The inter-institutional “European Personnel Selection Office” (EPSO) will become operational from 1 January 2003.

However, a large number of reform measures require amendments to the Staff Regulations. The Commission submitted its proposal for amendments to the Council in April 2002. It is envisaged that the Council will adopt these amendments by June 2003. The full benefit of reform will thus only be visible after the amended Staff Regulations have entered into force.

Secondly, the Council on 25 June adopted unanimously the new Financial Regulation. As Parliament will recall, the process leading to this new Financial Regulation was marked by an intensive inter-institutional dialogue allowing to take into account the views of all actors involved.

Together with its Implementing Rules (a proposal for which has been adopted by the Commission on 24 July and subsequently been transmitted to the other institutions for an opinion), the new Financial Regulation will form the cornerstone for a modern system of financial management and control as from 1 January 2003.
Thirdly, with the help of the budget authority, the BA lines created in 2000 now offer a frame under which technical and administrative assistance for programme implementation and which is of a non public authority task can be funded; this has considerably alleviated the constraints under which many programmes had to operate and has provided the Commission with the means without which the start of a massive deconcentration of external aid programmes and absorption of TAOs would not have been thinkable.

Fourthly, as regards the key elements of the reform of the external service, launched in May 2000, results have already been obtained. These are:

– on the intention to achieve a better match between programming of assistance and political priorities, through the development of Country and Regional Strategy Papers: so far over 110 Country Strategy Papers have been prepared;

– on the aim of a more coherent approach to delivery of projects, with the whole project cycle managed by a single new entity, EuropeAid Cooperation Office: since then, old and unspent commitments have been halved;

– on the objective of the management of these projects at a more local level, through deconcentration of responsibilities to the European Commission's Delegation offices: by the end of 2002, all Delegations in Europe, Central Asia, the Mediterranean, Asia and Latin America as well as 13 Delegations in the African, Caribbean and Pacific countries (ACP) region will be working with this new model.

The Commission is grateful for the support it has received from the European Parliament and hopes that the dialogue will continue. In particular, it has been very helpful that the Budgetary Authority decided, for the first time in the Budget 2002 procedure, to lift the reserve on the resources intended to finance the Delegations (title A-6 of the Commission budget). It permitted a smooth and efficient financing of their activities. Provided that the necessary resources are forthcoming in future budgets, the process will continue and should lead to an enhancement of the role and visibility of the European Union (EU).

4. Notes a delay, however, in implementing some of the White Paper actions, as emerges from the implementation scoreboard forwarded by the Commission (Annex 5 to the replies to the questionnaire), because of ongoing interinstitutional procedures, concerning both the Financial Regulation and the Staff Regulations of Officials; notes concerning Action 96 (recovery of unduly paid funds) that the Commission in its December 2000 Communication has established a new organisational structure for treatment of recoveries; notes also that the internal procedures concerning enforced recovery are in preparation and wishes to be informed about the effectiveness of this new control system, in an area which is a matter of priority for the Budgetary Control Committee;

Commission's reply:

Firstly, as regards the personnel policy reform, an updated scoreboard summarising the state of play of the implementation of Reform Actions as at 31 March 2002 and showing that several delays could be caught up, was transmitted to Parliament in May 2002.

However, it is correct that delays occurred in 2001 with respect to the initial timetable. Nevertheless, as regards personnel policy, the discussion in the framework of a high-level body chaired by the former Secretary-General of the Council, Mr Ersboell, brought a very positive
outcome: the agreement reached between the Commission and the trade unions representing the majority of staff in electoral terms on the global package of personnel policy reform. In May, June and October 2001 the “Erbsboell Group” organised meetings with representatives of the other institutions (Secretaries-General/Administration and staff representatives) before drawing up its report. The meeting produced a very fruitful discussion that allowed the group to draw its conclusions and draft its recommendations to the Commission with full knowledge of the different positions and contributions of the other institutions.

Moreover, the administrations of the other institutions had the opportunity to express their views on all reform proposals in a group of Human Resource Experts set up by the Heads of Administration. The group met several times in 2001 in parallel with the consultations that were ongoing within the Commission. The group exchanged views on individual proposals and identified at an early stage points of particular interest to the institutions.

As a result of the aforementioned meetings, the consultation with the staff and the “concertations” with the trade unions, the Commission approved a draft proposal for a Council Regulation amending the Staff Regulations in December 2001.

According to Article 10 of the Staff Regulations the inter-institutional Staff Regulations Committee has to be consulted by the Commission on any proposal for revision of the Staff Regulations. Thus the draft proposal for a Council Regulation amending the Staff Regulations had first to be transmitted to the Staff Regulations Committee before it could be adopted as a proposal of the Commission. In January 2002 the Commission submitted its draft proposal to the Staff Regulations Committee, which gave its opinion at the beginning of April. On 24 April 2002 the Commission adopted the proposal for a Council Regulation amending the Staff Regulations, taking account of the comments made by the inter-institutional Staff Regulations Committee. The overall timetable – agreed by the General Affairs Council on 15 April 2002 - foresees to finalise negotiations by the end of the Greek Presidency (June 2003). In view of this the General Affairs Council has appealed to the other institutions to provide their opinion by the end of 2002.

Secondly, as regards financial control, all final decisions foreseen as part of the Reform are scheduled to be taken before the end of 2002. But in some cases, the implementation of reform actions will not be possible until certain items of legislation enter into force: namely the entry into force on 1 January 2003 of the new Financial Regulation adopted by the Council on 25 June last and of the implementing rules, the draft of which the Commission submitted to the other institutions for their opinion at 25 July 2002.

Some measures decided under the action plan adopted by the Commission on 13 December 2000 (More effective management of the recovery of unduly paid funds, SEC(2000)2204/3) are provisions which could not be put into effect without a change in legislation. On this matter, and as regards measures which could be taken without any change in legislation, see the comments under point 79.

A communication to the other institutions is being prepared with the dual objective of reporting on measures taken under the December 2000 first plan of action referred to above on the recovery of established amounts and, in accordance with the undertakings given by the Commission in December 2000, of adding new measures to this plan of action to ensure the most efficient recovery of debts. This communication should take into account the conclusions drawn in an IAS report on recoveries which will be soon finalised.'
5. Asks that the competent committees of the European Parliament be regularly informed about implementation of certain reform actions and management decisions, in particular:

- a precise review, and a genuine forward schedule, of operations to discontinue or extend the life of Technical Assistance Offices (TAO) and equivalent bodies and set up new ones in particular as regards the Community equal opportunities programme under heading B3-4012, the management of which was much criticised by the Court (annual report - paragraph 3.95),

**Commission’s reply:**

In future, Article 57 of the Financial Regulation 2002 (together with the proposal on Implementing Rules) stipulates clear rules concerning the kind of tasks that can be given to private sector bodies and how to proceed in such cases. No measure of implementation of funds may be entrusted to private sector bodies any longer.

As regards Technical Assistance Offices (TAOs) as identified in the letter of amendment N°1 (Annex 3 to the letter of amendment No 1 to the preliminary draft budget 2001 SEC(2000) 1363 of 4 September 2000), the list is regularly updated by the Commission and sent to the relevant Committees of the European Parliament. This list contains detailed information on:

- the dates on which contracts expire;
- the number of TAOs dismantled;
- the number of TAOs to be dismantled.

The present situation is that out of a total of 126 TAOs, 87 had already been dismantled at 1 May 2002, seven are to be dismantled in 2002 and one in 2003.

As regards technical and administrative assistance as covered by the Guide "Guidelines for outsourcing of technical and administrative assistance to private-law entities for the purpose of programme implementation", the Commission conducts systematic advance checks to ensure compliance with the rules and in particular that the tasks to be outsourced do not involve exercise of public authority or discretionary powers.

With regard to the use of TAOs under the Equal Opportunities Programme, the Commission confirms:

- that the tasks devolved to the technical assistance office to which the Court of Auditors refers in its 2000 Annual Report were reinternalised within DG EMPL over the two budget years 1999 and 2000;
- that the appropriations relating to technical assistance were reduced very considerably under the Equal Opportunities Programme 2001-2005;
- that this reinternalisation policy was backed up by regular resources enabling the Commission to perform its tasks in favourable conditions.
- in connection with the executive agencies entrusted with certain tasks in the management of Community programmes (COM(2000) 788), specific tasks identified by the various directorates-general as being outsourceable,

**Commission's reply:**

According to the Commission’s proposal, on which the Parliament gave its opinion last July, the new instrument “executive agency” is supposed to be potentially applicable in the management of Community programmes in all policy fields. The Budgetary Committee of the Council recently reached an agreement on the proposal on 26 September 2002. The opportunity of establishing an executive agency will have to be assessed in each case; the Parliament will be informed of individual implementing projects at least on a yearly basis during the budgetary procedure.

- the regulatory instruments laying down the Community programmes where the method of management is the use of a network of national agencies; asks to be consulted on these regulatory instruments,

**Commission's reply:**

Article 54 of the new Financial Regulation (F. R.)– which is the result of an intensive inter-institutional dialogue - contains general rules on how and when to resort to national agencies in the implementation of Community programmes. In the draft regulation laying down detailed rules for the implementation of the new F. R., the Commission considers submitting the delegation of powers to national public-sector bodies or private-law entities to strict conditions. These ones relate to applicable law, financial guarantees requested and compliance with sound financial management rules (economy, effectiveness, efficiency). As to individual programmes, they will be adopted according to the procedures set out in the EC Treaty.

- the Commission's management policy for the EU financial assistance to the different world regions including deconcentration towards the delegations and decentralisation in favour of external agencies, as well as their impact on improving EU external aid,

**Commission's reply:**

The Commission will continue to keep the EP regularly informed about the introduction of deconcentration towards the Delegations, and is happy to transmit to the EP the latest progress report on deconcentration.

Building on the Communication on the reform of the management of external assistance of 16 May 2000 and the ongoing process of deconcentration, a memorandum to the Commission on the administrative reform of the unified external service was presented on 2 July 2002. The approval of this memorandum by the Commission is a significant step that will lead to improvement in staff training and in the management of Delegations. It is proposed that a new single department will manage Delegation staff, that there should be a clearer definition of Delegation responsibilities, and that there should be a new career structure for those who will serve in third countries. These measures are designed to ensure speedier and more efficient delivery of EU assistance.

- the establishment of a European College of Administration and of a European Recruitment Office,

**Commission's reply:**
The Secretaries General of the Institutions established an inter-institutional working group on the subject of a "European Administrative School".

A first ideas paper produced by the working group was discussed in the meeting of the Secretaries-General on 9 July 2002 and a mandate has been given to the working group to elaborate a more detailed draft to be transmitted to Secretaries General by January 2003.

While agreeing in principle to set up such a school in the course of 2004, Secretaries General agreed that the school should focus primarily on three main priorities, i.e. the induction of new staff, management training and upskilling/career development. In this way the establishment of the European Administrative School would contribute to a more coherent administrative and managerial culture in the Institutions.

Following the agreement of all Institutions the inter-institutional European Personnel Selection Office (EPSO) will be established and start working from 1 January 2003 (see also reply to para. 11).

- the multiannual programme to convert temporary posts into permanent posts, and the sectors concerned,

**Commission's reply**

In its Reform White Paper the Commission stated its intention of launching an operation to convert temporary posts into permanent posts. This operation was justified by the finding that some temporary staff in the Commission were in fact engaged in what had become permanent tasks.

These conversions in no way mean that the institution will no longer be employing staff on a temporary basis for certain specific duties requiring special expertise. As was indicated in the White Paper, other types of status as proposed in the Reform should replace some of the temporary posts.

The document on human resources accompanying the 2001 preliminary draft budget (PDB) announced a first operation involving 180 A and 90 B posts, in three annual instalments of 60 A and 30 B.

150 conversions were carried out over the budget years 2001 and 2002. In 2003, they should affect 67 posts (20 A4, 20 A5, 1 LA5, 6 LA7, 10 B1 and 10 B2). The remaining conversions will be requested for the budget year 2004.

The conversions are being carried out in all the Directorates-General except the Commissioners' cabinets.

- strengthening of the external element in the disciplinary procedure,

**Commission's reply**

On 19 February 2002 the Commission adopted a decision on the conduct of administrative inquiries and disciplinary proceedings (C 2002 (540)). In order to strengthen the external element in disciplinary proceedings, Article 10 of this decision provides that the Chairman of the Disciplinary Board is to be chosen from among former officials, serving officials (to be placed on special leave during their mandate) and former members of the European Institutions. The new
Chairman of the Disciplinary Board, a former Member of the Court of First Instance, will take office on 1st November 2002.

- a reform of the invalidity pension arrangement especially with regard to the weighting system;

Commission's reply:

The main point of the Reform being proposed to the Council on the Community Invalidity System is the replacement of the invalidity pension by an invalidity allowance equal to 70% of the last basic salary while in active service; this allowance will be subject to the pension scheme contribution. Step advancement will be withdrawn. The invalidity allowance will not be lower than the minimum subsistence figure.

In the proposal submitted in April by the Commission to the Council, a weighting factor was specifically established for pensions, which was determined after comparison of the cost of living between countries. The weighting factors applied to the pensions will likewise be applied to the invalidity allowances. The new weighting factors based on the comparison between countries instead of between capitals - as it is today - will be closer to the real differences between the cost of living in the various countries of the European Union.

6. Asks the Commission, in view of the recent proliferation of decentralised bodies, to propose a review mechanism for Agencies, based on the cost-benefit ratio and the added value compared to other alternatives;

Commission's reply:

As already indicated under point 5, second indent, the Commission proposes for the new instrument “Executive Agency” an individual assessment of the opportunity to create an Executive Agency in the specific case in question. In addition, the Commission’s proposal explicitly foresees the possibility to abolish an Executive Agency, once its continuation is no longer considered opportune. As regards the existing Community Agencies, only in the case of the European Agency for Reconstruction, the legal mandate provides explicitly a possibility to abolish the Agency.

7. Stresses that any measure involving amendment of the Staff Regulations of Officials and the Conditions of Employment of Other Servants, such as the new career system, underperformance, flexible retirement, and the rules governing whistleblowing must comply with the principles of independence, neutrality and continuity of the European civil service and modern standards of administration, especially providing service and openness towards the citizens;

Commission's reply:

The Commission committed itself in the White Paper to base the whole reform on the key principles of independence, responsibility, accountability, efficiency and transparency.

In its proposal for amendments to the Staff Regulations the Commission has suggested a number of measures which reinforce the principles of independence, neutrality and continuity of the European Civil Service. The principal obligations of European officials governing the performance of their duties and their conduct such as impartiality, objectivity and loyalty, which are recognised
by case law, are set out clearly in the proposal. The obligations of officials in situations liable to give rise to conflicts of interest have been redefined. Rules on professional discretion have been revised to better align them on the new EU rules regarding public access to documents. Finally, the Commission has introduced a variety of measures to safeguard professional and ethical standards such as new disciplinary rules, rules on whistleblowing and professional incompetence.

The continuity of the European Civil Service will be guaranteed under the amended Staff Regulations. Basic principles such as the lifetime employment of European officials and a career-based system will be retained. Moreover, it should be emphasised that the Staff Regulations will continue to apply to officials of all European Institutions and agencies.

8. Expects that the human resources allocated to the various aspects of the reform will be sufficient to ensure that it is introduced quickly and effectively, e.g. staff allocated for reform of the external service and staff affected by that reform; likewise, as regards reform of financial management and control within Commission's departments and delegations, wishes to know what recruitment problems, if any, the Commission faces;

Commission's reply:

The problems encountered by the Commission's departments and Delegations in relation to the reform of the external service is related to the uncertainty of prior availability of sufficient financial resources to be able to ensure continuous progress as planned. As the role of the Commission Delegation offices grows, the Commission has to ensure that sufficient resources are available and has therefore asked for increased funds in 2003 (under Title A6) to cover infrastructure linked to deconcentration and increased staff numbers.

The Commission is committed to deconcentrating the management of external assistance and implementing the associated transfer of responsibilities to the 78 Delegations managing aid, according to the following schedule: 21 Delegations were covered in 2001, a further 26 Delegations will be covered in 2002 and the remaining 31 in 2003. On top of this the Commission intends to complete the installation of a new office in Kabul in 2002.

The Commission's approach has always been that the Commission's Delegations in third countries must be given the necessary means to discharge their new responsibilities to the required quality standards. This includes the provision of additional human, technical and budgetary resources from the different parts of the budget (A6 as well as the BA lines).

Some of the new posts authorised in the 2001 and 2002 budget covered the deployment of additional staff in the Delegation network, and the 2003 PDB includes further demands for accelerating the deployment of existing posts from headquarters to Delegations.

The transfer of responsibilities on a specific country portfolio will be gradual, the pace depending on the speed of increase of the absorptive capacity of Delegations. Delegations have identified an important need for posts and non-permanent personnel. Part of the latter is to be financed, in accordance with agreements reached in the framework of the dismantling of the TAOs, from appropriations under the BA headings of the relevant external actions programmes.

In order to ensure that the human resources allocated are sufficient to ensure that the various aspects of the reform are developed effectively, the Commission, in the context of the Annual Policy strategy (APS) 2003, has decided to allocate more personnel for this priority:
- it is proposed that around a third of the posts becoming vacant as a consequence of early retirements in 2003 be used by services to cover their needs in this area. The logical link of using these posts for a new staff policy is apparent, as this policy focuses on investing in people, in particular by intensifying training and career guidance.

- The Commission has thereby demonstrated its determination to meet the target of reinforcing the human resources dedicated to the implementation of the Reform and will continue to ensure in the framework of the APS cycle 2004 that the posts that will become available as a result of further early retirements will be devoted to the priority needs of making the reform a success.

As regards recruitment problems, in view of a lack of suitably qualified people on reserve lists and the ensuing need to train inexperienced staff, the Commission has decided to review as soon as possible profiles for recruitments needed by DGs in financial management and related issues, compare these with the current competitions programme in this area and launch additional open competitions as appropriate. In this respect, DG Personnel and Administration will draw up a plan to be implemented by the new personnel selection office, EPSO, as from early 2003. As an interim measure, the recruitment of temporary agents on vacant permanent posts will be extended up to the point at which sufficiently long reserve lists for the related competitions will be available. Thereby the Commission has managed to reduce the number of vacant post (as of 2 October 2002) to 594 (3.3% of the total population under the operational budget). In addition, DG Budget will provide the necessary training for staff on financial management as well as training specifically geared to the implementation of the new Financial Regulation.

9. Takes the view that a motivated workforce is essential to the success of the policies implemented by the Commission and asks the Commission to ensure maximal consultation with all levels of staff; welcomes the fact that agreement has been reached between the Commission and trade unions representing a large majority of staff to the proposed amendment of the staff regulations which it considers to be an essential part of the Commission reform process and invites all parties concerned to cooperate constructively in the reform process;

Commission's reply:

The Commission is also committed to ensuring maximum consultation with all levels of staff and all parties concerned and to cooperating constructively in the reform process (see reply to point 4). On all reform decisions within the current Staff Regulations, the Commission has not only gone through the full formal concertation procedures, but also far beyond the usual mechanism. By doing this, the Commission has established a framework of confidence with the social partners in the Commission and followed its line of a fully transparent social dialogue.

On the reform package represented by the Commission’s proposal of a Council Regulations on modifications to the Staff Regulations, the Commission has organised extensive political consultations and held formal concertations with staff and staff representatives of an unprecedented level. The Commission has also encouraged interinstitutional social dialogue and welcomed the presence of staff representatives from other Institutions in almost every single concertation.

With regard to the ongoing negotiations in the Council the Commission concluded, on the occasion of the finalisation of the reform package, a Protocol Agreement which will ensure a constant exchange of information and consultation. So far this Agreement has been signed by two unions
representing in electoral terms 60% of staff of the Commission. Both unions are also represented in other Institutions. The Commission has taken all the necessary steps to make the Protocol Agreement operational and to open it to further staff unions from the other Institutions.

In view of the objective to finalise negotiations by June 2003 and the implications that the reform may have for the organisation and running of each institution, the Commission and the Council have agreed to establish an informal Contact Group allowing a regular exchange of information on the timetable and the progress made within each institution. The first meeting of this Group covering all Institutions took place at the end of the Spanish Presidency on 28 June 2002.

10. Calls on the Commission to make sure the process of reform does not have any adverse impact, e.g. as regards a reduction in the on-the-spot checks carried out by the Commission (cf. paragraph 3.72 of the Court of Auditors’ annual report);

Commission’s reply:

The overall objective of devolving responsibility to the Directorates-General (DGs) initiated by the Reform has led to the transfer from Financial Control to the operational DGs of resources allocated to on-the-spot checks, responsibility for which now lies fully with the DGs.

As regards the specific Court of Auditor’s observation mentioned, the transitional process in 2000 resulting from the reform did in some cases have an impact on the number of on-the-spot checks carried out, but it can be seen now that this was a temporary phenomenon. Considerable efforts have been made by allocating additional staff to audit tasks and, where necessary, by having greater recourse to external auditors. The overall situation having remained stable in 2001, reinforcement of the audit units has continued in 2002. This will be reflected in a continuing increase in the level of audit activity, in particular for the Cohesion Fund.

For example, for the ERDF the number of on-the-spot checks increased to 70 in 2001 from 52 in 2000 and 61 in 1999. For the Cohesion Fund the figures are 6 in 2001, 3 in 2000 and 7 in 1999. In addition, in 2001 80 audits on the spot were carried out by external auditors contracted by the DG to verify directly managed projects financed under Articles 7 and 10 of Regulation 4254/88.

11. Asks the Commission to assess the cost-benefit of introducing the reform, including the cost of professional training (in particular in the field of financial management), the cost of recruitment and of termination-of-service arrangements (regarding Article 50 of the Staff Regulations of Officials) and to inform it of the results;

Commission’s reply:

The mission statement of the Directorate-General for Personnel and Administration (DG ADMIN) states that one of its main missions is to "contribute to the reform related to Personnel and Administration. Therefore this DG continuously updates its programming for the reform in accordance with a culture of change and experience gathered in the implementation and evaluation process". An evaluation function within this DG was established in 2001.

Evaluations are and will be carried out for DG ADMIN’s own policy-making purposes, to provide it with information that helps to (re-)orient its policies or activities, and to be accountable for the results achieved. The evaluation function systematically examines the effectiveness, efficiency (cost-benefit), relevance, utility and sustainability of a selection of the activities. It focuses in particular on the reform initiatives for which it was made responsible in the White Paper on
“Reforming the Commission” of March 2000. The evaluation plan of DG ADMIN for 2002, being part of the Annual Management Plan, includes a sample of actions relevant to the Reform:

- Evaluation of the language training;
- Evaluation of management training;
- Evaluation of the equal opportunities policy in the Commission, with an emphasis on career policy in regard to gender equality;
- Evaluation of the information technology (IT) infrastructure policy and support for the e-Commission initiative.

The results of these evaluations will become available during the first half of 2003. To ensure that the conclusions of evaluations are as sound as possible, different evaluation tools are combined to collect and analyse data from the same “object of study” (e.g. a target group), which is known as methodological triangulation. This allows the strengths of one to offset the weaknesses inherent in another.

As regards measures not or only partly covered by this evaluation plan:

1. Professional Training

   The main budget lines for professional training of Commission staff in 2001 were:
   - A7060 (for general training) : 9.000.000 €
   - A4030 (for language training) : 3.868.000 €
   - A2 & A5 (for IT training) : 2.145.000 €
   - C651 (for training of research staff) : 55.000 €

   Financial administration training was a priority topic in 2001 and represented 19% of total number of (general) training days organised centrally for Commission staff in 2001 (4 802 training days out of a total of 24 643).

   The cost of this training was only 5% of the A7060 budget for central training. Many of these courses were facilitated by DG Budget staff due to the very nature of the subject. In this respect, six different training courses were provided amounting to 203 person/days.

   The Commission holds these expenses to be indispensable. As it already pointed out in the White Paper “Reforming the Commission” of 1 March 2000 “a fundamental factor necessary to ensure the robustness of the new audit, financial and control system is that financial operations must be run by highly competent staff. Any shortfall in human resources, skills or expertise would seriously undermine the reliability of the system. … To ensure a common understanding of the concepts and vocabulary of the new audit, financial and control system across the Commission, staff will be trained immediately on the principles behind the financial reforms. Managers in charge of spending programmes will be given training courses on strategies for maximising the value for money of their activities. Once the new operational manuals with simplified and consolidated rules and procedures are available, an intensive and thorough training programme will be provided for operational staff responsible for programmes that involve expenditure. …. An introduction to the way the Commission’s budgeting and financial systems work will be compulsory for all staff.”

2. ARTICLE 50
In 2000 the total cost of article 50 decisions taken amounted to €3,861,715. This represents 0.11% of the total salary bill including pensions (0.15% excluding pensions) and can therefore be considered to be very modest.

In addition these figures do not take into account the fact that the cost of Article 50 decisions could be offset by savings resulting from the fact that officials departing under the terms of Article 50 are often replaced by officials at the initial step of the grade in question. In other words, the salary costs for the newly appointed officials are often lower than for their predecessors.

The provisions of Article 50 constitute an element of flexibility in the management and organisation of the services of the institutions, in that senior officials can be retired whenever, for organisational reasons, it is considered to be in the interest of the service (e.g. in the case of restructuring or reorganisation of services, or to ensure a better matching of the profiles of the senior officials with the tasks of the institution).

3. Recruitment – Cost-benefit analysis of the inter-institutional European Personnel Selection Office (EPSO)

As pointed out in the replies to paras. 3 and 5 EPSO will become operational from 1 January 2003 onwards.

See annexed table which illustrates the recruitment costs and savings generated by the setting-up of EPSO.

Savings are proved if the cost per successful candidate is less after the setting-up of EPSO.

The estimate of the number of successful candidates needed each year is linked to the posts to be filled. The number of posts to be filled depends on turnover (retirement), ad hoc measures such as the conversion of appropriations into posts or termination of service, and the number of new posts (whether normal or linked to enlargement).

The duration of a competition varies between 15 and 18 months for multilingual competitions. It can be considered that 58% of the costs are borne in the year of publication of the competition and 42% in the year in which the lists of successful candidates are drawn up.

Taking account of these factors, it can be seen that, in the context of enlargement, EPSO reduces the cost of a successful candidate by a little less than half. This saving comes essentially from the considerable number of candidates who will have to be recruited following enlargement. The rationalisation of selection procedures as a result of the creation of EPSO will lead to savings of about 20% per successful candidate compared with costs for the Commission, recruitment unit, in 2001 and 2002. When enlargement is taken into, there will be additional economies of scale leading to a reduction in cost of approx. 37% per successful candidate.

12. Considers that the ‘management declarations’ by each director-general, introduced under the new internal-management system (and effective as of May 2002), will provide a welcome new tool in assessing the performance of Commission Directorates-General and will make it easier to identify areas where further improvements need to be made; underlines that the management declarations do not in any way diminish the individual or collective responsibility of Members of the Commission;

Commission's reply :
Within the new management and accountability framework, the Annual Activity Reports and Declarations are newly implemented management tools whereby the Commission's Directors-General and Heads of Service having individual responsibility and liability for the resources that they manage, render account to the College and other stakeholders (Council and European Parliament). As the Commission pointed out in its response to Parliament’s discharge resolution for 1999, in no way does this alter the individual or collective responsibility of the Members of the Commission.

The first Annual Activity Reports, concerning the year 2001, were produced by all Directors-General and Heads of Service by 1 May 2002. These reports should be considered as a first step towards a totally consistent strategic planning and programming cycle but the preparation process and the scope of the report and the declaration will require a continuation of methodological work in the light of this first year’s experience.

On the basis of these reports, the Commission adopted a synthesis report on 24 July 2002 which has been subsequently transmitted to the European Parliament, the Council and the European Court of Auditors, together with all Annual Activity Reports and the reports of the Financial Controller and of the Internal Auditor under Articles 24 and 24a of the Financial Regulation.

13. Expects the Commission to inform the European Parliament in the event of any other reforms under way;

Commission's reply:

The Commission has informed the European Parliament as well as the other institutions right from the very beginning of the reform process. This will, of course, also be done in the event of other reforms, such as the modernisation of the accounting system and process which is under the way.

THE PROCEDURES

14. Notes, as the Court of Auditors’ annual report stresses, that procedures are not commensurate with the objectives pursued; in particular,

(a) deplores a weakness of linkage between the Commission and the Member States: the lack of uniformity of own-resources-related information forwarded to the Commission by the Member States in connection with, for instance, fraud, irregularities established and checks introduced to prevent them (cf. paragraph 1.61 of the Court of Auditors’ annual report), the failure by some Member States to forward data in connection with the clearance of accounts (cf. EAGGF, Guarantee Section, paragraph 2.59 of the annual report) and the same failing concerning the Structural Funds, and the lack of statistics at the Commission on premiums within the sheepmeat and goatmeat CMOs (cf. 2.117 of the Court of Auditors’ annual report);

Commission's reply:

For traditional own resources and in particular with regard to cases of fraud and irregularities, the Commission and the Member States are linked via the OWNRES system which provides for an overall view of the situation. However, because of differing definitions of fraud and irregularity used by Member States, the information obtained is sometimes difficult to compare. To provide for an adequate solution, in 2001, the Commission tabled a proposal for an EP and Council directive
on the criminal law protection of the Community's financial interests, which includes a distinction between fraud and irregularity. OWNRES, while functioning acceptably from a technical angle, is currently under review with the aim of enhancing its user-friendliness.

Furthermore, in the framework of the Advisory Committee on Fraud Prevention (COCOLAF), the Commission regularly reminds the Member States of the importance of providing homogeneous information on cases of fraud or irregularity communicated in the area of own resources.

As regards the Structural Funds, information on how Member States are using the Structural Funds should improve as a result of computerisation and stricter enforcement of reporting obligations. Innovations introduced in this area in the new period include: the common Structural Funds financial database SFC, the linking of interim payments to submission of annual reports, better forecasting of payment claims, coding of projects according to a standard classification, reporting of financial corrections and recoveries, and access to detailed project information for analysis before audits.

In the autumn of 2002 the Commission Structural Fund Directorates-general and the European Anti-Fraud Office (OLAF) will audit the observance by Member States of the procedures for reporting irregularities in the Structural Funds.

As regards the statistics on premiums within the sheepmeat and goat regime, there is only one Member State which transmitted incomplete data and appropriate measures were already taken by the Commission. It therefore disagrees with the statement regarding the sheep sector. The reform of this sector was made with viable statistics They were the basis for the feasibility study and for the budget simulations of different policy alternatives, including the calculation for the additional payments.

(b) notes the Commission’s acknowledgement of this state of affairs (in its reply to paragraph 2.117); does not accept, however, that a shortcoming detected in one sector may be used as an excuse with regard to others, and therefore calls on the Commission to make the necessary representations to the Member States in time for the next discharge to ensure that they meet their obligations on time and that, in all Member States, the information forwarded matches standard definitions (in particular where fraud or irregularities are involved);

Commission’s reply: As regards the reform of the sheep sector, see answer to point a).

The Commission is continuing, in the framework of the regular meetings of the COCOLAF, the Advisory Committee for the Coordination of Fraud Prevention, a dialogue with the Member States to ensure that the reporting of fraud and irregularities in the Structural Funds by the Member States follows standard procedures. A presentation was made by the Commission services on the need to have standard procedures in the areas of both the Structural Funds and agricultural expenditure at the most recent meeting of the COCOLAF in July 2002 and an audit of three procedures will be carried out in the autumn of 2002 (see answer to point a).

(c) deplores certain Member States’ resistance to applying certain strategies, as was the case concerning the measures taken by the Commission to detect and eradicate BSE, and as exposed by the Court of Auditors (Special Report 14/2001¹), and the lack of

emergency rules allowing such situations to be put right promptly, (proceedings before the Court of Justice not being appropriate for managing emergencies);

**Commission's reply:**

Until the adoption of European Parliament and Council Regulation No 178/2002 laying down the general principles and requirements of food law, the Commission had very limited powers (apart from infringement procedures) to take prompt and quick action in the event of a Member State failing to implement feed and food safety rules, or to impose financial corrections concerning veterinary expenditure or market-related measures financed by the EU. This was a major handicap with regard to the detection and eradication of BSE.

With the forthcoming proposal on official feed and food controls, the Commission aims to introduce new tools that would empower the Commission to take more efficient measures against Member States that fail to implement EU feed and food law. The aim is to submit this proposal to the European Parliament and Council before the end of 2002.

(d) notes that some of the errors detected by the Court (cf. paragraph 2.36-2.41 of the Court of Auditors' annual report 2000) proved to be systemic. The principal type of systemic error observed concerns unwarranted deductions from aid payments (paragraph 2.36). Notes that the Court mentions examples of unwarranted deductions from aid payments in Sweden, Greece and Spain; notes that the Commission is currently investigating the administrative fees introduced in Denmark on applications for export refunds; asks the Commission to be fully informed on developments in this case;

**Commission's reply:**

As regards deductions from EAGGF subsidies operated by farming cooperatives, producer's associations and related bodies implementing tasks related to the management of the aid scheme concerned which have been delegated to them by public authorities or otherwise conferred on them pursuant to existing EC legislation, the Commission is of the view that if these deductions are made in sectors where a full payment provision exists and are related to the management of the aid system by these bodies, such deductions are not allowed by Community law, unless sectoral Community legislation provides explicitly for such deductions.

As regards the administrative fees introduced by Denmark on applications for export refunds, the Danish authorities have informed the Commission by letter of 23 April 2002 that as of 1 May 2002 these fees have been abolished.

For Greece, flat-rate corrections, equivalent to the amounts deducted from area aid and bovine premium payments, have been applied under the clearance of accounts procedure for the marketing years 1993 onwards. The application of such financial corrections is under consideration in respect of ovine and caprine payments effected as from the financial year 2000.

Concerning specific measures for nuts in Spain, after examination, no correction will be proposed as, for the scheme in question, there is no integral payment clause and as the beneficiary is the producer organisation and not the producer. In addition, this does not represent a deduction but a compensation which is not forbidden by Community rules.
For Sweden the Commission is considering a financial correction equivalent to the amounts levied by the Swedish authorities and deducted from area aid payments in 1999 for maps.

(e) regrets that in the area of external aid the Tacis programme for transborder cooperation failed - after four years of implementation to fulfil one of the main objectives, namely improvement of living conditions in the border areas (e.g. special report Court of Auditors 11/2001); asks the Commission to reinforce the cooperation between the different programmes (Tacis, Interreg, Phare) and to give priority to projects for a better living environment; asks to be informed about the concrete results, by July 2002, of the programme, which the Commission expected for the year 2001;

Commission's reply:

The Commission acknowledges that the impact of the programme was limited at the time it was examined by the Court of Auditors (four years after the programme began). The Court itself noted that at best only a modest impact could be expected due to the limited funds available. The programme experienced some start-up problems which have now been resolved.

The programme has achieved some measurable results. One border post was completed at Leushen in Moldova in 2001; one bridge and four other border crossings have been completed, or are almost complete, and will be formally opened in the third quarter of 2002. These are the Jagodin bridge over the Bug River between Ukraine and Poland with its access road; two border posts at Salla and Svetogorsk on the Finnish/Russian border; the border post in Chop on the Hungarian/Ukrainian border, and the post at Kameny Log on the Belarus/Lithuanian border. These have contributed to more efficient and effective controls and reduced waiting times. Construction of a new border post at Bagrationovsk between Kaliningrad and Poland started in June 2002 and will be completed in early 2003. In addition, work on the border demarcation between Belarus and Lithuania started in March 2002.

The business incubator established in the economic development project at Uzghorod in Ukraine is full and has a waiting list of potential clients, and a scheme has been launched to promote innovative ideas by micro-enterprises and to provide more business skills training. A new project is currently under preparation to foster the economic development of the lower Danube Euroregion by supporting small and medium enterprises and by promoting cross-border trade with Romania. While these results are welcome, the impact on local living conditions will not be felt for some time to come.

Strengthening coordination between Tacis CBC, INTERREG and PHARE has been and continues to be a priority for the Commission. Since most of the present Tacis-PHARE borders are expected to become Tacis/INTERREG borders in 2004 the emphasis of the work has been very much on the latter. In April 2001 the Commission published "A Guide to bringing INTERREG and Tacis together" which contained a number of practical measures to facilitate preparing and implementing joint projects across the borders. The implementation of the guide is progressing well and further procedures to link these two instruments are being developed. The priorities of the two instruments have been harmonised, projects which receive funding under one instrument will receive priority treatment under the other, and an electronic newsletter has been introduced to keep interested parties up-to-date on developments with both instruments There has already been a marked rise in the number of linked projects being funded on both sides of the border. A seminar

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was held in St Petersburg in November 2001 where participants of all the relevant NIS countries, candidate countries and Member States had the opportunity to discuss issues related to the coordination between the different Community instruments and cross border cooperation more generally as one of the key elements of the EU’s strategic approach on its present and future external borders.

In candidate countries' border regions adjacent to NIS, PHARE national programme funds can be used to support social and economic activities of a cross-border nature. In so doing, PHARE national programmes can provide the matching funds required for improving coordination with the Tacis cross-border cooperation programme.

(f) notes that the Commission has improved the administrative procedures of Echo, in order to be able to better handle emergencies (e.g. special report 2/2001 - humanitarian aid for victims of Kosovo); asks for an assessment report to be made on the management of recent humanitarian crises (payment timing, decision making capacity, cooperation with NGOs and evaluation of the aid);

**Commission's reply:**

The Commission approved a new framework decision procedure for primary emergency procedures to give further flexibility in responding to emergency humanitarian crises. This new procedure has allowed ECHO, since 2001, to become a first wave donor in all breaking emergencies since it was introduced. ECHO can now take a decision in the case of new emergencies inside a given framework and within a maximum delay of 72 hours. Since these new procedures were adopted, the new 'first emergency procedure' has been applied 4 times. In all cases the Commission approved the funding Decision with in a maximum of 3 days after the emergency occurred. A fast track process for the disbursement of funds (5 days) then follows these decisions.

ECHO also uses an Emergency Decision process that gives a response in 5 days from a crisis or event and is also accompanied with a fast track disbursement of funds process that also takes 5 days. In 2001 there were 31 Emergency Decisions for more than a total of €92 million.

In 2001 ECHO started strategic dialogues with its international partners, in particular the ICRC and UN families, in order to plan and better target humanitarian aid for long-term and more forgotten crises. These dialogues are annual, but also continuous in the field and in specific situations and therefore a dynamic relationship between ECHO and its partners has developed.

The broader negotiations between the Commission and the United Nations family to develop new streamlined working practices as well as the development of strategic dialogues with the UN and other international partners are active and well advanced. The revision of the EU-UN agreement will take some time yet as, among other matters, the UN and the EC have to agree on quantifiable and measurable performance indicators. However, it is intended that, by the end of 2002, the negotiations should be substantially advanced. This will however also depend on the capacity of the UN system to quickly meet the next phases of the dialogue.

The main funding mechanism used by ECHO is the Framework Partnership Agreement that includes a partner vetting process and is a comprehensive grant contract specific to the needs of

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humanitarian operations. The contract will undergo a further revision in 2002 to better encompass both the recast Commission rules and the mandate of ECHO, with more flexibility and simplicity.

(g) considers that in the framework of the CSFP, as is highlighted in the Special Report 13/2001 of the Court of Auditors\(^4\), the present arrangement is unsatisfactory; asks the Council and the Commission to produce immediately - as indicated by the Commission (e.g. reply to the questionnaire 5.1) - an agreed definition of administrative and operational expenditure for EU Special Representatives (EUSR); asks that clear rules on remuneration and salary related-costs be clearly established for staff working in the EUSR offices and that clear arrangements be made on adequate reporting, auditing and evaluation;

Commission’s reply:

In a Joint Declaration (doc. 14835/01 of 4 December 2001), the Council and the Commission agreed to review the "Guidelines on appointing procedure and administrative arrangements for the EU Special Representatives" (EUSR), adopted on 30 March 2000 (doc. 7089/00 CFSP 136 FIN 104), with a view to arriving at an agreed definition of the scope of administrative and operational expenditure before 31 March 2002.

The discussion on the definition of administrative and operational expenditure for EUSRs was undertaken in the Council External Relations Counsellors working group. The Commission actively searched for a definition and presented its own contribution in the form of a Commission Services’ working paper. Unfortunately the discussion was overtaken by a debate on the scarcity of resources to finance the EUSRs, notably from the administrative budget of the Council. Indeed, in accordance with the guidelines of 30 March 2000, EUSRs are to be financed under the Council’s administrative budget as they are under the authority of the High Representative/Secretary-General. The working group failed to reach a conclusion. The Commission agrees that the present arrangement is unsatisfactory in that the present Guidelines on EUSRs of March 2000 do not provide an adequate definition of administrative and operational expenditure. The Commission will continue to pursue the issue actively with the Council.

Clear rules on remuneration and salary-related costs for staff working in the offices of the EUSRs and other Special Advisers of the Commission are presently being established by the Commission.

As regards reporting by the Commission to the European Parliament (EP), the weekly implementation tables received by the EP at chapter level include CFSP under Heading 4. According to the Interinstitutional Agreement (IIA) of 6 May 1999, point 40.1, the Council Presidency will regularly inform the EP about the development and implementation of CFSP actions. Hence, the provision of regular information to the EP on CFSP actions is a joint responsibility of the Council and the Commission. Further, according to point 40.3 of the said agreement, on a quarterly basis, the Commission informs the budgetary authority about the development and implementation of CFSP actions. This reporting has been regular since the beginning of 2001.

As regards reporting by the implementing bodies to the Commission, clear arrangements are already in place. The submission of interim and final reports from the bodies implementing Joint Actions is a prerequisite for payments. The Commission is putting emphasis on audits and

evaluations of CFSP actions, organising 2 audits and 1 evaluation in 2001, and is continuing its efforts in this regard.

(h) recommends that the Council and the Commission present to the European Parliament, a proposal for the criteria for the definition of operational and administrative expenditure in CFSP, and a proposal for an interinstitutional agreement clarifying the role of the Commission in determining the financial and operational framework of budgetary implementation and presenting the auditing and evaluation systems set-up in this area;

Commission's reply:

In the Commission's view, it is not necessary to present specific criteria for the definition of operational and administrative expenditure for CFSP. The Financial Regulation 2002 will apply to both categories, with the only exception of operational expenditure not charged to the general EC budget.

The need to define the scope of administrative and operational expenditure only arises as regards the mandates of EU Special Representatives, which enjoy a special regime set up by the Council Guidelines of March 2000, which make a distinction between administrative expenditure to be charged to the administrative budget of the Council and operational expenditure to be charged to the CFSP budget.

The Commission welcomes the suggestion made by the European Parliament for clear operational principles and arrangements with regard to the Commission's role in the implementation of the CFSP and considers that an enhanced role for the Commission will lead to an overall improvement of the management of CFSP actions. The Commission will give due consideration to the EP's recommendation to propose a new IIA.

15. Asks the Commission to carry out special audits of the representations in the Member States in the light of the allegations of malpractice in the Stockholm representation; asks to be fully and adequately informed of the result of the disciplinary cases in relation to the Stockholm representation;

Commission's reply:

The Commission has already taken a number of preventive and control measures with the aim of limiting the risks of embezzlement in its decentralised services:

- A unit for "Inspections of the Representations in the Member States" was created in April 2001 in DG PRESS. The specific task of this unit is to ensure that administration within the Representations is fully compliant with the different internal rules that apply (and, where appropriate, external rules such as national law). Regular inspections of the various Representations will continue to be carried out to this end.

- DG PRESS has also had an internal audit capacity since an audit unit was set up in April 2001. Although this unit has responsibility for the whole DG, it can also audit the Representations in the Member States and hence ensure that their management complies fully with certain predefined criteria. Ad hoc audits of the Representations may be carried out within this framework in coordination with the inspection unit, without prejudice to the
general remit of the Commission's internal audit service (IAS) to carry out additional audits.

– Finally, DG PRESS has put in place internal inspection standards as required under the reform in all the Commission's Directorates-General.

With regard to the disciplinary cases in relation to the Stockholm representation the Disciplinary Board has now delivered opinions in all three cases and the Commission is about to adopt final decisions in two of the three related cases very soon. Disciplinary proceedings in the third case had to be suspended because the Swedish judicial authorities have initiated criminal proceedings against the official concerned. The fifth paragraph of Article 88 of the Staff Regulations provides that, where the official is prosecuted, a final decision by the Appointing Authority shall be taken only after the Court has reached a final verdict.

16. Calls on the Commission to improve budget forecasts and reduce the divergences between estimates and out-turn and improve communication between Commission and Member states, especially in the framework of the budget network for information exchange;

Commission's reply:

With a view to improving the budget expenditure forecasts specially in the area of the Structural actions, the Structural Funds Regulation (1260/99) requires Member States to submit detailed payment forecasts to the Commission by 30 April each year to cover that year and the following year. After analysis the forecasts can be used in establishing the levels of payment appropriations required under each objective in the following year’s budget. So far, however, they have been too late to be included in the draft budget, which has to be submitted by the Commission before the Member States' replies are received.

The Commission has made efforts to improve the reliability and timeliness of these forecasts so that they can become a management tool, despite the inherent uncertainties (expenditure deriving from large numbers of individual projects) and the lack of experience with the new reimbursement-based payments system. In March 2002 the Commission wrote to the Member States reminding them of their obligations and stressing the importance of the forecasts. This message has been repeated in letters by the Structural Fund Commissioners and through the advisory committees.

In 2002 all Member States have supplied the forecasts

As regards the budget revenue forecasts, see the answer under point 50.

17. Takes the view that the Commission must equip itself with tools to improve budget forecasts and make greater use of the budget network, in order to prevent a recurrence of excessive budget surpluses;

Commission's reply:

The Commission refers to its replies under points 16 and 50.

18. Is convinced that the management method of the present-day Union, and the enlarged Union of tomorrow, must continue to rely on the principle of decentralisation; this demands comparable and equally efficient management capacity on the part of the various national administrations, as required by the new rules on the Structural Funds (Regulation (EC) No
Commission’s reply:

The Commission is giving priority to ensuring that Member States have the necessary systems in place to manage Structural Funds well. Sound decentralised management is one of the thrusts of the Structural Fund Regulation No 1260/1999 and the requirements have been reinforced by the implementing regulations Nos 438/2001 (management and control systems) and 448/2001 (corrections). A parallel control systems and corrections regulation, Regulation (EC) No 1386/2002, was adopted by the Commission in July 2002 for the Cohesion Fund, which like the Structural Funds after accession will also operate in the new Member States. The Commission is now concentrating on systems in its audit work. The Commission has continued its activities designed to support the process of institution and system building in the Applicant Countries (AC) in the area of Public Internal Financial Control (PIFC) particularly through training of national officials and networking with counterpart organisations in Member States (MS) and AC. In March 2002 a PIFC training seminar for Turkish officials took place in Ankara. A workshop on regional aspects of financial control of structural aid was organised in May in Krakow, Poland with participants from 3 MS and 3 AC. The 5th meeting of the Contact Group of European Financial Control Organisations (MS, AC and Commission) will take place in October next.

The Commission will further pursue these activities throughout the remaining pre-accession period. Similar emphasis is being put on institution and system-building in the pre-accession instruments.

The Commission organised a seminar involving representatives of the SAPARD Agency and the Managing Authority of the SAPARD Programmes of all ten beneficiary countries on 17-18 June 2002 in Brussels. All countries participated actively in this seminar, freely exchanging information on both progress on implementation as well as on difficulties encountered.

Decentralised management of ISPA in candidate countries is a priority for the Commission. The objective is that those countries should mostly operate under the extended decentralisation system (EDIS) before they accede likely in 2004. This should allow countries to acquire sufficient practical experience in the management of a fully decentralised implementation system before accession. The candidate countries concerned are at present at the first stage of the implementation of EDIS for ISPA, the "gap assessment" (as defined in the "Road map to EDIS for Phare and ISPA" which was communicated to candidate countries in 2001). In this context the Commission adopted the suggestion of the European Parliament to establish High-Level Working Groups in all PHARE countries. These High-Level Working Groups will supervise and monitor the transition to EDIS process. They constitute important apparatus in the sound financial management of pre-accession funds and are instrumental in ensuring compliance with commitments on financial control made by the candidate countries in the negotiations. The EDIS Roadmap clearly indicates that...
Responsibility and ownership for undertaking this transition rests with the candidate countries for the first three steps:

1. Gap Assessment; this involves carrying out an assessment of the target national institutions (inter alia the National Fund and the implementing agencies) in order to determine to what extent the conditions for EDIS are currently met and to identify specific actions, changes and improvements required.

2. Gap Filling; the national authorities must make the necessary changes and improvements to the target institutions and procedures through implementation of the recommendations of the Gap Assessment Report (GAR).

3. Compliance Assessment; this exercise enables the national authorities responsible for the financial management of the Community instruments to determine whether the pre-conditions for formal application of EDIS are fulfilled.

PHARE assistance is being provided to the candidate countries to enable them to address stages 1 to 3 above in a timely, efficient and effective manner.

The final analysis and verification stage is the exclusive responsibility of the Commission services in order to enable the Commission to decide whether to grant EDIS under Article 12(2) of the Coordination Regulation No 1266/1999.

The Commission makes available Technical Assistance funds from ISPA (and from Phare in some countries for some steps in the “road map”) to assist these countries to prepare for EDIS. Most of the countries also use external auditors to assist them. This assistance will also help in strengthening the implementation structures for the Cohesion Fund.

Agreement for the implementing agencies for ISPA to operate on a fully decentralised basis will be given upon demonstration that they have in place appropriate resources, structures and systems for the effective and timely management of Community assistance and effective internal controls including an independent audit function and an effective accounting and financial reporting system meeting internationally accepted audit standards.

Independently of the preparation for EDIS, audits were undertaken in the first half of 2002 to assess the adequacy of the management and control system of candidate countries, in line with the requirements of Article 9(2) of Regulation 1267/1999. These audits will be followed up in the second half of 2002. Their findings will provide assurance that candidate countries have established proper management and control systems ensuring that ISPA funds are correctly spent for the purposes intended and in accordance with the rules of sound financial management.

**Contractual Management Procedures and Community Subsidies**

19. Asks the Court of Auditors to assess to what extent contractual management procedures for Community appropriations (invitation to tender, awarding of contracts) comply with transparency principles, in terms of objectives, selection board make-up, candidate selection, compliance with procedures and reasons for decisions, and in particular has concerns about invitation-to-tender procedures in the research sector; notes, that the Court of Auditors, in its annual report, has come to positive conclusions concerning the procurement procedures used by the institutions to purchase services, supplies and work and stresses the need for increased
use of long term environmental and social benefit criteria in selection procedures; in particular, asks the Court of Auditors to assess the transparency of present Commission arrangements regarding external aid, such as the establishment of a set of shortlists where the same companies are supposed to be always the most efficient solution to apply Community grants of up to EUR 200 000 in every corner of the world;

20. Calls on the Commission to always use the most appropriate procedure, having regard both to the difficulties for applicants, particularly with research projects and costs; underlines however, that research is a high risk sector and requires very intensive controls;

**Commission's reply:**

The recast Financial Regulation, adopted on 25 June 2002 still strengthens the general, transparent and fair rules for awarding both grants and procurement contracts. The ensuing harmonisation of procedures throughout Community policies should simplify candidacies for applicants.

Besides, the proposed implementing rules allow for some flat-rate amounts and scales in the award of grants, which should prove easier to manage for both beneficiaries and officials while still guaranteeing sound financial management.

Furthermore, preventive actions will be encouraged through an extended system of exclusion for applicants guilty of past misconduct, including fraud, corruption or any illegal activity, as well as violation of community rules and mismanagement of funds allocated under previous contracts or grant agreements. Financial sanctions may also be imposed in the latter case or in case of false declarations.

Finally, the use of financial guarantees will be further developed, especially when major prefinancing payments are made, and no final payment shall be made without controls.

In the research sector, the Commission constantly strives to find the correct balance between, on the one hand, rapid and simple procedures and, on the other hand, the requirements of sound financial management. With respect to the implementation of the Research programmes, the Commission ensures that correct and transparent procedures are observed. The selection process of the Research proposals ensures impartial and equal treatment, and full transparency is observed towards the proposers. The proposals contain technical part which is evaluated separately from the other parts. The evaluation is done by scientific and technical experts comprising individual assessments, consensus meetings and where necessary panel meetings. With regard to the implementation of the 5th Framework Programme, a comprehensive information dissemination programme has been implemented by the services concerned, including web-sites and helpdesks, rapid information on the results of the evaluation process and there is an accelerated internal processing of contracts and payments.

By their nature research and technological development projects carry an inherent risk with respect to the expected results. The progress of the work is monitored and regularly reviewed. On the financial side the Commission continues its efforts to improve control systems. These include legal and financial viability checks during the contract preparation phase and, if needed, the implementation of protective measures. Financial audits have been substantially increased in 2001, as in the years before. A pilot action for audit certificates has been set up. Contractors are required to submit along with their cost claim an audit certificate issued by an external independent auditor.
At each stage of the definition of the 6th Framework Programme these considerations have been taken into account by the Commission.

When preparing the 6th Framework Programme, the Commission tried to find an adequate equilibrium between the need to have an « applicant-friendly » system and the necessity of management and control procedures allowing to reduce the inherent risk to an acceptable level. However, the means intended to reach this objective, which were also recommended by the Court of auditors, were not all accepted by the Council and the Parliament, in particular as regards the simplification of the cost-reimbursement system or the use of flat-rates. Nevertheless, the 6th Framework Program includes several improvements, in particular external certification of costs, limited joint and several liability of partners and entry of penalties on the basis of Regulation 2988/95.

21. Asks the Commission to explain, in connection with the selection procedure for the Media and Media Plus proposals, what type of TAO carries out preparatory work on which the Commission makes a final selection of the beneficiaries of programmes and decides on the support to be granted (cf. Council Decision 2000/821/EC\(^5\)); asks the Commission to indicate what the geographical breakdown of programme beneficiaries was for 2000;

Commission’s reply:

1. “Type” of Technical Assistance Office (TAO) and role of the TAO in the selection procedure of projects.


The decisions establishing the MEDIA II programme (1996-2000) provided for the obligation for the Commission, in its technical appraisal of proposals presented for Community funding, to obtain the expertise of recognised specialists in the fields covered by the programme (training, development and distribution). The decisions also provided that “to this end, the Commission may involve intermediary organisations which, on the basis of their professional expertise, will provide technical assistance and will formulate proposals for the choice of the beneficiaries, without prejudice to other selection methods”.

For the implementation of these provisions, the Commission contracted, through open call for tender procedures, three technical intermediary organisations (one in the area of training, one in the area of development, and one in the area of distribution), which were selected on the basis of their knowledge and expertise of the audiovisual sector.

For the MEDIA Plus Programme (2001-2005), which started on 1st January 2001, the decisions establishing the Programme also provide for the use of one or several Technical Assistance Offices (TAOs) to assist the Commission in its implementation of the programme.

In accordance with the orientations put forward by the Commission in its Letter of Amendment n° 1 to the Preliminary Draft Budget 2001 (SEC(2000)1363), the Commission proposed to renew the use of TAOs for the MEDIA Programme as a transition solution to the implementation of an executive agency.

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\(^5\) OJ L 336, 30.12.2000, p. 82.
Furthermore, the Commission decided to restrict the technical assistance to one TAO (instead of three in MEDIA II), which was selected further to an open call for tender on the basis of its technical expertise in the audiovisual area.

The assistance provided by the TAO in the framework of the procedure for selection of projects is of a purely technical and administrative nature, and does not include any public-authority tasks. The tasks carried out by the TAO are based on clear assessment guidelines defined by the eligibility and selection criteria contained in the calls for proposals. It is only one part of the overall selection procedure, which can be described as follows:

Step 1 – publication of a call for proposals by the European Commission;
Step 2 – proposals are received by the European Commission. The Commission keeps one copy of each proposal and transfers a copy of each proposal to the TAO for assessment;
Step 3 – assessment of all proposals received by the TAO, on the basis of the eligibility and selection criteria defined in the Call for Proposals. Further to this step, the TAO establishes for the Commission all proposals received an assessment report drawn in accordance with the models provided by the Commission.
Step 4 – All the projects are submitted again to either panels of independent experts from the audiovisual area or to internal evaluation panels, who make a second assessment of the projects.
Step 5 – On the basis of these two sets of assessments (TAO + evaluation panel), the final selection decision is established and adopted by the Commission.
Step 6 – In the cases defined in Council Decisions, the projects proposed for selection by the Commission are also submitted to the opinion of the MEDIA Committee in its management procedure.


22. Takes the view, as regards the current procedures for granting Community subsidies to specific organisations, namely in the context of A-302 lines, that a system of both earmarking and calling for proposals is unsatisfactory and calls on the Commission to suggest to the budgetary authority a more transparent system, which also might help to avoid the state of permanent insecurity which hangs over some organisations, without creating dependence on Community funds for their survival; notes that Activity Based Budgeting may help end the present system; calls on the Commission to ensure new organisations that wish to bid for money are not excluded from doing so; asks the Commission to cooperate with OLAF and the Court of Auditors in auditing associations or centres funded almost exclusively from the Union budget;

Commission’s reply:

The new Financial Regulation contains a general framework for the award and supervision of grants in accordance with the principles of transparency, equality of treatment and co-funding. It extends the call for proposals procedure already forecast in the vade-mecum on grants and in most legal bases - as this is the most transparent and non discriminatory way to hand out subsidies, especially with regard to newcomers. The Activity Based Budgeting (ABB) and the disappearance of parts A and B in the budget imply indeed that this procedure should also apply to former part A lines, lest some justified exceptions (e.g. institutional beneficiaries) are foreseen in the legal bases the Commission will propose to the legislative authority in the coming months.
The recast Financial Regulation also provides for compulsory cofinancing and a check on the lack of profit-making in order to reinforce the beneficiaries’ independence towards Community funds.

As to audits, the recast Financial Regulation stresses the authorising officers’ responsibility in soundly managing Community funds and clearly states the need for ex ante and ex post controls, especially in relation to final payments.

Furthermore, the Commission has stated its intention to submit legislative proposals with the objective of determining the global criteria to apply to awards under article 108(b). These measures will represent the culmination of a process, initiated by the Commission’s vade-mecum on grants, aiming to establish a clear, fair and stable legal environment for beneficiaries.

In the context of the impending disappearance of Part A of the budget, the Commission will thus need to present one or more proposals for a legal basis to allow this funding to continue in the context of the introduction of the ABB approach. On this occasion it will make proposals regarding the management regime to be used for these headings and will raise the question of earmarking some of them and the difficulty of reconciling the two current methods of awarding these subsidies: designation of beneficiaries by the Budgetary Authority in some cases and the use of calls for proposals in others.

The Commission considers that the use of competitive procedures (calls for proposals) for granting subsidies constitutes an egalitarian, transparent and effective procedure and hence that it would be counterproductive to challenge it. As stated above, the new Financial Regulation incorporates the principle of equality of treatment of beneficiaries.

It could be difficult to completely and rapidly abandon the designation of certain beneficiaries. Currently, in fact, there are two sorts of earmarked beneficiaries: some are or could be "institutional" (the College of Europe, for example); others are not (beneficiaries representing only themselves). On the one hand, it is not necessarily desirable to stop supporting "institutional" beneficiaries; on the other, the practice of earmarking has, over the course of the years, created de facto dependence on the part of the current beneficiaries, which have sometimes benefited from Community funding for years: stopping this financing from one day to the next could create excessive insecurity for the bodies concerned. However, in future, designation of beneficiaries should be the exception rather than the rule, and should therefore be limited and properly monitored.

For the time being, the Commission welcomes the fact that the existence of separate headings (earmarked beneficiaries; beneficiaries to be selected on the basis for calls for proposals) in the 2002 budget makes the situation more easily manageable than in the past when the earmarking did not always concern all the appropriations for a given budget heading.

OLAF has been given full independence to exercise its investigation function to fight fraud, corruption and any other illegal activity affecting the financial interests of the Community. OLAF itself is not an audit service. However, should the Commission or the Court of Auditors, in the course of their audits, have suspicions that a fraud or irregularity detrimental to the Communities' financial interests has been committed, Article 7 of Regulation 1073/1999 sets out the obligations of the institutions to inform OLAF.

23. Notes that in year 2000, EUR 800 000 earmarked under budget line A-3040 towards the operating cost and the work programme for European Migrants Forum; notes that an investigation has begun by OLAF after allegations of fraud and mismanagement in this
organisation and that OLAF sent the case to the Belgian judicial authorities in June 2001; expects to be fully informed of the conclusions of the Belgian authorities; asks the Commission to ensure that this body and others funded under A-3 Community subsidies are effective in meeting their objectives;

**Commission's reply:**

The Commission, in collaboration with OLAF, will provide Parliament with information as soon as it is able.

OLAF has completed its investigation into the matter of the European Migrants Forum and a file has been referred to the Belgian judicial authorities with which OLAF is in periodic contact to monitor progress on the case.

ECRE, a body funded by the Commission under Chapter A-3, is currently being audited. The report should be finalised in October 2002.

The recast Financial Regulation and its implementing rules, which are to apply with effect from 1 January 2003, lay down a number of rules concerning procedures for the award and management of grants, which will afford greater protection of the Communities financial interests. For operating grants one condition is that external audit reports must be produced before beneficiaries are selected and then before grants are paid where these exceed EUR 50 000, save where an exception is authorised by the authorising officer responsible in the case of public bodies and international organisations or where a number of beneficiaries are jointly and severally liable.

The Commission may also reduce the grant if the beneficiary does not satisfy the contractual obligations properly, in full or at all, and it may even impose financial penalties in the event of serious shortcomings.

Standard grant agreements, incorporating all the tools available to the Commission to ensure beneficiaries comply with their contractual obligations (suspension of payments, reduction of grant, termination with total or partial recovery, financial penalties) are being drafted centrally in order to harmonise the contractual instruments used by Commission departments and bring them into line with the implementing rules of the new Financial Regulation.

**THE COMPLEXITY OF PROCEDURES AND LEGISLATION**

24. Agrees with the Court of Auditors that, more often than not, Community rules are too complex, causing difficulties for beneficiaries, and asks the Commission to develop a systematic assessment of the efficiency of the various regulatory instruments in achieving the policy objectives as defined in the Treaty or otherwise approved by the European institutions;

**Commission's reply:**

In recent years, the Commission has taken both horizontal and sectoral initiatives in order to improve regulation. These respond to the general obligations to respect the proportionality principle (cf. Protocol to the Amsterdam Treaty) and to the growing recognition of the need for better and simpler regulation. In particular, the Commission's internal procedures for planning and programming of work have been significantly improved (allowing in particular for the results of policy and programme evaluations to be fed better into policy design). Moreover, the Commission
launched in June 2002 a major action plan on better regulation, introducing inter alia a common framework for ex-ante assessment of its initiatives.

In conducting ex-ante impact assessments of its key initiatives, the Commission will also consider the alternative regulatory instruments available to achieve a specific set of policy objectives. In this task the Commission will take into account the respective competencies of the Community and the Member States as defined in the Treaty and also give due consideration to the principles of subsidiarity and proportionality.

The assessment by the Commission of the regulatory instruments in achieving political objectives has to rely on the monitoring, measurement and evaluation systems that its departments will have to implement or adapt following the introduction of Activity-Based Management.

Even if the Commission services are constantly endeavouring to implement and improve the use of these management instruments, it must be recognised that more needs to be done to adopt common methodologies and best practices and develop consistent and coherent approaches in order to respond to the Commission’s needs for assessing the efficiency and effectiveness of its regulatory instruments and the achievement of the expected results.

Further to the aggregation of the relevant information carried out by the individual DGs in their Annual Activity Reports, the Commission will produce a synthesis report on the achievement of its political objectives by policy area that will be communicated to the Council and to the European Parliament.

As regards specifically the agricultural area, in Agenda 2000 and subsequent decisions, the Commission has taken a number of steps to promote further simplification of legislation and its implementation. The Small Farmers Scheme represents an important precedent for reducing the administrative burden. However, the range of mechanisms within the common market organisations continues to create many complex obligations for farmers and difficult control and monitoring responsibilities for Member States and the Commission. This complexity is a brake on initiative and may discourage entry into the farming profession. In some sectors such as beef, farmers are eligible for several premiums with different requirements in addition to environmental, food safety and animal health and welfare legislation. Considerable simplification could be achieved if checks at individual farm level could be brought together into a more integrated framework.

Simpler conditions on payments with less market-related procedures would enable farmers to spend more time making their business successful and meeting their statutory requirements. It would also allow Member States to concentrate on checking environmental, food safety and animal health and welfare requirements. Greater decentralisation, particularly through the reinforcement of the Second Pillar, would allow Member States to better target local needs, and bring agricultural policy closer to consumers.

The Commission has also started codifying numerous regulations and has proposed an amendment of the current mechanisms whenever it has been possible to make a substantial simplification without imperilling the other objectives. This objective of simplification was taken into account when the proposals for the mid-term review were drawn up.

As regards the Structural Funds, the Commission recognises that the application of the new provisions governing them has not always led to the expected result of a simplification of management.
Since the informal Council in Namur in July 2001, where this question was raised, the Commission has started to look at the possibilities for simplifying the application of the provisions, while retaining the positive elements of the reform of the rules adopted in 1999. This examination concerns both the improvements that can be made in the current period and those which should be envisaged for the period after 2006.

While, for the current period, the work of simplification is more along the lines of interpretation and coordination, for future regulation it reopens the political question of the division of responsibilities between the Commission and the Member States in a situation where the latter take on the largest share of setting the Structural Funds objectives and administering the appropriations.

The debate with the Member States on simplification is continuing in the advisory committees for the Structural Funds. A meeting with the ministers for regional policy took place on 7 October and a seminar will be held at the beginning of 2003.

25. Notes that the Commission, in the new regulation on Structural Funds (EC) No 1260/99, has declared its intention to simplify the rules; hopes that this will be verified in 2001, but deplores the under-implementation of the Structural Funds in 2000 due to delays in programming (itself accounting for much of the budget surplus); points out that the same difficulties occurred in the first year of the previous programming period (1994); also wonders whether the present system is the best system for planning the future of structural measures after 2006; calls on the Commission and the Member States to rationalise and simplify the procedures for implementing structural measures in order to prevent the same difficulties from recurring when new programmes are established;

Commission's reply:

The Commission recognises that the large (43%) gap between payment forecasts and outturn in 2001 for the Structural Funds and the Cohesion Fund (compared with 15% in 2000) was mainly due to the slower than expected start of implementation of the 2000-06 programmes, itself linked to delays in the Commission’s approval of the programmes. This meant that payment requests only started arriving in large number in the autumn of 2001. The Commission also recognises that some of the delays in the approval of new programmes could have been avoided if the procedures had been simpler. While the Commission believes that the overall result in the 2000-06 programming exercise was positive in terms of the quality of the new programmes and their management, as noted above in the reply to the previous point 24, it has already launched a process of reflection to see what can be learned from it, both for the benefit of the current programmes and especially those after 2006.

Account must be taken of the Commission's efforts to improve the reliability of payment forecasts (see point 16 above) and reduce the amount outstanding (RAL). As far as the RAL is concerned, the Commission has made closing its oldest programmes one of its top priorities. The Commission has reduced the number of pre-1994 commitments outstanding to a handful of particularly contentious cases or cases involving legal action which is still going on. As of 30 June 2002 the balance of outstanding commitments from pre-1994 programmes amounted to €370 million, or 0.6% of the total funds committed between 1989 and 1993. By the end of 2002 only cases that cannot be closed until the completion of legal proceedings should remain. With regard to the programming period 2000-06, the application of the automatic decommitment rule (“n+2”) will have the effect of encouraging payments to be made and reducing the RAL by reducing commitments. The
Commission pointed out this rule and the risks it entails in letters sent in November 2001 to each Member State and in May 2002 in a communication to Member States explaining in detail how the rule would be applied. Since then, the Commission's services have kept the Member States regularly informed about the rates of implementation, programme by programme.

26. Considers that the lack of adoption of Community Initiative Programmes in 2000 is due to the late approval of Council regulations, to delay in publishing the user manual and late publication by the Commission, the long period taken by other institutions to give their opinion, and also to late reaction from the Member States;

**Commission's reply:**

The main reason for the length of the approval process for Community Initiative programmes were the preliminary stages required by the regulations. The periods of time taken by the other institutions to give their opinion, and by the Member States to prepare their plans, were as short as practicable, taking into account the need to ensure that the Guidelines and the subsequent plans were of the highest standard possible. As regards the Community Initiative EQUAL, please see Commission's response to point 28.

For INTERREG and URBAN the process was delayed to some extent by late submission of programme proposals by Member States. Only 24 of 72 INTERREG III programmes and 13 out of 70 URBAN II programmes were received within the six months’ deadline.

27. Notes with dissatisfaction that, due to these delays transfers, carry-forwards and rebudgetisation were the norm rather than the exception; reiterates its critical view of transfer 40/2000 resulting in a reduction of EUR 164 million and of the rebudgetisation resulting in another EUR 30 million reduction in appropriations for innovative measures;

**Commission's reply:**

The reasons for the delays are explained in point 25 above (see also the fuller explanations given in the replies to the Annual report 2001 of the Court of Auditors,) with their consequences in terms of carryovers and re-entry in the budget. A new financial perspective, amended accordingly, has been adopted by the Council and Parliament and all the Structural Funds programmes concerned have been adapted.

As for the implementation of innovative actions, between the end of 2001 and the beginning of 2002 the Commission adopted 81 programmes of innovative actions under the ERDF for a total amount of €206.2 million, each programme benefiting a different EU region. This represents a catching up on the utilisation of the maximum budget provided for these actions over the period 2000-02 in the general Structural Funds Regulation (No 1260/99). The Commission has started preparing the new programming phase for the remaining period with a view to allocating the whole budget provided for the period 2000-06, estimated at approximately €400 million (depending on the actual allocations awarded to each fund).

Point 17 of the Interinstitutional Agreement limited the scope for adjustments to programmes for structural operations. The Commission was therefore of the opinion that it was inappropriate to transfer the unused appropriations for innovative measures.
28. Is particularly concerned at the serious delays in launching the Community initiative EQUAL, and calls on the Commission and Member States to provide assistance in establishing development partnerships and transnational connections;

**Commission's reply:**

The Commission had no legal basis upon which to build EQUAL until the adoption on 21 June 1999 by the Council of the Regulation laying down general provisions on the Structural Funds. The subsequent requirement to consult, inter alia, the European Parliament and the Committee assisting the Commission in the administration of the European Social Fund (Article 147 of the Treaty), meant that the Guidelines for EQUAL (the Communication from the Commission to the Member States - 2000/C 127/02) was published in May 2000. The provisions of Article 15 (2) and (4) of R. 1260/99 then allowed nine months in total for the preparation and approval of the Member States' plans, bringing the earliest possible date for approval into 2001. The periods of time taken by the other Institutions to give their opinion, and by the Member States to prepare their plans, were as short as practicable, taking into account the necessity to ensure that the Guidelines and the subsequent plans were of the highest standard possible. The Commission is satisfied that, as far as EQUAL is concerned, no significant delays were experienced within the Commission.

In addition, the Commission has provided considerable assistance in the creation of Development Partnerships and Transnational Co-operation Agreements, including through:

1. The inclusion of an Action 1, lasting up to six months, with a dedicated budget, to allow promoters to build their Development Partnerships and to establish Transnational Partnerships,

2. The establishment of a database containing details of all Development Partnerships to assist in the creation of meaningful and durable transnational partnerships,

3. The establishment of a working group on transnationality comprising the Commission and several Member States which produced a comprehensive Guide on Transnationality which describes the various aspects of the transnational co-operation under EQUAL. It is made up of 12 briefs (107 pages) enabling the readers to deepen their knowledge of certain issues with the aid of hyperlinks, and along with other information of use to promoters is freely available on the Commission's EQUAL website.

29. Also notes that the complexity of the rules and overlapping between measures under the various funds and under Community policies may bring about an incoherent situation, which can reduce the effectiveness of funds and programmes as is criticised by the Court in its Special Reports 1/2001 and 12/2001 and in its Annual Report (paragraph 3.121);

**Commission's reply:**

The Commission is making considerable efforts to coordinate its activities under the different funds and policies. As well as the day-to-day contacts on management matters between the Structural Funds, the Commission regularly publishes horizontal and thematic communications on important

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areas of activity for regional development such as transport, the environment, SME development, R&D and innovation, and the “Northern Dimension”.

The rules governing the Structural Funds for the period 2000-06 have reduced the number of types of programme and required better follow-up. They have consequently reduced overlaps and the possibilities of a duplication of financing.

Concerning the simplification of rules, see reply to point 24 above.

30. Comes to the same conclusion as regards the Sapard and Ispa regulations, the complexity of whose implementation was underestimated by the Commission and poses a genuine challenge for the candidate countries; also acknowledges the efforts made by the Commission for ‘institution building’ within the Sapard system and for better internal coordination of pre-accession aid programmes; but regrets that only half of the applicant states will be in a position to put the programmes into effect at the latest by 2002;

Commission's reply:

The Commission does not share the opinion that it underestimated the complexity of the rules and regulations. As it has already replied to the Court’s observations, ISPA and Sapard followed normal Community practice, whereby new policy is defined by a Council legal framework, which requires subsequent implementation on the basis of Commission manuals, guidance documents, provisions and regulations. The Commission provided applicant countries with the legal framework for implementing the aid programme and with considerable guidance and technical assistance, under several specific measures financed by Phare and other sources.

Already by August 2002 nine of the ten beneficiary countries had secured Commission conferral of management Decisions. Five of them had done so by the end of 2001. Such Decisions are taken only when the country concerned has demonstrated its capacity to apply the SAPARD instrument on a fully decentralised basis. Such capacity is largely analogous to that required to apply Community co-financed policies by Member States, and is thus relevant for post-accession application of structural funds as well as of EAGGF guarantee funds. The country not yet with a conferral Decision submitted its accreditation package on 1st October 2002. The above facts indicate that the complexity was manageable and in substance the content is analogous to what is required of a Member State, including new ones. Technical support continues to be provided in accordance with needs namely under the PHARE instrument but also via SAPARD within the constraints of Council Regulation 1268/1999.

31. Calls on the Commission to ensure, as a matter of priority, that procedures are simplified and that clear rules and objectives are laid down which are transparent and understandable to the citizens; calls on the Commission to make simplification of legislation, rules and procedures an intrinsic part of the midterm review of the agricultural and structural policies; acknowledges however, the difficulties faced by the Commission in fulfilling this goal in the specific case of the adoption of rules of implementation for certain programmes, such as the control procedures for the Structural Funds, where the comitology procedure is applied; notes that often these committees, representing the administrative interests of the Member States, tend to contribute to the complexity of such rules;

Commission's reply:
The Commission refers to its reply under paragraph 24.

32. Points out that it will scrutinise carefully during the next discharge exercise the extent to which the Commission has properly respected the political priorities and budgetary guidelines as defined by the European Parliament, and fulfilled the undertakings it has given in response to criticism by the Court of Auditors (cf. paragraph 3.122 – annual report);

Commission's reply:

The Commission instituted a new, policy-driven, planning and programming cycle synchronised with the budgetary process. It is thus the opinion of the Commission that Annual Policy Strategy (APS) decisions must become the tool to steer the entire set of its activities, the budget drafting process and the operational plans of the services and so the natural place where strategic decisions on resource orientations are taken.

Following discussions with the European Parliament and the Council an agreement was reached last March defining the respective roles and the workings of the strategic planning and programming cycle and a structured dialogue on APS was carried out for the first time in the spring on the basis of the agreed timetable. The cycle includes an evaluation phase.

A stocktaking document (APS+), was adopted last September by the Commission and focused on the priorities and the initiatives, on recalling all meaningful suggestions made by the Council and the European Parliament and on major changes which occurred after the adoption of the APS either in the budgetary procedure or following the results of Council’s meetings. Proposals from Parliament committees that have a budgetary impact should be dealt with in the right fora and will be subject to normal considerations of responsible budgeting given the fact that resources are limited.

This process was successful in the Council and further improvements will take place following the conclusions of the Seville European Council.

There is now a complete framework that can reassure the European Parliament in the future on the proper respect by the Commission of the Union’s political priorities.

With regard to the Court's observations in paragraph 3.122 of its report about the poor quality of the indicators in the first URBAN Community Initiative, common sets of socio-economic context indicators and programme performance indicators have been introduced in all 70 URBAN II programmes and the discipline on the submission of annual implementation reports has been strengthened.

THE CONTROLS

33. Notes that the very complexity of the rules makes effective controls difficult;

34. Calls on the Commission to substantially increase the number of "sunset clauses" and detailed business impact assessments included in legislation;

Commission's reply:


The Financial Regulation 2002 foresees a clear system of “sunset clauses” for expenditure operations charged to the general budget of the EC (“n” for legal commitments covering individual budgetary commitments, “n+ 1” for legal commitments covering global budgetary commitments; in the field of external assistance the rule is “n+1” for funding conventions with beneficiary countries and “n+3” for individual contracts implementing the funding conventions, exception for evaluation and audit contracts). The specific rules for the Structural Funds (“n+2” clause) are not modified by the new Financial Regulation.

35. Notes that the system of checks is marked by weaknesses, such as:

(a) inadequacy or complete lack of checks by the Commission (e.g. the Court of First Instance judgment of 10 May 2001 on the ‘Turkish television sets’ case pointed up the serious failings of the Commission in monitoring application of the EC-Turkey Association Agreement and Additional Protocol);

Commission’s reply: The Commission has raised the problem of television receivers and other problems like the tuna fish in all EC/Turkey Customs Co-operation Committees and all Customs Union Joint Committees. These problems were also addressed in meetings of the Association Committee and Association Council with a view to solving the outstanding issues. Furthermore, the Commission launched an in-depth examination of the application of the preferential regime for agricultural products in Turkey. Following the Commission assessment of weaknesses and inadequacies of the Turkish system of management and control of preferential origin of agricultural products, the Turkish authorities issued a new Decree containing national implementation provisions concerning full implementation of the origin protocol in Turkey. Furthermore, the Turkish authorities established guidance for economic operators and customs authorities as regards application of origin rules for agricultural products and initiated a system of controls to be carried out regularly in firms. The Commission is currently assessing the progress made by the Turkish side as regards improvements of the system put in place in Turkey for full compliance with the legislation.

Furthermore, in the 29th EC/Turkey Customs Co-operation Committee, the Commission underlined that requests submitted by Turkey (for example inclusion of Turkey in the system of pan-European cumulation as far as agricultural products are concerned), will receive a positive reply from the Community side only once Turkey has made progress in respecting its obligations under the Customs Union and free trade arrangements. Turkey has also to prove its good will as regards enhancing and strengthening co-operation and mutual administrative assistance in general and in particular concerning some outstanding problems.

Following the Tribunal of First Instance's ruling, the Commission has addressed the consequences of this ruling in all meetings held with the Turkish side, requesting the Turkish authorities to fully co-operate with the Commission and Member States to avoid a further ruling of that kind. The Commission is permanently monitoring application of the Customs Union Agreement and of the preferential regimes with Turkey to be in a position to remedy any major problems in due time.

(b) inadequacy or lack of checks by Member States in the area of agricultural spending (export refunds) and structural measures (application of Commission Regulation (EC)
No 2064/97 on financial control by Member States of operations co-financed by the Structural Funds;

Commission's reply:

The controls on export refunds in the Member States are basically carried out by the customs authorities and the paying agencies. In the past (1996-1997), weaknesses were identified concerning the application of Regulation (EEC) No 386/90 concerning the physical checks to be carried out by the customs authorities. Because these weaknesses might have had consequences for the EAGGF, considerable financial corrections were applied amounting to 5% of all refund expenditure declared by the Member States concerned. The total amount of the corrections was about 188 million EUR. Afterwards, Member States intensified the controls in this respect and follow-up audits under the clearance of accounts procedure confirmed that the situation had become satisfactory. Concerning the controls carried out by the paying agencies, it was found in one Member State that the paying agency accepted unreliable certificates issued by surveillance companies. A financial correction was again applied under the clearance of accounts amounting to 25% of the expenditure at risk (about 21 million EUR). There are no indications that a similar situation exists in other Member States because traders in these countries did not make use of the services of surveillance companies. Audits were, however, carried out in 2001 and 2002 to evaluate the reliability of proofs of arrival accepted by paying agencies in all Member States.

For the Structural Funds, audits of Member States were carried out in 2001 and 2002 to assess the implementation of control bodies and independent bodies, the work done by these institutions in quantity and quality and the progress towards closure of the programmes. The audits showed that, at that stage, in certain countries or regions the control requirements of Regulation 2064/97 were not being satisfactorily fulfilled. On the basis of the mission reports, the Member States’ Control Authorities have been able to improve their work in order to achieve the desired standards and, in particular, to adjust their further control plans. Subsequent follow-up indicates that remedial actions have generally been implemented. In any event, closure of programmes will be interrupted if the minimum requirements set out in the regulation have not been respected when the request for the final balance is submitted.

36. Is concerned at the Court of Auditors' findings (Special Report 10/2001) that the application of Regulation (EC) No 2064/97 posed difficulties for both the Commission and the Member States because there was insufficient coordination between the Commission DGs responsible, and the Member State bodies who are not familiar with the audit manual, which the Commission submitted too late;

Commission’s reply:

The application of Regulation No 2064/97 between the Structural Funds services is coordinated by the Regional Policy Directorate-General, which also has taken the lead since August 2000 in both checking the compliance of Member States with the requirements of the Regulation, and providing advice and guidance. In view of the detailed recommendations made in the framework of the audit activity, as well as the information provided in meetings under the bilateral administrative agreements, and the replies to individual queries, there is no reason why Member States should not be fully aware of their obligations.

8 OJ L 290, 23.10.1997, s.1.
37. Calls, in view of these findings, for each Member State to designate a single national ministry with responsibility for monitoring progress in achieving the 5% control rate laid down for every individual Structural Fund programme in Commission Regulations (EC) No 2064/97 and (EC) No 438/2001\(^{10}\); calls also for action to be taken to provide uniform coordination of controls in Member States with autonomous regional authorities; proposes that such coordination can best be achieved through the existing coordinating agencies and that those agencies can also serve as the basis both for information exchange between the regions and for coordinating and forwarding all information to the Commission;

**Commission’s reply:**

*The Commission has systematically recommended that there should be a central coordinating body which has accurate and up-to-date information on the 5% checks effected for each form of assistance. Such bodies also perform a useful role in organising training and exchange of best practice and in discussing common problems. However, in Member States with autonomous regional authorities and sectoral ministries, the competences and powers of a single central national body to carry out such coordination are a matter of national law in which the Commission cannot intervene. The Commission has, or is about to, sign new bilateral administrative agreements with national control bodies pursuant to Article 38(3) of Regulation No 1260/1999. The national body carries out a coordinating role at national level, particularly in relation to the audit activity, as well as generally providing the annual report under Article 13 of Regulation No 438/2001.*

38. Urges the Commission and Member States to improve financial control of the Structural Funds, in view of the findings of Special Report 10/2001 of the Court of Auditors; in particular, calls for

– an increase in the resources of the departments responsible for financial control,
– an increase in on-the-spot inspections,
– better coordination not only by the Member States but also by the Commission,
– the creation of standard procedures for dealing with irregularities and the exchange of information on them.

**Commission’s reply:**

*The Commission welcomes the initiative of the Parliament to support the Commission's efforts in order to improve the current situation of financial control of the Structural Funds.*

*The Commission summarised the resources devoted to audit and financial management tasks in the replies sent by the Director-General of DG REGIO to the Chair of the COCOBU on 8 February 2002. In 2000 DG REGIO received 15 posts which were redeployed from DG AUDIT for its audit tasks. In 2001 14 new regular posts were added to the audit services, and 10 posts to accompany the setting-up of new financial channels. Thus in 2001 the number of staff assigned to audits of the structural funds in the Commission services was 67. In 2002, it has reached a level close to the estimate of needs. It must also be borne in mind that the Commission's audits supplement, but cannot in any case replace, the audits and inspections to be carried out at Member*

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\(^{10}\) OJ L 63, 3.3.2001, p. 21.
State level, and that the Commission's audit activity is currently focused on checking that management and inspection systems put in place in the Member States are functioning properly.

With regard to the number of on-the-spot checks carried out by the Commission, please see point 10.

The Commission services endeavour to coordinate their programmes of on-the-spot checks to avoid overlaps and duplication of effort and to keep Member States informed of changes to the audit programmes. The programmes are presented and discussed at the beginning of each year in the annual bilateral coordination meetings under Article 38(3) of Regulation 1260/99. As from 2002, the consolidated audit programme is being updated on a regular basis and made available for Member States on a special web site.

As regards the European Social Fund (ESF), one of the main control objectives before the end of the year 2002, is to have effected at least one preventive audit in each Member State. These audits will lead to a first evaluation of the descriptions of management and control systems (Article 5 of Regulation 438/2001) notified to the Commission by the Member States, and form the major part of the controls to be carried out in 2002. DG EMPL plans to have covered, by the end of the current year, 34% of the 2000-06 Objective 3 programmes and 17% of all programmes involving ESF participation for the same period.

39. Asks the Court of Auditors to assess the present total cost of internal and external checks on Community funds, distinguishing between costs to the Community budget and to national budgets and comparing the cost of the various types of control carried out in each expenditure area with the amounts involved in known instances of fraud and irregularities and recoveries made in each chapter;

40. Takes the view that the Commission ought to be concerned to ensure that checks are economically effective, and takes note, to that end, of the Commission's internal reforms concerning the 'management declaration' by directors-general, by which they will be bound, and the setting-up of the Commission's internal audit system; considers that the impact of these changes on control effectiveness should be assessed during forthcoming discharge exercises;

Commission's reply:

The Commission acknowledges the need for a thorough assessment of the effectiveness of checks on the use of Community funds and will continue its efforts to implement, in agreement with all interested parties, notably the European Court of Auditors (ECA) and Member States' administrations, an effective control system of the use of EC funds.

To maximise the effectiveness of its audit work the Commission is concentrating on system audits (see point 38 above) and, when carrying out project audits, is attentive to the possibility of systemic deficiencies in management and to the remedial action these may require or the financial corrections they may warrant. The Commission is continuously developing its audit methodology in order to achieve an appropriate balance between the number and nature of checks and their expected outcome. The Commission’s internal reforms including the management declarations are certainly important tools in achieving this balance. It is also paying close attention to the timely delivery of its audit reports and the exploitation of the reports supplied to it under the bilateral agreements with Member States.
The Commission's internal reforms aim at improving the efficiency, the effectiveness and the economy of its activities. The goal of sound financial management is essential in the reform of the control and audit activities. The authorising officers by delegation must state in their annual declaration their reasonable assurance that the resources assigned have been used in accordance with the principles of sound financial management. The setting-up of the Commission's internal audit system is also contributing to making the internal control more effective and efficient, and to assessing and increasing the overall assurance in that regard. The audit activities may themselves be improved. This is why the Internal Auditor is developing cooperation with the Court of Auditors, the Internal Audit Capabilities set up in the Directorates-General and the other EU audit bodies to coordinate their work programmes and methodologies and optimise their work.

41. Calls on the Commission to try to find the perfect balance in terms of the cost of controls and the benefit of reduced level of error such controls lead to;

Commission's reply:

The new Financial Regulation and its implementing rules highlight the responsibility of authorising officers for the management of Community funds and the introduction of suitable controls to guarantee that Community funds are used in accordance with the rules and also efficiently and effectively. All transactions must systematically be checked ex ante. As regards ex post controls, each authorising officer by delegation has to find the right balance between the cost of audits and the reduction in the error rate that they achieve.

The controls are set up by the management. The purpose of the internal control is broader than the detection of errors and encompasses, notably, the effectiveness and efficiency of operations as well as the safeguarding of assets. The right balance must be found between reasonable assurance about the adequacy and effectiveness of control and its cost. This is the objective followed by an auditor when he/she recommends concrete improvements.

42. Considers that the successful management of the Agency for Reconstruction in Kosovo was due to the closeness of the operations to the beneficiaries, focus on a small number of sectors and one structure for project identification to evaluation and to a large extent to the fact that ex ante financial control was carried out by the Agency's internal financial services, which allowed quick implementation of measures; notes that the Commission's amended proposal for a new Financial Regulation (COM(2001) 691) provides for the decentralisation of ex ante financial control across all Commission departments; calls on the Council to expedite its work on the Commission's amended proposal;

Commission's reply:

Within the overall framework of financial reform, the new Financial Regulation provides that ex-ante controls will no longer be carried out by DG Financial Control: rather, authorising officers will have to put in place the appropriate organisational structure and the internal management and control procedures suited to the performance of their duties, including ex-post verifications. The new Financial Regulation will enter into force at the beginning of 2003. The Agency's successful performance in 2000 is explained not by the system of controls, but by:

- its presence in the field, with closeness to the beneficiaries;

- from project identification to monitoring and evaluation under one structure;
- following multi-annual indicative programming by the Commission, programming and implementation of projects concentrated on a small number of sectors.

For reference, ex ante control was carried out by DG Financial Control (FC) in Brussels on the basis of extended site visits. DG FC was not present in the Agency in 2000.

43. Recommends, furthermore, that the Commission make further moves towards good institutional cooperation with the Court of Auditors and its audit bodies, but also with the Member States and their national audit bodies; wishes to be informed of progress made;

Commission's reply:

The Commission keeps constantly in touch at all levels with the Court of Auditors (ECA) on all matters relating to a comprehensive interinstitutional cooperation.

With regard to traditional own resources, the Commission and the Court of Auditors have for several years had a wide-ranging reciprocal exchange of information about their respective control programmes, including themes and dates of inspection. This exchange of operational information has proved fruitful, whilst not adversely affecting inter-institutional roles. In addition, under the Joint Audit Arrangement Programme, the Commission closely co-operates with (customs) national audit bodies in developing audit modules and strategies to be used in inspections. While all Member States' audit bodies have contributed to the development of the various audit modules, the Commission is in even closer co-operation with three Member States, who are themselves now implementing this alternative inspection strategy. The results therefrom are encouraging and the Commission is seeking to widen the circle of participating Member States. The Budgetary Authority is kept informed of progress via the Commission's report on the functioning of the system of own resources (Art. 18§5 of regulation 1150/2000).

In view of improving its financial management, the Commission closely supports the Court of Auditors' reflection and initiatives with regard of the review being developed on the DAS methodology.

The Commission Internal Audit Service is developing cooperation among its audit bodies, with ECA, with national audit institutions and with international organisations. This cooperation covers the exchange of professional information (audit architecture, methodology developments, audit tools, best practices, training, etc.). Within the Commission, this cooperation also includes the exchange of relevant information and work programmes.

The Commission already cooperates closely with national audit authorities responsible for controlling expenditure from the Structural Funds under bilateral agreements (see point 38). This cooperation was started by the DG for Financial Control and responsibility for it was transferred to DG REGIO in July 2000. By the end of June 2002 new bilateral cooperation agreements for the 2000-06 programme period had been signed with 2 of the Member States and were close to signature with six others.

44. Takes the view that a coordination of planning controls would make it possible to prevent unnecessary duplication of effort and allow better division between internal and external checks, between system audits and project controls, in the light of the risks and funding involved;

Commission's reply:
The Commission shares the view that a better coordination of audit work plans will avoid gaps and overlaps. Action has been taken to exchange work plans, re-use supporting documentation and define coordination procedures. A further step would require each level of audit to rely on the work of other auditors (single audit concept). The Commission should further investigate this possible development. More specifically, DG BUDG ensures a system of coordination of on-the-spot control checks to be carried out by Commission services, whereas the IAS has an overview of internal audit activities in the Commission. In 2001, more than 1100 on-the-spot controls were carried out.

For the Structural Funds, an IT application is being developed (SYSAUDIT) which will be used for the planning, preparation, reporting and follow-up of audit missions by the Commission services. This is a tool which will significantly facilitate the organisation and coordination of audit activity in the Structural Funds within the Commission, and which will be able to be used to improve planning of controls with the European Court of Auditors and national control bodies also. The application is currently in the testing phase and will become fully operational during the second half of the year. See also points 38 and 40.

45. Recognises that the actual method used by the Court of Auditors does not enable it to give a rate of error for each sector of Community expenses, and takes the view that the DAS should aim to give this information, as repeatedly asked by Parliament's Committee on Budgetary Control, with a distinction between fraud and error, with consideration also of differences in inherent risk between different sectors and taking into consideration corrections made by the Commission, including comparison from year to year, in order to make this instrument useful not only for the discharge authority, but also for the Commission, which should arrive at a positive DAS as soon as possible; believes, however, that on the basis of its present methodology, the Court of Auditors is unlikely to be able to give the Commission a positive DAS in the near future;

Commission's reply:

The Commission has made major efforts to improve its financial management and strengthen the controls. These efforts are gradually having a positive effect. Despite this encouraging situation, the Commission cannot make any commitment regarding the content of the Statement of assurance (DAS) in coming years; this is a matter for the judgment of the Court of Auditors. Moreover, with the progressive recourse to a methodology based more on systems audit it is for the Court of Auditors alone to determine whether the management methods of the Commission make it possible to ensure that the implementation of the budget is done in a legal and regular way.

In addition, according to the conclusions of the European Council of Nice envisaging that "This statement may be supplemented by a specific assessment for each major area of Community activity", the DAS could effectively in future be sectoral. For 1999, 2000 and 2001, there was already a distinction between, on the one hand, administrative expenditure, revenue and commitments receiving a positive DAS and, on the other hand, payments. This development should continue. The Commission considers therefore that the improvement of the DAS should be progressive. It should also be noted that the complexity and the specific risks are very different from sector to sector. The Commission is of the opinion that the specific features of each area of activity have to be taken into account in the appraisal of its financial management "performance". Moreover, the importance of shared management and the fact that many final beneficiaries are outside the EU, make financial management more complex and is one of the causes of the high level of risk incurred by the general budget. Lowering this risk is one of the most important fields
for the Commission’s action; however, the effects of the reforms adopted by the Commission need time and the improvement will be progressive.

Lastly, the Commission considers that account must be taken of its efforts to limit the effects of the irregularities which affect budget execution. This aspect, which is not included in the DAS appraisal, is important. The financial corrections, the clearance of accounts and the recoveries should constitute background information in the establishment of the DAS as they make it possible to reduce Community budget losses significantly. Thus, the Commission’s action comprises two aspects: improvement of the management and control systems to remedy the weaknesses noted under the Statement of assurance but also an ex post corrective action based on the strengthening of controls so appropriations used improperly can be recovered.

46. Questions the utility of the global Statement of Assurance for 2000 so long as the figures are not given; notes that the Court of Auditors has not published substantive and formal error rates in recent years, recalls that the competent Commissioner for the agricultural sector provided the figures for the period 1995-1999 at a hearing at the Committee on Budgetary Control on 7.2.2001, asks the Court of Auditors and the Commission to provide the figures for 2000;

Commission’s reply:

The Commission welcomes the current evolution of the Court’s methodology towards a more qualitative assessment. The audit of management and control systems provides more useful information as it shows what are the weaknesses that may occur and gives information on how to improve financial management. Such an approach should allow to make comparisons between different financial years and to draw operational conclusions on the financial management quality and to define the measures necessary to achieve improvements.

47. Calls on the Court of Auditors to release a Statement of Assurance and error rate for each individual DG in order to highlight problem areas and substantially increase Commission and Member State accountability;

48. Notes that the control and audit activities in relation to the EU budget are characterised by a large number of auditors and audit services, each carrying out visits and drawing up reports almost independently but often on the basis of different standards; asks the Commission to draw up a report on the feasibility of introducing a single audit model in relation to the EU budget in which each level of control builds on the preceding one, with a view to reducing the burden on the auditee and enhancing the quality of audit activities, but without undermining the independence of the audit bodies concerned; asks the Court of Auditors to prepare an opinion on the same subject; similarly requests the Commission to see to what extent controls and in particular on-the-spot controls could be organised in a more rational manner;

Commission’s reply:

The Commission is examining possibilities for moving towards a single audit construct at EU level. Inevitably this needs to be a broad discussion to examine possible answers to the present weaknesses of the existing control and audit governance constructs. In order to explore ways forward on this issue, including the creation of a common language on public sector controls,
For example, the Structural Fund directorates general are making increased efforts to coordinate their audit activity with that of the Member States’ authorities. The bilateral administrative agreements governing this cooperation already provide for the exchange of audit reports and annual coordination meetings. The Commission is now also putting its audit programmes on to the web-sites. The “single audit” approach is being actively considered in this context and is included among the Commission’s proposals for simplifying the administration of the Structural Funds (see point 25). The approach has the advantage of consistency of standards and an efficient use of resources. Cooperation with the Court of Auditors has also increased. They take part, for example, in the annual coordination meetings with national audit authorities.

49. Following Parliament's resolution of 17 May 2001, and in particular point 22 regarding adulteration of olive oil, its resolution of 4 April 2001, and in particular point 9 (iii) regarding adulteration of milk products, and the Court of Auditors' special report 7/2001 regarding export refunds, asks the Commission to report to the Parliament on the state of play regarding adulteration of agricultural products with a direct or indirect impact on the Community budget, addressing the regulatory framework, minimum percentage of physical analysis by sector, technical methods to detect adulteration and future actions envisaged by the Commission to deal with the situation;

Commission's reply:

The Commission has been following up for a long time the problems of fraud in the sector of the olive oil, both with regard to the right to obtain aid and to the quality of the products launched on the market. In this last respect it adopted Regulation (EC) n° 2568/91 which specifies the characteristics of the olive oils, in particular in order to avoid the fraudulent mixtures, and the detail of the analysis methods to be used. Lately, within the framework of the strategy for the quality of the olive oil of which it made one of priorities for the sector, the Commission adopted Regulation (EC) n°1019/2002 which institutes additional rules for the control of the olive oil of the marketed products.

Among the difficulties which have not found yet a final solution appears that of the mixtures with imported hazelnut oils, owing to the chemical similarity of hazelnut oils and of the olive oils. In this respect, the Commission has implemented for several year a Community research programme and supports actively the efforts of the international olive-growing Council (COI) to encourage and coordinate the chemists' specialised work. Until now research has not been able to develop yet of reliable method to detect without error hazelnut oils in the olive oils. The COI recommended the use of a procedure involving three types of consecutive analysis. This procedure would be effective enough to detect the presence of hazelnut oil, but, at this stage, it can also conclude to such a presence in perfectly authentic olive oil. The legal implications of such possibilities of error prevent the adoption of such a procedure by the Commission. New developments are in hand at the level of research and the Commission continues following them very closely.

As regards the milk products, regarding checks on composition, the Community provisions concerning official tests relating to the detection of foreign fats in milk fat appear in the annex to Commission Regulation (EC) No 454/95 and have since been inserted in Annex XXV to Commission Regulation (EC) No 213/2001 laying down detailed rules for the application of Regulation (EC) No 1255/1999 as regards methods for the analysis and quality evaluation of milk and milk products.

Council Regulation (EC) No 2991/94 lays down standards for spreadable fats. According to this regulation, a product can only be marketed as butter if it satisfies the following criteria:

- It is derived exclusively from milk and/or milk products. However, other substances necessary for its manufacture may be added, provided that they are not used for the purpose of replacing, in whole or in part, any milk constituents.
- It has a milk fat content of not less than 80%, but less than 90%, as well as a maximum water content of 16%, and a maximum dry non-fat milk material content of 2%.

Regarding the general food chain, see answers under points 14c and 70.

OWN RESOURCES

50. Takes note of the trend towards a greater reliance on GNP-based contributions to the Community budget and corresponding decline in the importance of traditional own resources; observes that this is partly due to the capping of the third resource (VAT) and the Community’s international commitments to reduce customs duties; points nevertheless to the difficulties in accurate revenue forecasting based largely on GNP wealth in Member States and asks the Commission to assess how this is likely to be affected after enlargement;

Commission’s reply:

The Commission continues to closely monitor implementation of the budget and notes that recurrent budget surpluses mainly result from under-implementation on the expenditure side (in particular structural actions) rather than from underestimation of revenues. The Commission is often confronted with over-ambitious payment estimates from Member States which make proper budget planning more difficult.

With regard to forecasting resources, the Commission establishes estimates of the VAT and GNP bases for each Member State using its latest Spring economic forecasts and following an exchange of views with, and after soliciting the advice of, Member States in the Advisory Committee on Own Resources (ACOR). Estimates for traditional own resources, the VAT base and GNP are all based on forecasts of inter-related economic variables subject to very similar degrees of accuracy. In fact, differences between forecasts and out-turns tend to be relatively smaller for the GNP base than for the VAT base and the traditional own resources. The Commission believes that forecasts of economic variables affecting the budgetary position of Member States constitute an appropriate method for determining their provisional contributions and that cyclical and short-term effects cannot be avoided. To improve the accuracy of the forecasts entered in the preliminary draft budget (PDB), in 1998 the Commission introduced a new procedure updating the initial forecasts during the budgetary year in question, whereby the resulting balance is budgeted in a supplementary and/or amending budget (SAB).
The Commission services have been monitoring the ability and administrative capacity of Candidate Countries for some time already in view of their accession. Particular attention has been paid to ensure Candidate Countries are able to provide gross national income figures and VAT base estimates that are reasonably accurate and reliable. So far, there are no reasons to assume any deterioration as regards the accuracy of revenue forecasting after enlargement. Moreover, since it is the responsibility of the Commission to present estimates for the PDB, the Commission can enter its own forecasts in case it considers them more accurate than those presented by a Member State.

51. Notes with concern the misgivings of both the Court of Auditors and the Commission that the VAT system is seriously affected by fraud although this does not necessarily lead to losses to the Community budget. Points to the fact that Member States identified EUR 534 million worth of fraud and irregularities in 2000, corresponding to 3.5% of own resource revenue that year, though mainly explainable by the case of New Zealand butter in the UK which accounts for half of the total; notes that Greece was alone in not informing the Commission of any irregularity detected that year in the area of own resources and questions whether this is due to a 100% clean record, late transmission of data or that irregularities simply went undetected;

Commission’s reply:

Although this paragraph of the report opens with a statement relating to VAT own resources, the two specific cases referred to are amounts of traditional own resources (TOR) (customs duties etc). The appeals by the importers arising from the New Zealand case are currently before a UK VAT and Duties Tribunal. In the case of Greece, the Commission was notified that Greece was experiencing transmission difficulties during 2000, which did not arise from the OWNRES application. These proved difficult to resolve and, despite the Commission’s assistance, continued through that year. However, in the last 18 months Greece has notified a further 33 cases. To limit as much as possible transmission problems, the Commission is currently developing a simplified, web-based version of the reporting system.

Furthermore the Commission indicated in its Action Plan for 2001-2003 its intention to propose a regulation based on Article 280 of the EC Treaty aimed at reinforcing cooperation to prevent and combat amongst other things VAT cross-border fraud with implications at Community level. (See also reply to paragraph 83).

52. Underlines the criticism of the Court of Auditors that recovery measures by Member States are neither efficient nor evenly applied, indicating a reluctance or a difficulty in tackling the problem; notes, in this regard, that OLAF opened 120 files on suspected fraud in own resources collection in 2000 for a total amount of EUR 608,7 million; urges the Commission to bring forward the necessary proposals to amend Commission Decision 97/245/EC\(^{14}\) on transmission of data from Member States with a view to creating equivalent standards of reporting in all Member States;

Commission’s reply: This reply to this point is dealt with under point 75 below.

53. Recalls that Member States have now ratified the new Own Resources Decision, raising the collection costs from 10% to 25%; calls on the Member States to ensure that this will lead to

a crack-down on customs fraud and better detection of irregularities so far detected in the area of own resources;

**Commission's reply:**

*The procedure of ratification by the Member States of Decision 2000/597 on the system of the European Communities’ own resources has been completed and the Decision entered into force on 1 March 2002.*

II. **REGULARITY, COMBATING FRAUD AND PROTECTION OF FINANCIAL INTERESTS**

54. Recognises that the present system of protection of the Communities' financial interests and prevention of fraud has to be strengthened;

**Commission's reply:**

*The Commission is fully in agreement with the Parliament’s view on the need to strengthen the protection of the Community’s financial interests and fraud prevention in general. To this end, it adopted a strategy on an overall strategic approach for the protection of the Community’s financial interests and the fight against fraud. The Commission reported on further progress achieved in its annual fraud reports for 2000 (COM(2001)255 of 23/05/01) and 2001. The strategy involves all the Commission departments in the protection of financial interests and sets out priority measures on which they must collaborate when initiatives are launched. The Commission Action Plan for the years 2001 to 2003, the first working programme to reflect this overall strategy, sets out the priority measures. The four main parts of this approach are as follows:*

**Firstly,** developing an overall anti-fraud policy based on Article 280 of the Treaty to provide effective and equivalent protection of the Community’s financial interests. This involves adopting legislation to cut off existing opportunities for fraud and other activities harmful to the Community’s interests, including regulations aimed at reinforcement of cooperation to prevent and combat money laundering and VAT fraud, a proposal for a regulation on the ‘black list’ mechanism and an initiative concerned with the integration of administrative measures and penalties in the field of direct expenditure. The Commission has adopted a communication concerning the fraud-proofing of legislation and contract management.

**Secondly,** fostering a culture of cooperation between all the authorities responsible so that the national and Community authorities participate fully and in concert to protect financial interests and combat fraud. A Community platform of services is under construction. Its purpose is to collect, exploit and make available to national administrations and all Commission departments information gathered on the ground relating to the protection of financial interests and fraud prevention. To this end, a specific Directorate for Intelligence was established in OLAF. It should contribute to the drawing up of the operational priorities of the Office and the reinforcement of exchange of information with the Member States, including more precise information on the follow up of cases by Member States on which the Parliament expresses concerns.

**Thirdly,** following an interinstitutional approach to preventing and fighting fraud and corruption with the aim of making all Commission officials and beneficiaries aware of the ethical aspects of financial management and to lay down guidelines to prevent conduct harmful to the Community’s
financial interests. These guidelines have been adopted in the form of a code of conduct and, if used on an interinstitutional basis, should enable all the institutions to respond better to the concerns expressed by the Parliament in the application of Article 7 of Regulation No 1073/1999. OLAF also adopted a communication on its action towards the institutions, which was transmitted to the European Parliament in June 2002.

Fourthly, strengthening the criminal law dimension so that the most serious cases of wrongdoing are subject to criminal proceedings. To this end OLAF is strengthening its cooperation with the national judicial and police authorities. The Commission has adopted a Green Paper on the criminal law protection of the financial interests of the Community and the establishment of a European Public Prosecutor.

The priorities set out in the White Paper on reform are particularly important in strengthening protection of financial interests. An example of the key preventive elements is fraud-proofing (Action 94) of legislation.

In respect of the curative aspects, where fraud is suspected and Community funds could be recovered as a result thereof, the Commission makes sure OLAF is duly informed according to Article 2 of Decision 1999/396/EC; ECSC, Euratom (SEC(1999)802).

Where fraud is established by OLAF or suspected, the Commission, following its Communication on recovery of unduly paid funds of 13/12/2000 (SEC (2002)2204/3) ensures that OLAF is the leading service for enforcement action to be taken towards recovery, including where necessary relevant court actions before the competent bodies.

Articles 64 to 68 of the new Financial Regulation adopted by the Council on 25/06/2002 lay down detailed provisions concerning the responsibility of authorising officers, accounting officers and imprest administrators. Should any Community agent be (suspected of being) involved in any fraudulent conduct likely to be detrimental to the Communities interests, the relevant disciplinary and pecuniary actions are taken in accordance with Staff Regulations and applicable law related to the protection of the Communities' financial interests.

As regards the preventive aspects, in addition to the general effort concerning sound financial management, the new Financial Regulation adopted by the Council on 25 June 2002 contains a number of provisions designed to strengthen the protection of the Communities financial interests.

Articles 93 to 95 and 113 of the new Financial Regulation are designed to create a framework for a set of financial and administrative penalties to apply to procurement and grants financed by the Community budget. These provisions cover not only cases of fraud, corruption, involvement in a criminal organisation or any other illegal activity (including money laundering), but also misconduct, misrepresentation and failure to comply with legal or contractual obligations.

Articles 102 and 118 deal with the suspension of performance of contracts and agreements where irregularities or fraud are detected.

Article 72 makes recovery decisions taken by the institutions enforceable within the meaning of Article 256 of the Treaty, and Article 73 states that as a principle amounts may be recovered by offsetting against any claim that a debtor has on the Communities that is certain, of a fixed amount and due.
These general arrangements set out in the new Financial Regulation are spelt out in more detail in the draft implementing rules which the Commission adopted on 24 July 2002 and subsequently consulted with Parliament.

55. Notes that it is incumbent upon the Commission to make use of the same standards and rules across all sectors of Community expenditure in combating fraud and other irregularities if it is to fulfil the spirit of Article 280 of the EC Treaty and guarantee an equivalent level of protection of the financial interests of the Community,

Commission's reply:

Many of the legislative initiatives in the Commission’s Action Plan on the fight against fraud and the protection of the Communities’ financial interests which the Commission is preparing are based on Article 280 of the EC Treaty. It is intended that an equivalent and effective level of protection for all areas of Community expenditure should be provided.

56. Considers that some common policies are themselves conducive to fraud, particularly where guide prices are fixed and export refunds are used to support the export of surpluses mainly for dairy products, sugar, cereals and beef;

Commission’s reply:

Community legislation provides for proportionate control procedures and measures, and adjust them as necessary, account being taken of the importance of the funds at stake.

See also the answer to paragraph 85 on fraud-proofing of legislation. In addition to the fraud-proofing of new legislative proposals, existing legislation may also be examined with a view to proposing amendments if necessary to ensure it is fraud-proof.

57. Considers that one of the main objectives of the Common Agricultural Policy as established by the Treaty is to insure "a fair standard of living for the agricultural community" and this objective makes imperative for the Commission to monitor carefully the patterns of the distribution of the Common agricultural budget by farmers and other beneficiaries;

Commission’s reply:

Ensuring a fair standard of living for the agricultural community and contributing to the stability of farm incomes remain key objectives for the Common Agricultural Policy (CAP). Agenda 2000 therefore foresaw further compensation of farmers for price cuts, in order to avoid a significant loss of farm income and a threat to the economic and social stability of the farming community.

At the level of EU-15 per capita agricultural incomes have developed quite favourably since the beginning of the reform process. However, this favourable development hides the increased importance of direct payments in farm income as well as considerable variations between countries, regions and sectors.

58. Considers that transparency rules that make it imperative for Commission to disclose the names of final recipients of its subventions in domains like science and technology or the Cohesion Fund, should also be applied to other budgetary lines and in particular to the Common Agricultural Policy;
Commission's reply:

Within the framework of the Structural Funds, which are managed in a decentralised fashion, this question is a matter for the Member States, but the Commission encourages them to publish the names of beneficiaries, and most of them do so.

On 6 March 2002 the Commission adopted an amendment to Regulation (EC) No 2390/1999 (OJ L 64, 7.3.2002, p.8). The new Article 2 of this Regulation allows the Commission to use the accounting information to carry out its functions in the context of the clearance of account procedure and to monitor developments as well as to provide forecasts in the agricultural sector. The accounting information transmitted to the Commission remains, however, confidential and is communicated only for the purposes given in Article 2 of (EC) Regulation No 2390/1999. In carrying out the two new actions, the Commission is obliged to respect the provisions of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. It therefore renders the information anonymous and processes it in aggregated form only.

On the 1.10.2002, the Commission published indicative figures on the distribution of direct farm aids by size-class of aid to farmers and presented them to the Parliament.

EXPORT REFUNDS

– notes that expenditure on export refunds rose from EUR 5 695 million in 1980 (50.3% of the EAGGF Guarantee budget)\(^{15}\) to EUR 10 159 million in 1993 (29% of the EAGGF Guarantee budget) and then fell to EUR 5 646 million (14 % of the EAGGF Guarantee budget) in 2000\(^{16}\); notes, however, the relativity of these figures due to the changes in the dollar rate;

– notes that the export refunds system is still important in the common agricultural policy and that it has a considerable - although not clear - impact on agricultural and food markets in the EU and third country markets;

Commission's reply:

The export refund system is designed to bridge the gap between EC domestic and world market prices. Its impact on EU and third country markets has been drastically declining following the implementation of the 1992 and Agenda 2000 CAP reforms. It can now be considered as rather limited for most agricultural products. The Mid-Term Review proposals may be expected to reduce further the effect of export refunds on the markets of the products concerned.

– notes that according to the Commission the phasing-out of the export refund system is dependent on the forthcoming WTO negotiations; urges the Commission in the meantime to make a radical effort to simplify legislation and procedures for more transparency:

\(^{15}\) Information provided by the Commission by mail of 7 February 2002

\(^{16}\) Court of Auditors' Special Report 2/1990 and note from DG IV : "Restitutions à l'exportation" p. 6
Commission's reply:

As noted, export refunds are the subject of negotiations in the World Trade Organisation (WTO). Regarding legislation and procedures, the Commission has proposed an action plan for a modification of the system which contains several measures of simplification.

notes that since 1990 the Court of Auditors has drawn up no less than eight Special Reports dealing directly or indirectly with the control of export refunds which shows that the Court regards this as a sector which needs to be watched very closely, also, that the Court of Auditors, in Special Report 2/1990, stated that "Export refunds are a high risk area" due to "the complexity of the governing legislation and the size of the sums which can be involved in individual transactions" (point 3.5);

Commission's reply:

The Commission has always carefully examined the Special Reports drawn up by the Court of Auditors dealing with the control of export refunds and has taken practical measures wherever possible to improve the effectiveness of controls in this area. In this respect, however, the Commission draws attention to the Court opinion in its Annual Report concerning the financial year 1987 where the Court concluded that “While differentiated rates of refund apply, the Court has difficulty in envisaging any system of controls over proof of arrival which would provide sufficient safeguard against a determined attempt at fraudulent declaration” (OJ C 316, 12.12.1988).

regrets that the Commission on several points has not followed the Court of Auditors' previous recommendations as regards physical checks of agricultural products attracting export refunds (Annual Report 2000, point 2.104),

Commission's reply:

The Commission has explained in detail in its replies to the Court’s observations in the Annual Report on the financial year 2000 how some of the Court’s recommendations have been followed and implemented and why it has not been possible to follow other recommendations (See Annual Report 2000, point 2.104, OJ C 359, 15.12.2001, pages 98 et 99).

calls on the Commission - in the light of the findings in the Court of Auditors' special report 7/2001 - to examine the eventual need for reinforcement of Council Regulations (EEC) No 4045/89 and (EEC) No 386/90;

Commission's reply:

A Commission proposal to amend Regulation (EC) No 4045/89, which is intended to increase the quality of ex-post controls, strengthen mutual assistance between Member States and notify requests for mutual assistance on a quarterly basis, has recently been discussed by Parliament.

As regards physical checks, Commission Regulation (EC) No 2221/95 laying down detailed rules for the application of Council Regulation (EEC) No 386/90 is currently being codified and takes account of a number of requests from the Member States to improve their management.

recalls its position in its resolution of 13 November 2001\(^{19}\) on protection of animals during transport as regards the repeated infringement of the directives concerning animal welfare during transport and Member States' inadequate monitoring policies; insists that the Commission carries out systematic control of the implementation of EU animal welfare legislation in the Member States and requests the phasing-out of export refunds on slaughter animals as soon as possible;

Commission's reply:

The Commission will of course continue to steer the Community’s approach towards subsidising the export of cattle to the level that is strictly necessary, bearing in mind the request made by the Parliament to end, as soon as possible, the payment of export refunds for slaughter cattle and to seek the establishment of binding international guidelines governing the treatment of live animals during long-distance transport.

Furthermore the Commission’s Food and Veterinary Office regularly carries out missions to control the implementation of EU animal welfare legislation in the Member States.

urges the Commission to apply to export refunds the same policy of transparency already used in other domains, such as science and technology, by making public in electronic form the names of all the undertakings and the amounts paid under this scheme;

Commission's reply:

The Commission adopted on 6 March 2002 an amendment to Regulation (EC) No 2390/1999 (OJ L 64, 7.3.2002, p.8). The new Article 2 of this Regulation allows the Commission to use the accounting information to carry out its functions in the context of the clearance of accounts procedure and to monitor developments as well as to provide forecasts in the agricultural sector. In order to carry out the latter two actions, the Commission respects the provisions of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data and it renders the information anonymous and processes it in aggregated form only.

The accounting information transmitted to the Commission is confidential and is communicated only for the purposes given in Article 2 of the said Regulation. It is for these reasons that the Commission does not publish the information referred to in the above indent.

in line with the above considerations as well as with paragraph 24 above, asks the Commission to undertake a global appraisal of alternative instruments to export refunds capable of achieving in a more efficient way the policy objectives set out in the Treaty while meeting the European Union's commitments under WTO;

\(^{19}\) Texts Adopted, Item 11.
Commission’s reply:

Over the past years the EU has already substantially reduced the export refunds for agricultural products. Through the process initiated in the 1992 reform and carried much further in Agenda 2000, the CAP has been subject to the most wide-ranging reform since its launch. In 1989-1991, EU farm expenditure for market intervention and export refunds – considered to be trade-distorting by the WTO - accounted for 90.7% of the EU farm budget as against 9.3% for direct aids.

The Uruguay Round Agreement on Agriculture (URAA) made major advances in imposing greater discipline in the area of export subsidies on agricultural goods. The EU has honoured the commitments it entered into in the URAA, and even gone further. In the period 1995-1999, the EU used less than 60% of the financial possibilities allowed by the URAA. Export subsidies were reduced by: – 21% by volume and – 36% ad valorem. These reductions were effected over six years and will be calculated with regard to the 1986–90 reference period.

The Agenda 2000 reforms introduced cuts in institutional prices for beef, cereals, and milk and dairy products. In the beef sector, prices are to be cut by 20%, starting in 2000. In the arable crops sector, prices will be cut by 15%, also starting in 2000. Finally, in the milk and dairy sector, prices will be cut by 15% from 2005. In its reform proposal in the framework of the Mid-Term review of Agenda 2000 the Commission has proposed a further reduction of 5% of the cereals intervention price which will, according to the Commission, lead to a further recovery of the cereals exports without refunds.

But the latest round of price cuts does not give the full picture of the long-term downward trend towards lower institutional prices in the EU. If the 1992 and 1999 reforms are taken together, the price cuts are in the order of 45% in the arable crops sector and of 35% in the beef and veal sector. These substantial price cuts are bringing prices in the EU closer to those on the world market, thus opening up the prospect of subsidy-free exports.

The proposals made in the Mid term review will continue to reinforce alternative instruments to market support in general and export refunds in particular.

One of the options which the Commission discusses for the future of the milk market is to pre-empt the reform of the sector foreseen for 2008 which would lead to better prospects for exports of dairy products without refunds.

welcomes the fact that the Commission, following the Court of Auditors’ Special Report 7/2001 and discussions in the Budgetary Control Committee on the report in the framework of the discharge 2000, has presented an action plan aimed at:

(1) modification of Commission Regulation (EC) No 800/1999\(^{20}\) before the end of the first semester 2002 along the following lines:

(a) when approval is withdrawn from a supervisory company, suspension of approval will apply in all Member States to the other companies within the same group, until the necessary investigations of each company have been completed,

(b) effective penalties for irregular proofs of arrival issued by supervisory companies to be provided for by Member States,

(c) provisions of the Commission's working document VI/2705 of 26.10.1999 concerning the rules on approval of surveillance agencies to be incorporated in the horizontal regulation,

(d) rules to be observed by Member States' embassies on issuing certificates on unloading,

(e) doubling of the de minimis limits by which payment claims involving small amounts of refunds may be exempted from the production of proof of import;

**Commission's reply:**

A regulation amending Regulation (EC) No 800/1999 and containing the provisions set out in the action plan has been adopted.

(2) inclusion of audit visits to the most important supervisory companies in the inquiry on differentiated refunds before the end of 2002,

**Commission's reply:**

As part of the audits on differentiated refunds, supervisory companies are indeed being visited.

(3) creation of a catalogue of customs forms and stamps used in a number of third countries within the next one and a half years,

**Commission's reply:**

The preparatory procedure concerning the call for tenders to produce a catalogue of customs forms and stamps used in third countries has been started.

(4) visits to transport companies in order to evaluate the potential use of the container movement databases for control purposes before the end of 2002;

– expresses the following comments on the action plan:

ad 1 b) takes the view that the Commission has to provide for the penalties and assure through systematic controls that Member States apply them,

ad 1 c) agrees that the Commission under present circumstances only partially responds to the Court of Auditors' recommendation that proofs of arrival should only be required in cases of doubt or for high risk destinations; is nevertheless of the opinion that the Commission should seriously explore ways of improving the actual system which clearly is not satisfactory;

ad 3) would welcome more information on this measure, including a cost/benefit analysis in the light of the need for such a catalogue to be constantly updated;

**Commission's reply:**


Within the framework of a cost-benefit approach the catalogue will be restricted to 50 countries (as a rule, these are the third countries for which more and more is spent in terms of differentiated refunds). In order to take account of possible changes, regular updating of the catalogue would seem to be appropriate.

– regrets that the action plan does not address the recommendations of the Court of Auditors in the following respects:

transport documents and commercial invoices should be presented to paying agencies for all claims exceeding the de minimis limit,

a posteriori checks on placing on the market should be intensified,

refunds should not be paid on products which are subject to reduced rates of import duty in non-member countries where this creates the possibility of carousels.

Commission’s reply:

As stated in the action plan, the Commission will propose doubling the threshold for the de minimis rule. However, the Commission maintains its position that presenting those documents in all cases as requested by the ECA would not offer adequate assurance that the goods have arrived at the third country of destination. A proposal to amend Regulation (EC) No 4045/89, which is intended to increase the quality of ex-post controls, strengthen mutual assistance between Member States and notify requests for mutual assistance on a quarterly basis, is currently being discussed by Parliament.

59. Asks the Commission to ensure that the calculation of the refund rates to potato and cereal starch follows predictable and transparent criteria, as recommended by the point 40a) of Special Report No 8/2001 of the European Court of Auditors;

Commission’s reply:

In the light of the findings and conclusions of the evaluation report on the starch regime produced for the Commission, the method for calculating refunds is currently being examined.

All elements which have an effect on the calculation, and hence on the competitiveness, of the Union’s products, will be analysed, including the relative value of the refund in the cost price of the product, substitutability between starches and the impact of transport costs.

The Commission will continue to seek a transparent method, the representative elements of which are available to interested parties such that the amount of the resulting refund can be predicted.

60. Welcomes all the steps announced by the Commission in its reply to the Budgetary Control Committee’s questionnaire in order to publish data on concentration of CAP funds per farmer and or per working unit, and asks the Commission to start presenting this data as soon as possible;

Commission’s reply:
Regulation 419/2002 of 6 March 2002 was adopted by the Commission in order to enable developments to be monitored and forecasts to be drawn up in the agricultural sector, while maintaining the personal nature of these data.

On the 1.10.2002, the Commission published indicative figures on the distribution of direct farm aids by size-class of aid to farmers and presented them to the Parliament.

61. Notes that, according to point 2.145 of the Annual Report of the Court of Auditors, the recent reform on the fresh fruit and vegetables sector concentrated Community funds in more developed countries and regions;

**Commission's reply:**

The Commission is aware of the differences that exist between Member States as regards the situation of fruit and vegetable producers. This situation will be improved primarily by a better match, both qualitative and quantitative, between production and demand. The Commission is convinced that the concentration of supply by producers' organisations and a contractual policy with the processing sector are powerful instruments for facilitating this match. In the light of the debates in the Council, Parliament and the Economic and Social Committee and with the professional circles concerned which followed its report on the application of the 1996 reform, the Commission plans to present in 2003 proposals to simplify the CMO currently in force. These proposals will make it possible to respond to the Council's general demand. They will be based on the principles of good governance. Their objectives will be to improve product quality and better protect the environment. They will also aim to simplify the way that producers' organisations work. This should allow these organisations to achieve greater economic efficiency, to the benefit of not only the producers but also the whole of the sector concerned.

62. Notes that some rules introduce neither verification mechanisms nor penalties, which may encourage fraud or simply involve public health risks;

**Commission's reply:**

See the reply to point 14c)

63. Calls, for instance as regards the sheepmeat and goatmeat CMO, for the introduction of a mandatory electronic identification system for animals in order to enable information-gathering on premiums and verification thereof;

**Commission's reply:**

In the aftermath of the foot-and-mouth disease crisis, the Commission is currently drafting a proposal establishing a system for the identification and registration of sheep and goats.

64. Calls, as regards the milk quotas regime, for a harmonised application of the rules for penalties for milk producers failing to comply with milk quotas, which, 17 years after they were introduced, are still not correctly applied in all Member States (cf. paragraph 2.193 - Court of Auditors' annual report); regrets that Italy has been paying the superlevy for the breaching of the milk quotas, on behalf of its farmers, thereby distorting competition across the Union;
Commission’s reply:

The fact of delivering more milk than the individual quotas, set by Council Regulation (EEC) No 3950/92 cannot be considered as “failing to comply with milk quotas” but is a calculated risk permitted by the regulation and taken by the producer, who will be liable to pay a levy only if the national quota is exceeded. In the event of fraud or irregularities regarding this levy being proved, the Member States apply the penalties provided for in Commission Regulation No 1392/2001, which entered into force on 31 March 2002 and has considerably strengthened and harmonised the penalties which were previously provided for in Regulation (EEC) No 536/93, so meeting the recommendations made by the Court of Auditors.

However, in most cases, the producers who refuse to pay the levy bring legal proceedings before the national courts and, in this case, neither the Member States nor the Commission can interfere in the normal course of justice. Furthermore, the Court of Justice recently ruled (case C-277/99) that the Commission may not impose financial corrections against the Member States regarding the estimated levy where judicial proceedings are under way, unless it demonstrates, on the basis of specific examples, how the protraction of the proceedings might be imputable to the national authorities. Moreover, the Commission may not impose financial corrections against the Member States with regard to the interest for late payment, if it doesn’t prove, by showing that serious and reasonable doubts exist, that the fact that certain sums due remain unpaid or have been paid late is the result of a negligent failure attributable to the national authorities (case C-130/99).

In paragraph 2.193 of its annual report, the Court of Auditors contests the application of the rules on quotas by certain national administrations, but does not mention individual wrongdoing by certain producers. In its reply, the Commission has already pointed out that infringement proceedings have already been initiated against these Member States.

65. Calls, as regards application of BSE legislation by the Member States (cf. Court of Auditors’ Special Report 14/2001) and measures concerning the prevention of foot and mouth disease, for procedures to be established to impose financial corrections or fines and penalties concerning veterinary expenditure or market-related measures financed by the European Union where Member States fail to comply with veterinary legislation;

Commission’s reply:

Under Regulation (EC) No 178/2002 the Commission has the right to intervene in cases where a serious risk to human health, animal health or the environment cannot be contained satisfactorily by means of the measures taken by the Member State(s) concerned. The Commission is authorised to adopt certain provisional measures that have to be confirmed, extended, amended or revoked later.

As announced in the Commission’s White Paper on Food Safety [COM (1999) 719], the Commission intends to submit to the European Parliament and the Council a proposal for a Regulation on feed and food controls. The Commission services are examining intensively how procedures to fill the above gaps can be integrated into such a proposal. Possible measures to that effect must be carefully screened against the rules laid down in the Treaty.

66. Calls on the Commission to consider whether it ought to have additional powers for special emergency situations where human and animal health are at risk;
Although it shares the concern of the European Parliament in respect of risks to human and animal health, the Commission would say that an appropriate legal basis for such an instrument would have to be found in the Treaties.

It is expected that the proposal for a Regulation on feed and food controls can be submitted to the European Parliament and Council before end of 2002. The Commission services are examining how and in what form the above intentions can be carried through in the final proposal (see replies to paragraphs 65 & 70).

Commission’s reply:

The Commission totally agrees in condemning any misuse of the Community budget. It followed the recommendations of the Court of Auditors in 1992, as the overall level of support for the production of fibre flax was not increased. In fact, in 1992 the problem was related to a market imbalance which does not exist at present. Instead, the problems that started in 1994 were basically not related to any increase in the quantities of fibres produced.

Condemns rules which give rise to ‘premium hunting’ with unintended, pernicious effects on the Community budget; again presses, as it did in its resolution of 19 January 2000 on discharge 1997, for systematic and careful follow-up to the Court of Auditors’ recommendations;

Commission’s reply:

The Commission totally agrees in condemning any misuse of the Community budget. It followed the recommendations of the Court of Auditors in 1992, as the overall level of support for the production of fibre flax was not increased. In order to prevent premium hunting in the case of flax and hemp, the Commission presented a reform proposal in 1996. Subsequently supplementary requirements such as the compulsory processing contracts, the obligation to transform the product harvested and the minimum yield per hectare were introduced in the support regime.

Asks the Court of Auditors to assess to what extent the system of trade preferences is also a source of irregularities adversely impacting on Community resources (cf. judgment on the case involving television sets from Turkey), and calls on the Commission to develop alternatives to the present system as soon as possible;

22 Annual report of the Court of Auditors – paragraph 2.77.
23 OJ L 45, 17.2.2000, p. 33.
70. Deplores the situation where trafficking in adulterated butter, organised by professional criminals could have led to health risks and represents a potential loss for the budget; calls for appropriate penalties to be imposed on the adulterators and European firms involved and for all information on this affair to be forwarded as soon as possible to the European Parliament; regrets that the Commission has failed to warn the consumer against possible health hazards after the case became public knowledge in July 2000; expects the Commission in the future to give public health concerns priority over all other investigations; notes that nearly two years after the scandal was made public by OLAF, no Community financial corrections of any sort have yet been passed against the responsible undertakings involved in this affair, which is in sharp contrast with what happens with any violation of much lesser gravity (such as to produce milk over the allocated milk quota);

– considers that the present situation is contrary to the principles of equitable protection of Community financial interests, and asks the Commission to ensure that criminal offences are not treated in more favourable conditions than administrative offences;

– asks the Commission to monitor this affair closely, and to report to the European Parliament all major developments;

**Commission’s reply:**

The new legislative framework established by the “General Food Law” adopted on 21 January 2002 reinforces the Commission’s capability to act on microbiological and chemical contamination on food products of any origin. Under these provisions, the Commission can adopt emergency measures covering the whole food chain “where it is evident that food or feed originating in the Community or imported from a third country is likely to constitute a serious risk to human health and that such risk cannot be contained satisfactorily by means of measures taken by the Member State(s) concerned” (Art. 53 of Regulation N°178/2002 of 28.1.2002).

In addition, this legislative framework insists on the importance of the traceability of food products in order to target the appropriate part of the food chain.

OLAF assisted the judicial authorities in Italy and France and was associated with the administrative inquiry in Germany. At this stage the enquiries (criminal) are continuing in Italy and France. The Belgian, French and German administrative authorities are waiting for specific information collected within this framework to be legally accessible to them in order to evaluate whether, and, if so, to what extent, recovery measures as well as, if appropriate, the Community penalties provided for in the regulations in accordance with the provisions of horizontal regulation 2988/95 can be applied. Any criminal penalties which might be imposed in the butter case are a matter for the national judicial authorities concerned.

Parliament will be informed of the outcome of the case.

71. Notes that detecting irregularities or fraud comes under the responsibility of the Member States (which are obliged to report them to the Commission), Commission departments, OLAF and the Court of Auditors, but that the Member States, as is pointed out in Court of Auditors’ Special Report 10/2001, by no means meet their obligation in full to report irregularities relating to the Structural Funds and that the figures established are likely to be much higher in reality;

**Commission’s reply:**
It is certainly true that there were difficulties in the area of the Structural Funds for some Member States in the interpretation of what constituted an irregularity, which led to a low level of reported frauds and irregularities. The Commission was aware of this problem and sought to find a solution to it. This consisted of organising targeted training courses for officials dealing with the management of the Structural Funds in the Member States as well as continuing bilateral contacts between the Commission and the Member States in the meetings of the Structural Fund control coordination committee and the COCOLAF, the Advisory committee on fraud prevention. Dialogue with the Member States on this question for all areas of the Community budget is an ongoing matter and meetings of the COCOLAF in 2002 have focused specifically on it. There has been an improvement in the reporting and the number of cases since 1998. This development should be viewed in a positive light.

Article 3 of Regulation (EC) No 1681/94 clearly sets out what has to be communicated to the Commission by Member States while there is a definition of what constitutes an irregularity in regulation (EC) No 2988/95. The latter is a horizontal framework regulation concerned with protection of the whole of the Community budget and is applicable for all irregularities occurring in all sectors of the Community budget.

In the autumn of 2002 the Commission Structural Fund directorates general and OLAF will audit the observance by Member States of the procedures for reporting irregularities in the Structural Funds.

The Commission places strong emphasis on irregularity reporting and follow-up in every coordination meeting with the national control authorities. The national auditors are now more aware of the need not to neglect this aspect during audit missions.

72. Calls upon the Commission to evaluate and revise the existing arrangements for import of agriculture produce below EU-prices from third countries to be processed in the EU and re-exported to third countries;

Commission’s reply:

It would not be appropriate to discontinue the preferential arrangements which make it possible to import products into the Community at the world price and to re-export them with or without processing. Preferential agreements of this type mainly benefit the developing countries.

The inward processing arrangement, which allows products to be processed in the Community at the world price and the processed products then to be re-exported, is permitted only when the economic conditions which justify it are met. Restricting access to inward processing could penalise the Community processing industry.

73. Calls for Member States, including regional administrations, to be made more aware of action to combat irregularities, given that, in particular in the field of structural measures, negligent or irregular use of Community budget appropriations is mirrored by equally negligent use of funds provided by cofinancing from national budgets;

Commission’s reply:

The Commission welcomes Parliament’s endorsement of its continued efforts to increase Member States’ awareness of the need for action to combat irregularities.
See also reply to point 14 a.

74. Urges the Commission to apply financial corrections in accordance with Commission Regulation (EC) No 448/2001 in connection with structural measures where there are irregularities;

Commission's reply:

The Commission has every intention of enforcing Regulation 448/2001 vigorously.

75. Takes note of the figures transmitted, at its request, by the Commission, concerning the amount of irregularities per Member State and the amount of recovery for the Structural Funds since the implementation of Commission Regulation (EEC) No 1681/94; takes note of the significant amounts owing from some Member States (Italy, Spain, United Kingdom, Germany) and wishes to be informed about the reasons for the low recovery from those countries;

Commission's reply:

In the case of irregularities notified to OLAF, the Member States are required to make the necessary corrections and inform OLAF. Currently, it is when the programmes are closed that the Directorates-General responsible for the Structural Funds check with OLAF whether the irregularities notified have been corrected. If not, they ensure that these cases are dealt with before proposing the closure of the programme concerned.

The OLAF database of irregularity cases in the Structural Funds reported by Member States indicates on a case-by-case basis for each Member State the Fund, the amount concerned and the recovery position at national level. The closure period for the 1994-99 programme has now begun and will continue until its completion in 2003, at which point the complete picture on the recovery situation can be established. Before closure all cases reported will have to be closed except for those where action has been suspended due to pending legal proceedings. If a Member State has not taken account of all the amounts remaining to be recovered during the closure of the programme, the Commission will take the appropriate action, including the application of Article 24 of Regulation No 4253/88 as amended by Regulation No 2082/93.

In the period 2000-06, on the basis of the implementing regulations Nos 438 and 448/2001(for the Structural Funds) and 1386/2002 (for the Cohesion Fund), the Directorates-General responsible for these Funds will be informed each year of recovery proceedings pending in the Member States. This, together with a more complete database with more uniform contents, will allow better monitoring, including of less serious irregularities.

Systems to reduce the number of irregularities have been put in place. They strengthen:

- the requirements in terms of sound financial management and control (Articles 38, 32 and 34 of Regulation No 1260/1999, Article 12 of Regulation No 1164/94 and Article H of Annex II thereto, and the implementing regulations 438/2001 and 1386/2002);

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the penalties applicable for irregularities both in the Member States (which have the primary responsibility for detecting, correcting and notifying the Commission of irregularities on the ground) and in the Commission (Article 39 of Regulation No 1260/1999, Article II of annex II to Regulation No 1164/94 and implementing regulations 48/2001 and 1386/2002, and the Commission's internal guidelines on financial corrections). The Commission's range of instruments includes corrections by extrapolation or at a flat rate.

The sums, which, it is true, are still relatively low, for which the Commission issued recovery orders on the basis of the old rules (Article 24 of Regulation No 4253/88) over the years 1997 to 2000 were communicated to Parliament in the replies sent by the Director-General of DG REGIO to COCOBU's questions on 8 February 2002.

CORRECTIONS

76. Recommends again (cf. Parliament's resolution of 4 April 2001 on discharge 1999) concerning the clearance of accounts (EAGGF), that the procedure be improved especially through increased financial corrections for Member States where there are repeated weaknesses in the control system, including delay in the setting-up of the IACS, and through extending the deadline for conformity decisions from the current 24 months to 36 months, as already proposed in its abovementioned resolution on discharge 1999; asks the Commission to come forward with the necessary proposals;

**Commission's reply:**

The Commission services are studying, on the basis of current regulations, the possibilities of increasing flat-rate corrections in the event of repeated weakness of the control systems already having been the subject of a correction at the time of a previous clearance of accounts decision. This would apply in particular to delays or weaknesses in the implementation of the IACS. Indeed, the persistence of a non-corrected control weakness may increase the risk and gravity of irregularity and therefore the financial loss for EAGGF. These modalities should be defined during the second half of 2002.

77. Asks the Commission to make proposals before the next discharge, so that non-respect of the criteria by the paying agencies in the Member States can be properly sanctioned (such as reduction of advances or financial corrections);

**Commission's reply:**

It is not possible, with the current state of the legislation, to make corrections on the basis of a potential failure on the part of the paying agencies to respect the approval criteria. Approval is a matter for the Member States. The Commission's services do intervene in this area, with corrections

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26 Applied in the case of systemic irregularities the financial impact of which could, theoretically, be calculated but for cost or other reasons is not calculated precisely and must be estimated.

27 Applied to systemic irregularities (resulting from shortcomings in the national control systems, for example the lack of checks on adherence to the Community rules) or one-off infringements of the rules the financial impact of which is not calculable.
78. Questions again if the current system of financial correction is sufficient to encourage Member States to combat fraud and irregularities; invites the Commission again to propose a simplification of the infringement procedure, which allows a lump sum or penalty payment to be paid by the Member State, following a judgment by the Court of Justice, if the Commission considers that the Member State concerned has failed to fulfil its obligations under the Treaty (Article 228);

**Commission’s reply:**

*Article 39 of Regulation No 1260/1999 and Regulation No 448/2001 (financial corrections) give Member States an incentive to detect and correct irregularities in the spending of the structural Funds by allowing them to reallocate cancelled and recovered expenditure to other projects, whereas expenditure cancelled and recovered by the Commission will be lost to the programme concerned.*

*The Commission, which is constantly endeavouring to improve the correct application of Community law, including in the case of repeated infringements, has no reason not to be satisfied, at this stage, with the instrument of periodic penalty payments which it systematically uses to encourage the Member States to implement the rulings by the Court of Justice.*

79. Calls on the Commission to inform Parliament more fully on progress towards more effective recovery of unduly paid funds (action 96 of the internal reform of the Commission); repeats its regret (cf. its abovementioned resolution of 28 February 2002) that the Commission has not followed Parliament's recommendation and introduced a requirement to launch recovery proceedings within three month of receipt of details of irregularities from the Court of Auditors;

**Commission’s reply:**

*The Commission would once again point out that finding that an irregularity has occurred does not necessarily mean that money was wrongly paid out. Moreover, where irregular expenditure has to be recovered, it should be noted that a three-month time limit is unrealistic since over 80% of the amounts concerned are Community expenditure managed indirectly, with Member States the first line managers. As regards the rules for recovery of amounts wrongly paid, this expenditure is subject to special legislation (EAGGF Guarantee and SAPARD legislation for clearance under these funds; Structural Funds, Cohesion Fund and ISPA legislation for financial corrections under these funds).* 

*As stated above (point 4), the Commission will be sending a communication to the other institutions before the end of 2002 on progress made under the present legislation on implementation of action 96 "More effective management of the recovery of unduly paid funds" on the basis of the action plan adopted in December 2000 (SEC(2000)2204/3 of 13 December 2000) and what is expected to be achieved under the recasting of the Financial Regulation adopted by the Council on 25 June 2002 and its implementing rules (the draft of which was submitted to the other institutions for their opinion at the end of July 2002), including as regards the systematic establishment of amounts that can be established. The IAS is finalising an audit on this question (see also the last paragraph of the reply to point 4).*
Actions carried out without any change in legislation include those designed to prevent amounts becoming irrecoverable because they are too old, in particular the automatic reminders and letters of formal notice to debtors (dunning), improvements in reporting and generalised access for DGs to databases for checking the financial position of debtors. In order to reduce the old debts which can still be recovered, the resources and structures allocated to recovery have been strengthened. As regards the writing-off of certain amounts judged to be irrecoverable, the rules have been clarified with the adoption of the internal rules on the implementation of the 2002 budget adopted on 8 April 2002 including, to the satisfaction of Parliament (see point 80 below), the waiving of recovery of established amounts by application of the proportionality principle.

Actions being taken in preparation for the new regulatory framework which is to enter into force on 1 January 2003 (new Financial Regulation, implementing rules for that Regulation and revision of the internal procedural provisions on debt recovery) include strengthening the role of the authorising officer (who will be responsible for drafting and sending the debit note to the debtor) and strengthening the enforced recovery instruments (recovery by offsetting, by enforcement of any guarantee lodged in advance and by enforcement of an enforceable order obtained either under Article 256 of the EC Treaty or after Court proceedings). Finally the new regulatory framework continues the abovementioned rationalisation of the provisions on writing-off established entitlements (waiver, cancellation and technical and accounting adjustments).

Commission departments are already receiving training in the new regulatory framework and the changes in computer applications that this entails.

80. Congratulates the Commission on its guidelines on the application of the principle of proportionality to the waiving of debt recovery; is pleased that the guidelines introduce clear and transparent procedures for the writing-off of debt in accordance with Parliament’s wishes;

81. Demands that, once the Commission decision has been taken, the Commission informs the European Parliament of the basis for calculating the financial correction applied on the one hand to the Netherlands, in the framework of the ESF, on the other hand to Spain, in the framework of the flax case;

Commission’s reply:

With regard to the monitoring of the irregularities detected in the Netherlands, the Commission has regularly (on several occasions in 2001) informed the European Parliament via COCOBU, whether in the form of a letter addressed to the rapporteur on the 1999 discharge or in response to specific written questions sent by some of its members. The method for calculating the applicable financial corrections is given in the decision which was taken by the Commission under Article 24 of Regulation 4253/88 (reduction in Community assistance – Decision C(2002) 970 final), a copy of which was sent by Ms Diamantopoulou to Ms Theato on 19 April 2002 (courrier Cabinet No 0596).

In order to implement this Decision, the Commission issued several debit notes which were transmitted to the Dutch Authorities for a total recoverable amount of € 157.188.991. This amount was fully recovered by the Commission on 9 July 2002.

As regards the flax case, the Commission regularly informs the Cocobu on the clearance of accounts decisions.
82. Expects Commission decision-making procedures for financial corrections to be open and transparent; recalls Article 213 of the Treaty, which states that Members of the Commission "shall be completely independent in the performance of their duties" and "shall refrain from any action incompatible with their duties"; recalls the Code of Conduct for Commissioners, which states that "ruling out all risks of a conflict of interests" helps Members "to guarantee their independence"; notes that according to the Code of Conduct, the role of Members' private offices is "to act where necessary as the interface between Commissioners and the departments they are responsible for, but without interfering in departmental management"; expects the Members of the Commission and their private offices to continue to observe this set of rules; reminds the Commission of its undertaking to report in detail on any specific financial correction, and on the procedures followed, at the request of Parliament;

**Commission's reply:**

*The Commission and its members cannot but reiterate their strict respect of their obligations under the Treaties and of the code of conduct that was put in place by the Prodi Commission as one of its first acts.*

**AS REGARDS THE ANTI-FRAUD OFFICE**

83. Notes the limits on action by OLAF, as set out in the annual report (Chapter III, point 3.2) of the OLAF Supervisory Committee since it was unable to provide precise information on the action taken by the competent national authorities on the various cases concerned, on the imposition of any administrative or criminal law penalties or on the recovery of funds; notes also the limits on its scope for action, (for example the VAT sectors stated by the Court of Auditors - point 1.90 of the annual report "another element likely to increase the risk of fraud is the absence of a clear basis for international coordination of VAT investigations by OLAF/Commission");

**Commission's reply:**

*In the framework of the Advisory Committee for the Coordination of Fraud Prevention (COCOLAF), the Commission has launched a dialogue with the Member States and taken initiatives within the means at its disposal to have more precise information on the follow-up of cases transmitted by OLAF to the national judicial authorities. Moreover, all aspects of follow-up action for cases investigated by OLAF, be they administrative, judicial, disciplinary or financial, are carried out by the units responsible for follow-up work.*

*The Commission did include a proposal in its 2001 work programme to improve Community-wide cooperation and information exchange in the field of VAT and to fight more effectively VAT cross-border fraud cases. This consisted of a proposal for a regulation of the European Parliament and of the Council establishing a cooperation mechanism between the competent national authorities of the Member States and the Commission. Its objective would be to ensure the protection of the Communities' financial interests against illegal activities, including in matters such as VAT and money laundering.*

*The Commission repeated its determination to present such an initiative in its Action Plan for 2001-2003 on the fight against fraud.*
Acknowledging that the primary responsibility for the measures necessary to ensure the efficient operation of the common system of VAT lies with the Member States, this Regulation should especially enable the Commission to play a coordinating and motivating role in countering VAT irregularities which are of particular relevance at Community level. As regards VAT, this initiative will establish a complementary legal instrument to the Commission proposal for a Regulation of the European Parliament and the Council on administrative cooperation in the field of value added tax (COM (2001) 294 final)."

84. Notes with concern the finding in the Supervisory Committee report (Chapter IV, point 3.1.1) that although a large proportion of OLAF cases involve criminal elements, the Office forwarded reports or information to the competent national judicial authorities in a tiny number of instances only;

**Commission's reply :**

The functions of the recently established unit of magistrates and judicial advice include establishing close links with the national judicial authorities and ensuring the transmission to these authorities of OLAF investigation reports at the appropriate time.

85. Asks to be informed about the exact role of OLAF in the context of fraud-proofing of legislation;

**Commission's reply :**

Action 94 of the White Paper on reform outlines the Commission’s intention to strengthen the fraud-proofing of legislation and the management of contracts. The Commission adopted a communication on 7 November 2001 on the issue which was transmitted to the European Parliament for information. OLAF is specifically consulted upstream of the inter-service consultation. In other words, OLAF may be associated in the drawing up of a legislative project by contributing particular anti-fraud provisions. This consultation is carried out by way of a formal procedure based on a selection of risk areas and sensitive projects. The legislative aspect of fraud-proofing will be implemented by a clearly identified cell within OLAF, which will coordinate and deal with this type of consultation. The cell is currently being set up and will make its first proposals to a specific inter-service working group, which will meet at the initiative of OLAF.

The main tasks of this group will, according to the above-mentioned communication, be to validate the criteria and initial findings of the Office that will lead to the identification of risk sectors. Then legislative drafts covering high-risk sectors that need a fraud-proofing opinion will be clearly listed, under OLAF responsibility, with the involvement of the specific working group, and the lead Directorates-General.

To this end, the Directors-General of the Commission have been invited to nominate a correspondent or contact person for OLAF and its specific cell who will be responsible for the upstream consultation of the Office (coordination as well as internal work in OLAF and specific working group work and decisions). This correspondent will have the opportunity to be a permanent member of the specific working group to be set up or to recommend the appropriate representative. This group will be chaired by OLAF and will include representatives of the Secretariat-General, the Legal Service, DG Budget, DG Financial Control and the Internal Audit Service, as well as a limited number of operational Directorates-General. Those Directorates-General, which are not part of the group, will be fully involved in the exercise and will contribute to
it in the same way as the group members as to the final choice of high-risk areas to be agreed by common accord. OLAF also has an important role to play regarding the second aspect of fraud-proofing work, i.e. the management of contracts. It will assist DG Budget in the review of the Commission’s systems for contract management (e.g. standard contracts, central contracts database, management tools). OLAF, via its internal fraud-proofing cell, and the Legal Service, will be involved very early in the process of defining and drafting clear clauses for both the protection of the Community’s financial interests and also for the protection of beneficiaries’ interests. OLAF will also disseminate the information in its possession (whatever its form and within the limits envisaged by Community law) relating to fraud and irregularities connected with the use of contracts for goods or services and grant decisions (information connected with investigations, analyses etc.). This information will be used as input for the database of contracts and contractors and will thus be available to all Commission departments.

86. Is seriously concerned at the current application of Article 7 of European parliament and Council Regulation (EC) No 1073/1999 on OLAF’s investigations as regards the communication of information between Union bodies and institutions;

Commission’s reply:

Article 7 of Regulation No 1073/1999 concerns the duty of the institutions, bodies, offices and agencies to forward to OLAF information relating to possible cases of fraud or corruption or any other illegal activity or any document relating to a current internal investigation.

The most recent OLAF activity report covering the period from 1 June 2000 to 31 May 2001 referred to the fact that OLAF had opened 36 internal cases, of which 28 concerned the Commission. However, those figures do not permit any conclusions to be drawn about the extent to which the obligation to communicate information set out in Article 7 is being fulfilled.

Article 15 of the same regulation provides for a progress report to be produced by the Commission during the third year of the entry into force of the regulation on the Office’s activities together with, where appropriate, proposals to modify or extend the Office’s tasks. Work on that report is being finalised and, once completed, it will be transmitted to the Council and the Parliament.

OLAF transmitted to the Parliament in June 2002 a communication setting out guidelines on its own communication action towards the institutions.

87. Regards it as imperative that the revision of the regulation referred to above settle the question of national authority ‘recognition’ of OLAF investigations and of how they should be followed up;

Commission’s reply:

As stated in the response to point 86, the Commission is currently finalising its progress report on the Office’s activities in accordance with Article 15 of Regulation 1073/1999.

Article 9(1) of Regulation 1073/1999 provides for the recommendations of the Director of the Office on the action to be taken to accompany the investigation report.

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Article 9(2) states that OLAF ‘reports shall constitute admissible evidence in administrative or judicial proceedings of the Member State in which their own use proves necessary, in the same way and under the same conditions as administrative reports drawn up by national administrative inspectors. They shall be subject to the same evaluation rules as those applicable to administrative reports drawn up by national administrative inspectors and shall be of identical value to such reports.’ Article 8(3) of Regulation No 2185/96 also specifies the admissibility of OLAF investigations.

Current Community legislation already clarifies the admissibility of the administrative reports drawn up by OLAF and their assimilation to national reports.

As for the judicial follow-up to administrative investigations, OLAF has a unit of magistrates and judicial advice directly under the responsibility of the Director-General of the Office, whose objectives include improving cooperation with the national judicial authorities and monitoring the judicial follow-up of OLAF investigations.

In addition, the ratification by the Member States of the second protocol to the Convention on the protection of the Communities’ financial interests would give OLAF a more specific role of assistance to the national judicial authorities.

Furthermore, paragraph 2.1.3 of the Commission’s Green Paper on criminal-law protection of the financial interests of the Community and the establishment of the European Public Prosecutor ((COM) 2001 715 final of 11.12.01) deals with this issue. It sets out the current difficulties such as the fact that the Community does not have a criminal prosecution function to supplement administrative investigation and the diversity of national rules on evidence and goes on to propose that the establishment of a common investigation and prosecution area could help to overcome the present difficulties.

88. Deplores the fact that the establishment of a European Public Prosecutor (cf. COM(2000) 608), was not taken up at the Nice European Council in December 2000; welcomes very much the Green Paper submitted in December 2001 (COM(2001) 715) as requested on several occasions by the European Parliament and considers that the establishment of the European Public Prosecutor is essential for effective combating of Community budget fraud; calls for the establishment of the European Public Prosecutor to be included within the Convention so that it can be enshrined in the Treaty in good time ahead of enlargement;

Commission’s reply:


- There was no consensus on having a discussion on the question between the Member States in Nice. The Commission therefore decided to launch a public debate on the theme with its Green Paper (COM (2001) 715), which was adopted on 11.12.2001.

- The Commission welcomes in this regard the conclusions of the European Council of Laeken of 14 and 15 December 2001 (point 43), which called on the Council to examine the Green Paper rapidly.
The public debate involving seminars and conferences organised with the direct participation of the Commission began in December 2001 and, once completed in July 2002, will have specifically covered 13 Member States and several candidate countries through more than 20 events. Around 11 000 copies of the Green Paper have been distributed among interested circles. Responses to the Green Paper can be read on the web site (http://europa.eu.int/olaf/livre_vert). A public hearing has taken place in Brussels on 16 and 17 September 2002 on this subject. The Commission welcomes the public hearing organised by the CoCoBU is on the aforementioned Green Paper on 5 November 2002.

- The Commission will present conclusions, and possibly a fresh contribution, early in 2003, on the basis of all the answers it receives, in connection with its preparations for revision of the Treaties.

In its recent Communication to the European Convention, "A Project for the European Union" (COM (2002) 247 final of 22 May 2002), the Commission stressed the need to supplement the current Treaty provisions on the protection of the Community's financial interests with a legal basis establishing a European Public Prosecutor and allowing the adoption of rules on criminal prosecution of transnational fraud.

89. Asks to be kept fully and adequately informed of developments as regards the "illicit traffic in butter-based products". "European Migrants Forum", "ESF", "Berlaymont", "ACEAL" and "IRELA"; regrets that the results of OLAF's internal investigation on possible disciplinary action in relation to IRELA has not yet been finalised;

Commission's reply:

OLAF will inform Parliament in line with past practice and the guidelines on its own communication activity towards the institutions, on which a communication was submitted to Parliament in June 2002. See also answer to point 23.

As regards the butter-based products, the EP will be informed by the Commission.

As regards ESF, the Commission has always responded promptly to any request for information by the EP – please see in particular paragraph 81 on the NL-ESF irregularities case. As regards the Berlaymont, Vice-President Kinnock informed the COCOBU on 26 February 2001 of the evolution of the costs for the renovation work of the Berlaymont. Since then the following developments have taken place:

The Memorandum of Understanding signed between the Commission and the Belgian State on 17 July 2001 provided for the signature of a contract fixing the price, the technical specifications and the delivery date of the building before 31 December 2001. In the event, the contract was not signed by that date because the Belgian Minister with responsibility for the matter, Rik Daens, wished first to have an audit of SA/NV Berlaymont 2000 and a valuation of the building. The payment regime for the rental of the replacement buildings has not been modified, payment still being made by the Belgian State.

The discussions on the possible purchase of the building continue. In determining the price that the Commission would consider paying, the Commission will take as a basis its own analysis of the source of delays in the execution of the renovation works and of subsequent price increases.

Currently, the budget of the Union is not adversely affected either by the fact that the Berlaymont is not available or by the significant delays in its delivery. The Belgian government is continuing to...
pay €33 million for the rent of replacement buildings while the European Commission is continuing to pay €14.2 million rent for the Berlaymont building.

The Commission kept informed the chairpersons of Cobu and Cocobu most recently on 21 October 2002 shortly before the Agreement with the Belgian authorities signed on 23 October 2002.

OLAF will inform Parliament of the outcome of all the cases concerned.

ENLARGEMENT

90. Considers that combating fraud and the effective protection of the Community’s financial interests must be top priorities in the candidate countries and invites the Commission to make special efforts to ensure that, prior to accession, all candidate countries have introduced genuine accounting, auditing and control systems in accordance with the EU standards, in the areas benefiting from EU financial assistance and in particular where there is shared management of Community appropriations; insists that the annual country progress reports include clear and detailed information on the implementation of the financial pre-accession aid, on the measures taken to monitor it and on the outcome of auditing and checks on the spot and on chapter 28 (financial control); notes in this respect the importance of stronger EU financial and technical assistance with a view to improving the candidate countries administrative capacity;

Commission’s reply:

As indicated in its various replies to Parliament the Commission is fully cognisant of the difficulties in this area and shares Parliament’s concern about the continuing weakness of public administration in the candidate countries. Furthermore, these problems and difficulties were recognised in the 2001 Progress Reports, Accession Partnerships and Strategy Paper. Therefore, the Commission has identified the challenges ahead for the candidate countries and has undertaken and continues to undertake extensive measures to ensure that, upon accession, the candidate countries will have in place effective control systems for the management of EU funds. These measures currently include a threefold approach:

- Firstly, in the context of Chapter 28 of the negotiations, the Commission closely monitors the candidate countries’ commitments to build up a fully functioning public internal financial control system (PIFC) and to further develop the external audit systems for which the Supreme Audit Institutions are responsible. The PHARE programme has been and continues to be used to support both the legislative alignment process and the requisite institution building for implementation of PIFC and external audit systems at both national and, where required, regional levels. Through the twinning instrument EU Member States have been actively engaged as partners in this effort and over 30 twinning projects are being carried out in this and closely related areas. Furthermore extensive work has been and continues to be undertaken by SIGMA including peer reviews and other measures to carry the process forward.

- Secondly, the Commission has since 1999 stepped up its efforts to reinforce candidate countries' institutional capacity to prevent and fight against fraud, particularly in relation to the management of EU funds. In the framework of negotiations under Chapter 28, it has consistently encouraged candidate countries to set up operationally independent anti-fraud co-ordination services or structures (AFCOS), responsible for the co-ordination of all legislative, administrative and operational aspects of the protection of the Communities' financial interests. The designation of
such co-ordination structures or services has been completed in nine candidate countries and has reached an advanced stage in most of the remaining countries.

A multi-country PHARE "Anti-fraud programme for the protection of the Communities' financial interests" will be implemented as of early 2003 in order to assist the Commission's efforts in this respect.

OLAF has already established effective co-operation with several of the designated anti-fraud co-ordination services at an operational level.

- Thirdly, through the process of the gradual introduction of an extended decentralised implementation system (EDIS) for pre-accession funds, the Commission will help the candidate countries to build up “systems-based” rather than “transactions-based” financial management and control systems. This process has started and an initial analysis in the areas of systems, staff, internal controls, financial responsibility, audits and procurement is being carried out.

The action plan for building institutional capacity as indicated in the 2001 Strategy Paper is also being engaged in this effort. However, ultimate responsibility for this issue resides with the candidate countries themselves. The Commission, in partnership with the Member States, can provide the methodology and the means but only the candidate countries can guarantee the results.

91. Is deeply concerned to note how little progress has been made towards computerising the Community transit system since Parliament's committee of inquiry; expects the Commission to come forward with concrete proposals for improvement in the context of the follow-up to the 2000 discharge; demands that all possible necessary measures are taken before any candidate country joins the European Union and calls its Committee on Budgetary Control to review the situation as a matter of urgency and points to the recommendation of 13 March 1997 of the European Parliament Committee of Inquiry into the Community Transit System;

Commission's reply:

The Commission regularly reviews the planning of the National Administrations as regards the setting up and roll-out of the New Computerised Transit System. The attached table gives an overview of the situation. Dates have been confirmed in Spring 2002 by national administrations following a letter from Mr Bolkestein. It results from this that all Community Member States and 10 countries that are candidates to accession will have become connected to NCTS by the end of the first half of 2003.

Since the candidate countries are supposed to become operational already before their accession to the Community, the Commission is now preparing procedures ensuring their earlier accession to the Common Transit Convention (with the exception of the Visegrad countries which are already contracting Parties to that Convention).

See annex.

INVOLVEMENT OF PARLIAMENT

92. Instructs its President, at this early stage, to champion its rights before the Court of Justice of the European Communities if the Council includes provisions in the new Financial
Regulation which in any way at all attach provisos to the right of Parliament, under Article 276 of the EC Treaty, to have access to information and thus constrain its control powers;

SPENDING SECTORS

III. SECTORAL ISSUES

JUSTICE AND HOME AFFAIRS SECTOR (JHA)

93. (a) Calls on the Court of Auditors to give explicit recognition to Title B5-8, Area of freedom, security and justice, in its list of internal policy actions and to devote the necessary attention to it;

(b) Notes that the 2000 budget implementation rate in respect of Title B5-8, Area of freedom, security and justice, analysed in the light of the objective factors which delayed the implementation of certain measures and the fact that there were no emergencies, is acceptable, but no more than that;

Commission’s reply:

With regard to paragraph 93 (b,) 2000 was the first "full execution" year of the Directorate-General Justice and Home Affairs, which was created in October 1999.

As regards the European Refugee Fund (B5-810 and 811) and the EURODAC programme (B5-812), the appropriations were carried over to 2001 because of the late adoption of the legal bases (amount €37.279 million).

As regards the appropriations concerning the Measures combating and preventing discrimination (B5-803) and the European Monitoring Centre on racism and Xenophobia in Vienna (B5-809), no particular delay was encountered and almost 100% of the appropriations allocated to these lines in 2000 were spent.

(c) Notes with satisfaction the large increase in the number of Commission-conducted audits of contracts managed by DG JHA;

(d) Notes that, in the JHA sector, amounts recoverable or reduced payments as a result of audits exceed 10% of the total value of the contracts audited, whereas the overall average rate for Commission-conducted audits is in the region of 2%;

Commission’s reply:

As regards paragraph 93 (c and d), in the budget year 2000, the Commission’s departments carried out in-depth document checks on the files submitted for final payment; these were dossiers relating to the "KOSOVO" operation which were put together as a matter of urgency. The proposed requests for financing presented by the Member States were absolutely not presented in due form. This led to recoveries being made at the settlement stage on the sums paid as advances.

(e) Calls on the Commission to step up its efforts, if necessary through contractual penalties, to combat the improper use of subsidies and/or overstatement of actual costs;
Commission's reply:

As set out in item 1.2.2. of its Action Plan for 2001-2003 on protecting the Communities’ financial interests and the fight against fraud, the Commission intends to propose an initiative in the area of direct expenditure to integrate administrative measures and penalties. This work is ongoing and a process of revision of contracts is under way in order to include clear clauses for the protection of financial interests (standard clauses concerning checks and penalties to make them more effective).

The Commission also uses more suitable funding agreements.

(f) Notes with satisfaction that, at the end of its report on the financial statements of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) for the financial year 2000, the conclusion of the Court of Auditors is that the annual accounts are reliable and that the underlying transactions, taken as a whole, are legal and regular;

Commission's reply:

The Commission welcomes the Court of Auditors conclusions on the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA).

(g) Calls on the EMCDDA's management bodies to act on the Court's specific observations, in particular as regards:

- fixed asset accounting management and inventory-keeping;
- the keeping of personnel records: job descriptions, career records, staff assessments and information for staff;

Commission's reply:

The EMCDDA has taken note of the Court's comments. Since 2001 the ELS system has become operational for the inventory of assets and has been used for the 2001 closure of accounts exercise. Regarding aspects relating to staff, the EMCDDA has put in place a procedure to draw up a periodic evaluation report which, in 2000, was applied to all the EMCDDA staff. Furthermore, the necessary measures were taken to supplement staff files, notably by including the job description for the member of staff concerned.

(h) Notes with satisfaction that, at the end of its report on the financial statements of the European Monitoring Centre on Racism and Xenophobia for the financial year 2000, the conclusion of the Court of Auditors is that the annual accounts are reliable and that the underlying transactions, taken as a whole, are legal and regular, bearing witness to the genuine efforts made by the Monitoring Centre in 2000 to improve its internal control system;

(i) Calls on the management bodies of the European Monitoring Centre on Racism and Xenophobia to act on the Court's specific observations, in particular as regards:

- fixed asset accounting management, inventory-keeping and controlling recovery operations;
systematic data matching between the budget accounts and the general accounts in order to ensure better monitoring of financial management during the year;

Commission's reply:

The Commission reaffirmed, at the February 2002 meeting of the Management Board of the European Monitoring Centre on Racism and Xenophobia, that it shares the concern expressed by the Court on the scale of carry-overs from one budget year to the next and that it also considers regrettable the underutilisation of the 2000 budget. The Commission, incidentally, notes an improvement on these points in 2001.

94. Takes the view that the low implementation rate for budget heading B5-503 was predominantly due to the strict conditions in the invitation for the submission of proposals; takes the view that the condition of transnationality as a prime requirement for entitlement to support must generally not exceed the requirement that there is a transnational partnership, with partners from three Member States;

Commission's reply:

The Commission agrees with remark that the time allowed for presentation of applications was too short in 2000. The deadline was extended to 15 weeks in 2001.

By the deadline of 26 June 2000, 129 proposals had been received, of which 93 were eligible; 33 projects (i.e. 35% of eligible projects) were selected for funding. To select any more projects would have compromised the quality of the actions co-financed by the Commission by admitting proposals which had scored less than 60% in the external evaluation.

Another factor which contributed to the underspending in 2000 was the small number (5) of proposals that were presented under Measure 2 of the call. The focus of that particular Measure was on regional support to social economy, and potential promoters found it difficult to implement given the time constraints. Also, few of the 2000 proposals requested the maximum amount of co-financing available.

As regards transnationality, the Commission considers that this requirement strongly increases the Community added value of projects.

AGENCIES

95. (a) Takes the view that efficient assessment of the agencies’ financial requirement in the budget procedure and scrutiny of their funding under the discharge procedure requires close cooperation between the committees involved;

(b) Welcomes in this connection the appointment of a standing rapporteur for the agencies on the committee responsible for budget matters and proposes a revision of the present guidelines for cooperation between the committees responsible for the specialist agencies;

(c) Takes the view that revision of the guidelines should concentrate on the following aspects:
– ensuring there are adequate control mechanisms in the specialist committees,
– ensuring there is transparency in the budget procedure,
– strengthening the mutual duty to inform,
– clear division of powers between the relevant committees;

**DAPHNE PROGRAMME**

96. Asks the Commission to draw-up an evaluation report on the Daphne programme, as laid down in European parliament and Council Decision (EC) No 293/2000\(^{29}\), without delay; expects the Commission to incorporate into the report the results of the evaluations, as well as, information on Community financing in the different fields of action implemented under the programme; invites the Commission to report, in particular, on the low utilisation of payment appropriations in the financial year 2000;

**Commission's reply:**

*The 2000 budget year was the first year of the DAPHNE programme; hence only the first payments could be made. An amount representing 25% of the allocation was consequently carried over to the budget year 2001 (€1.259 million). The Commission already, in April 2002, transmitted the mid-term report to Parliament in line with the requirements of Article 9 concerning the monitoring and evaluation of the DAPHNE programme.*

**TRANS EUROPEAN TRANSPORT**

97. Notes that the 2000 budget implementation rate for the Trans-European transport network budget line is satisfactory; recommends a further reduction in the number of projects by concentrating on those projects where important bottlenecks in the TEN-transport network are removed and thus a European added value is immediately ascertainable;

**Commission's reply:**

*The Commission agrees with the Parliament's remark: in order to further reduce the number of projects/studies each year, as from 2000, the minimum amount of Community financial support was set at 1M€.*

*According to the Commission's proposal COM(2001)545 of 2.10.2001, amending Council Regulation (EC) N° 2236/93, the total amount of Community aid may reach 20% (from 10%) for projects which concern cross-border rail bottlenecks at borders with candidate countries. If the proposal is adopted, this will lead to "concentration" of the Community financial support on the most important trans-European network projects.*

*Further to that, the Multi-Annual Indicative Programme 2001-2006 adopted by the Commission C(2001)2654 of 19/9/2001 aims at the financing of projects representing the highest Community*

Priorities; Several of the Essen Priority Projects and Groups 1-2 of the MIP concern projects for the removal of bottlenecks on the railway network.

COOPERATION

98. (a) Notes that poverty reduction is the fundamental objective of Community development policy and in order to achieve that objective it must be adapted to the terms and calendar adopted at the Millennium Summit;

Commission's reply:

The November 2000 Statement defines the main objective of the European Community’s development policy as reducing and, eventually, eradicating poverty. This objective entails support for sustainable economic and social and environmental development, promotion of the gradual integration of the developing countries into the world economy and a determination to combat inequality.

A Commission Staff Working Paper produced in July 2001 establishes the main elements to address the poverty reduction objective in EC Development Policy. This work programme is progressively being implemented.

In terms of financial allocations, the Commission considers that particular attention must be paid to the situation of the least developed and other low-income countries. Allocations must also take into account the efforts by the governments of partner countries themselves to reduce poverty, their performance and their absorption capacity. Among middle income countries, the Commission believes that encouragement and attention should be concentrated on those in which the proportion of poor people continues to be high and which are fully committed to implementing coherent poverty-reduction strategies.

In that regard, a further strengthening of the poverty impact of the European Community’s programmes depends to a great extent on EU Member States, along with the European Parliament.

(b) Notes that the Commission has lifted its reservation concerning sectoral targets as introduced in the 2002 budget and that it has begun to fulfil its commitments in relation to the DAC (Development Assistance Committee) classification system;

Commission's reply:

As indicated during the budgetary procedure for 2002, the Commission is setting up the management information system which will make it possible to produce information in conformity with the standards fixed by the Development Assistance Committee (DAC) of the OECD. All new actions undertaken in the year 2002 are now being entered according to DAC standards. This will enable detailed reporting on 2002 activities as per DAC classifications to be produced from early 2003 onwards. In addition, resources have been allocated, and the process is currently under way, to code the activities of the year 2001. The Commission will prepare a statistical summary for the Parliament, by November of this year, on its external assistance in 2001 as per DAC standards.

A seminar organised jointly by the EP and the Commission on 'European Development Policy Targets and Indicators', where the Commission explained its move towards a result-oriented approach to development, took place on 26 February 2002. The documents provided to the EP for the seminar give details on how DAC standards are applied by the Commission, and on the use of indicators.

(c) Notes, nevertheless, that the information is still imprecise; trusts that, in future budgetary procedures, the figures provided will be totally reliable and asks, in particular, for the terms and results of the application of social conditionality in relation to structural adjustment aid to be clarified;

Commission's reply:

EC Structural adjustment support, as is the case with other donors, used to be given primarily in response to satisfactory progress in sustaining macroeconomic stability and implementation of economic reforms. This progress was measured through a series of policy-based conditionalities, generally defined by the IMF and the World Bank. In addition to general policy-based conditionalities, the Commission added specific conditionalities often related to reforms in the social sectors, including the establishment of essential drugs policies using generic drugs, the adoption of decentralisation policies, the devolution of expenditure, the establishment of road funds, and the refocusing of budgets in favour of basic services. Where counterpart funds were held in a separate account, the Commission also sought, by monitoring their use, to ensure that social expenditures were protected, releasing its funds only in line with the implementation of certain elements of the budget – usually targeted on the social sectors.

(d) Points out that information on the results of Community participation in the HIPC strategy for debt reduction is poor; calls on the Commission to urge the African Development Bank to speed up negotiations on agreements with the beneficiary countries; asks the Commission to provide clarification by country and outcome concerning the implementation of its contribution to the HIPC strategy;

Commission's reply:

A report on the participation of the Community to the enhanced HIPC initiative was prepared in November 2001. The report was one of the requirements to be fulfilled to release the second tranche of the EC contributions to the HIPC Trust Fund and to the EIB Fund, amounting to €250 million and €100 million respectively. To date, €754 million, or 70 per cent of the original allocation of €1.08 billion, have been disbursed. The report indicated the mechanism in use to provide debt relief to HIPC/ACP Countries. Support amounting to €54 million was provided to HIPC countries in Latin America and Asia from the general budget. The Commission participates actively in the bi-annual meeting organised by the World Bank to assess the progress of the HIPC Trust Fund. The Commission is about to launch a study on how HIPC funds are managed in ACP HIPC countries and has instructed EC delegation staff in HIPC countries to be actively associated to the discussion concerning HIPC assessment (HIPC trigger assessment) particularly with regard HIPC tracking. The Commission is currently preparing a proposal for adding €60 million to its contribution as creditor with a view to providing a full relief (cancellation) of all special loans due to the Community by Least Developed ACP countries. This follows a decision of the ACP/EC Council of Ministers taken in December 2001, which was previously submitted to the competent parliamentary commission. A report on debt (the Mantovani report) discussed and approved during the EP plenary session in April 2002 mentioned the proposal too.
(e) Regrets that, according to the Commission's preliminary estimates for 2000, the funds set aside for infrastructure and social services are unacceptably low; recalls the results of the budgetary procedure for 2002, through which the Commission has undertaken to amend this situation in line with the objectives set;

**Commission's reply:**

The Commission considers that the criteria of the 2002 budget are not applicable to the 2000 discharge procedure. The Commission has recently provided the EP with extensive information on implementation of the results of the budgetary procedure for 2002.

(f) Stresses that a transparent information system which complies with DAC standards is a first step towards an approach more closely geared to results, and stresses that indicators showing development results in relation to the objectives must be a priority for the Commission; calls for Parliament to be comprehensively informed and consulted on this process;

**Commission's reply:**

See the answer under point b).

(g) Takes the view that complementarity with Member State development policies and coordination with other donors are a key element in achieving the above objectives; calls, in this context, for the Commission to provide Parliament, in future discharge procedures, with specific information on actions carried out jointly with other donors, and on their results;

**Commission's reply:**

Coordination within the Commission between the various actors of Development has been a key concern since the beginning of the reform. Inter-service meetings, inter-service consultations and Thematic Networks have helped achieve cross-fertilisations and positive feedback from implementation experience into programming.

The improvement of coordination between the Member States and the Commission is beginning to show clear results. In this context, the Commission regularly organises, in conjunction with the Member States, meetings of the Directors-General for Development where they can exchange best practices on common concerns, current difficulties and new approaches. In preparation for the major international Conferences on Financing for Development (Monterrey) and on Sustainable Development (Johannesburg) a specific focus was placed on coordination within international bodies. A similar effort has been made in favour of a stronger involvement of the Commission in the OECD/DAC.
The mission given to the Commission by the Member States to prepare a report in preparation for the Monterrey conference is a very positive sign of this confidence-building process. On 8 November 2001, the Development Council asked the Commission to clarify a number of issues and explore, through a dialogue with Member States, potential initiatives to be implemented by the Member States in order for the EU to make a positive contribution to the conference. The Council singled out the issue of increasing the volume of aid with a view to reaching the 0.7% target, including the establishment of specific timetables; particular mention was also made of the effectiveness of aid, including the untying of aid, global public goods and innovative sources of financing. The report was presented by the Commission at the General Affairs Council of 18 February. It summarises the possible positive initiatives which emerged as a result of the discussions and addresses the issue of how the financial gap between the current level of ODA and the volume necessary to meet the Millennium Declaration Goals can be closed.

The Commission has launched several coordination initiatives with other donors in the framework of the joint summits with the US, Canada, and Japan, paying particular attention to the Great Lakes Regions and Afghanistan. Several high-level meetings were conducted in order to improve cooperation with Norway. Furthermore, the Commission is exploring pilot models for further strengthening cooperation with other donors. A first initiative has taken place whereby officials from Japan are hosted within the Commission.

Harmonisation of donor procedures is also a key element for the improvement of coordination, efficiency and recipient country ownership. In this regard, the Commission has launched review exercises with the Member States and the DAC. A similar effort is being conducted at UN level through the renegotiations of the general Framework Agreement and the recasting of the financial regulation.

At field level, the new programming instrument called "Country Strategy Paper" (CSP), creates a compulsory coordination and consultation mechanism with the recipient countries, the Member States and the UN bodies present there.

In order to strengthen its coordination with the United Nations, the Commission has conducted an extensive policy dialogue and negotiations on the improvement of the EC/UN general Framework Agreement, through joint high-level meetings with, amongst others, UNHCR, ILO, UNDP, UNICEF, FAO, and UNESCO. In 2001 the Commission adopted a Communication "Building an Effective Partnership with the United Nations in the Fields of Development and Humanitarian Affairs. Its overall thrust (improvement of EC-UN cooperation) was endorsed by the Development Council of 31 May 2001. Its proposed new approach should lead to a strengthening of the EC’s involvement in upstream policy dialogues and to the establishment of a more effective, transparent, financially predictable and easier to monitor operational partnership with UN agencies, funds and programmes. The Commission has started conducting a broad analysis of the core mandate and capacities of the UN agencies, funds and programmes. On this basis, the Commission will propose, in dialogue with the Member States, and where there is an added value within commonly agreed political objectives, to strengthen cooperation with UN bodies through the establishment of a Strategic Partnership.

Complementarity in the policy-making area expresses itself through the complete integration of the Millennium Development Goals, the Poverty Reduction Strategy Paper process and the DAC recommendations in the work of the Commission.
Concerning complementarity with Member States' activities, the Commission has focused its activities according to the six priorities for fighting poverty defined in the communication of 26 April 2000 and by concentrating on its expertise in specific fields and on its comparative advantages. The experience of sector guidelines shared by the Member States and the Commission has proved to be a very effective instrument for operational coordination. The Commission is preparing guidelines in relation to its 6 priorities. Guidelines on the transport priority sector have already been adopted.

(h) Notes the delays in the implementation of projects co-financed with NGOs; asks the Commission to provide information on the simplification and harmonisation of procedures.

Commission's reply:

The introduction of the call for proposals (started for the first time in June 2000) made it possible to ensure greater transparency in the allocation of funds. Indeed, all the requests were presented according to the logical framework, for the first time, and the overall and annual budget were presented according to a standardised model, namely by accounting chapter and by activities.

All the requests were analysed using an identical evaluation grid by independent experts. In addition, the NGOs received a letter giving reasons for the refusal of unsuccessful applications. The decisions for 18% of the received requests (= 163) were taken within less than 6 months (compared with 2.5% in 1999) and 72% within 13 months (compared with 97.5% in 1999). With regard to the payment periods (2000-2001), 95% of the payment requests received during the same period were honoured within less than 60 days.

(i) Notes the continuing tendency for traditional cooperation in the form of projects to be replaced by a system whereby a growing proportion of funds known as rapid disbursement instruments – chiefly aid for structural adjustment – is allocated to direct support for budgets; believes that the Commission and Parliament must undertake a detailed analysis of the advantages and disadvantages of this approach and urges the Commission to submit a communication on this subject;

Commission's reply:

Structural adjustment support programmes tackled essential problems that project aid could not address: (i) to help countries to restore macro-economic stability: balance of payments equilibrium to allow countries to import products needed by their people and their economies; budgetary equilibrium to allow spending plans to be implemented; and (ii) to encourage implementation of important economic reforms – enhanced effectiveness of public services, reduced fiscal costs of parastatals, removal of stultifying controls on enterprise, etc. There is a broad consensus that the results have, on balance, been positive. The Commission strongly believes that without macro-economic stability any hope of development is an illusion; that, without progressive integration into the world economy, growth prospects have no future.

More recently, in support of the national development and poverty-reduction strategies in low income countries, the Commission has been moving towards budget support for poverty reduction: this aims at (1) allowing countries to maintain macro-economic stability through financing balance of payment gaps and improving country macro-economic and public expenditure policies; (2) allowing countries to finance their growth and poverty reduction strategies through additional budget resources and participation in policy discussions on budget structure. The aim is to enhance country ownership of poverty reduction policies and improve their effectiveness. It is associated with a shift to results-based conditions (see reply to item (c) above) and away from externally
imposed policy prescriptions. It is, however, too soon to measure the impact of this new approach. The Commission is collaborating with Member States in exploring the scope for evaluation of the approach over the coming few years.

IV. ACCESS TO DOCUMENTS

99. (a) Asserts that Parliament, as the discharge authority, must have the same access to Commission documents as the Court of Auditors;

(b) Reiterates that the rules in the existing Framework Agreement concerning access to confidential documents have proven unsatisfactory for Parliament as discharge authority and instructs its President to open negotiations without delay on the revision of the Framework Agreement and to ensure that the new agreement is in accordance with the principles adopted by Parliament in its resolution of 4 April 2001 on the discharge 1999;

(c) Warns the Council not to adopt new financial regulations limiting Parliament’s untrammelled right of access to the information necessary for the exercise of its tasks related to discharge;

(d) Instructs its President to bring an action before the Court of Justice if the Council should adopt financial regulations limiting Parliament’s budgetary control powers.

Commission’s reply:

The Commission considers that the Framework Agreement has enabled all the necessary confidential information to be transmitted to Parliament for the purposes of the discharge in satisfactory conditions.

Parliament’s control powers are fully recognised and protected by the EC Treaty. The Commission considers that the new Financial Regulation adopted unanimously by the Council after detailed discussions with all institutions concerned, fully complies with the EC Treaty and the legislation in force and do not affect their control powers.
## Annex to point 11

<table>
<thead>
<tr>
<th>Posts to be filled in the year</th>
<th>Commission</th>
<th>All institutions not taking account of enlargement</th>
<th>All institutions taking account of enlargement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Turn-over</td>
<td>736</td>
<td>798</td>
<td>1.022</td>
</tr>
<tr>
<td>Appropriations converted into posts</td>
<td>100</td>
<td>25</td>
<td>0</td>
</tr>
<tr>
<td>Termination of service</td>
<td>0</td>
<td>0</td>
<td>96</td>
</tr>
<tr>
<td>New posts</td>
<td>400</td>
<td>317</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>1.236</td>
<td>1.140</td>
<td>1.115</td>
</tr>
<tr>
<td>Total costs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personnel</td>
<td>6.024.976</td>
<td>6.024.976</td>
<td>7.127.322</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>1.387.500</td>
<td>1.387.500</td>
<td>3.363.529</td>
</tr>
<tr>
<td>Specific</td>
<td>6.961.526</td>
<td>5.600.000</td>
<td>4.215.600</td>
</tr>
<tr>
<td>Equivalent number of successful candidates to finance per year</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>42% of the cost of a successful candidate of the year</td>
<td>513</td>
<td>479</td>
<td>639</td>
</tr>
<tr>
<td>58% of the cost of a successful candidate of the next year</td>
<td>661</td>
<td>647</td>
<td>928</td>
</tr>
<tr>
<td>Total</td>
<td>1.184</td>
<td>1.126</td>
<td>1.567</td>
</tr>
<tr>
<td>Cost per successful candidate</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personnel</td>
<td>5.106</td>
<td>5.351</td>
<td>4.549</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>1.176</td>
<td>1.232</td>
<td>2.044</td>
</tr>
<tr>
<td>Specific</td>
<td>5.900</td>
<td>4.973</td>
<td>2.500</td>
</tr>
<tr>
<td>Total</td>
<td>12.181</td>
<td>11.556</td>
<td>9.283</td>
</tr>
</tbody>
</table>

* the necessary appropriations in 2002 for all institutions not taking enlargement into account come to 16.537.488. This represents a change, disregarding enlargement, compared with 2002, of €1.990.727, i.e. an economy of scale of 10.93%. Without taking enlargement into account, the setting up of EPSO will lead to savings.
Annex to point 21


Hereewith there is a table summarising the geographical breakdown of projects selected and amounts of grants allocated to beneficiaries by country.

The first section of the table ("overall results") contains the number of projects supported from each country, as well as the total amount of financial support awarded to beneficiaries from that country.

The second section of the table ("Distribution") gives the geographical breakdown of financial support granted in the area of distribution (support to cinema distribution, support to video distribution, support to cinemas, support to festivals) by country of the beneficiary, as well as the country share (in %) of the support granted. This data can then be compared to an indicator reflecting the reality of the size of the market of each country (total number of cinema admissions in the country in 2000, source: Eurostat).

The third section of the table ("production") gives the geographical breakdown of financial support granted from the point of view of the production country. It includes support granted directly to producers (development support, distribution support for television), as well as the cinema support schemes (Automatic & Selective Distribution) allocated by nationality of the films supported. The geographical breakdown can then be compared with an indicator reflecting the reality of the size of the market of each country (total investment in Film Production in 1999, source: Screen Digest).

Example:

Netherlands

The Netherlands received 3.07% of the support awarded to distribution, whereas it represents 2.49% of the European market in terms of total number of admissions in cinemas.

Likewise, 2.56% of the investment of the MEDIA Programme was in favour of Dutch films and audiovisual programmes, whereas this country represents 1.60% of the total investment (private and public) in European film production.
<table>
<thead>
<tr>
<th>Country</th>
<th>Number of projects selected 2000</th>
<th>Amount of grants awarded (€) to final beneficiaries</th>
<th>MEDIA Support to distribution</th>
<th>country share of MEDIA support to distribution</th>
<th>Market Data: country share of total admissions in cinemas in 2000</th>
<th>MEDIA Support to Production (including cinema distribution support reallocated by country of origin of supported film)</th>
<th>country share of MEDIA support to production</th>
<th>Market Data: country share of total Film production investment 1999 **</th>
</tr>
</thead>
<tbody>
<tr>
<td>AT</td>
<td>65</td>
<td>978 270</td>
<td>589 270</td>
<td>1.57%</td>
<td>1.89%</td>
<td>439 894</td>
<td>0.79%</td>
<td>1.09%</td>
</tr>
<tr>
<td>BE</td>
<td>124</td>
<td>6 431 131</td>
<td>2 886 889</td>
<td>7.70%</td>
<td>2.72%</td>
<td>1 575 534</td>
<td>2.83%</td>
<td>1.46%</td>
</tr>
<tr>
<td>DA</td>
<td>89</td>
<td>3 921 527</td>
<td>1 055 664</td>
<td>2.82%</td>
<td>1.24%</td>
<td>4 085 322</td>
<td>7.33%</td>
<td>1.28%</td>
</tr>
<tr>
<td>DE</td>
<td>164</td>
<td>12 487 564</td>
<td>6 686 875</td>
<td>17.84%</td>
<td>17.67%</td>
<td>5 387 660</td>
<td>9.67%</td>
<td>14.55%</td>
</tr>
<tr>
<td>ES</td>
<td>101</td>
<td>8 062 084</td>
<td>5 113 713</td>
<td>13.64%</td>
<td>15.69%</td>
<td>2 611 294</td>
<td>4.69%</td>
<td>6.44%</td>
</tr>
<tr>
<td>FI</td>
<td>41</td>
<td>1 009 732</td>
<td>493 732</td>
<td>1.32%</td>
<td>0.82%</td>
<td>475 000</td>
<td>0.85%</td>
<td>0.82%</td>
</tr>
<tr>
<td>FR</td>
<td>260</td>
<td>17 869 337</td>
<td>7 242 401</td>
<td>19.32%</td>
<td>19.24%</td>
<td>14 752 861</td>
<td>26.49%</td>
<td>28.02%</td>
</tr>
<tr>
<td>GR</td>
<td>54</td>
<td>2 122 884</td>
<td>722 934</td>
<td>1.93%</td>
<td>1.56%</td>
<td>612 600</td>
<td>1.10%</td>
<td>0.31%</td>
</tr>
<tr>
<td>IE</td>
<td>34</td>
<td>1 452 221</td>
<td>172 784</td>
<td>0.46%</td>
<td>1.73%</td>
<td>1 821 103</td>
<td>3.27%</td>
<td>3.78%</td>
</tr>
<tr>
<td>IS</td>
<td>33</td>
<td>451 476</td>
<td>191 476</td>
<td>0.51%</td>
<td>0.19%</td>
<td>463 894</td>
<td>0.83%</td>
<td>0.16%</td>
</tr>
<tr>
<td>IT</td>
<td>131</td>
<td>9 103 388</td>
<td>6 165 085</td>
<td>16.45%</td>
<td>12.58%</td>
<td>3 432 388</td>
<td>6.16%</td>
<td>6.54%</td>
</tr>
<tr>
<td>LI</td>
<td>1</td>
<td>1 000</td>
<td>1 000</td>
<td>0.00%</td>
<td>0.00%</td>
<td>0</td>
<td>0.00%</td>
<td>0.00%</td>
</tr>
<tr>
<td></td>
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<td>--------</td>
<td></td>
</tr>
<tr>
<td>LU</td>
<td>8</td>
<td>832 139</td>
<td>177 139</td>
<td>0.47%</td>
<td>0.16%</td>
<td>430 234</td>
<td>0.77%</td>
<td>0.06%</td>
</tr>
<tr>
<td>NL</td>
<td>63</td>
<td>2 696 432</td>
<td>1 149 649</td>
<td>3.07%</td>
<td>2.49%</td>
<td>1 437 608</td>
<td>2.58%</td>
<td>1.60%</td>
</tr>
<tr>
<td>NO</td>
<td>80</td>
<td>2 627 100</td>
<td>1 359 178</td>
<td>3.63%</td>
<td>1.34%</td>
<td>1 538 087</td>
<td>2.76%</td>
<td>1.10%</td>
</tr>
<tr>
<td>PT</td>
<td>47</td>
<td>1 128 475</td>
<td>1 006 799</td>
<td>2.69%</td>
<td>2.19%</td>
<td>320 845</td>
<td>0.58%</td>
<td>0.17%</td>
</tr>
<tr>
<td>SU</td>
<td>60</td>
<td>1 716 806</td>
<td>1 018 606</td>
<td>2.72%</td>
<td>1.97%</td>
<td>2 458 507</td>
<td>4.41%</td>
<td>1.33%</td>
</tr>
<tr>
<td>UK</td>
<td>106</td>
<td>5 996 657</td>
<td>1 450 233</td>
<td>3.87%</td>
<td>16.51%</td>
<td>13 854 176</td>
<td>24.87%</td>
<td>31.28%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>1 461</td>
<td>78 888 223</td>
<td>37 483 427</td>
<td>100%</td>
<td>100%</td>
<td>55 697 007</td>
<td>100%</td>
<td>100.00%</td>
</tr>
</tbody>
</table>


** source : Screen Digest. December 2001
Annex


(we underline the provisions relating to Technical Assistance Offices).

MEDIA II (1996-2000):


Annex, paragraph 2.3. Implementation:

The Commission shall implement the programme in accordance with the procedure set out in Article 5 of the decision.

2.3.1. In implementing the programme, in particular the technical selection of projects, monitoring and evaluation of projects benefiting from the programme's funding and actions for networking, the Commission will ensure that it obtains the expertise of acknowledged specialists in the field of the development and distribution of cinema and television works.

To this end, it can, if necessary, involve intermediary organisations which, on the basis of their professional expertise, will provide technical assistance and will formulate proposals for the choice of the beneficiaries, without prejudice to other selection methods. These organisations will be chosen after calls for proposals and following the procedure described in Article 5(2).

The Commission shall make the final selection of projects benefiting from the Programme's funding, in the context of the dispositions of Article 5(2).


Annex, paragraph 2.3. Implementation:

The Commission shall implement the programme in conformity with Article 4.

2.3.1. In implementing the programme, in particular the technical selection of projects, monitoring and evaluation of projects benefiting from the programme's funding, the Commission will ensure that it obtains the expertise of acknowledged specialists from the audiovisual sector in the field of professional training.

To this end, it can if necessary involve intermediary organisations which, on the basis of their professional expertise, will provide technical assistance and will formulate proposals for the choice of the beneficiaries, without prejudice to other selection methods. These organisations will be chosen after calls for proposals and following the procedure described in Article 4(2).

The Commission shall make the final selection of beneficiaries from the programme's funding, in the context of the dispositions of Article 4(2).
MEDIA Plus (2001-2005):


Official Journal L 013, 17/01/2001 P. 0034 - 0043

Annex 2.3 Implementation.

2.3.1. The Commission will implement the Programme. It may, to this end, call upon independent consultants and technical assistance offices to be selected, after a call for tenders, on the basis of their expertise in the sector, experience acquired in the MEDIA II programme, or other experience acquired in this area. The technical assistance will be financed by the Programme’s budget. The Commission may also conclude, in accordance with the procedure referred to in Article 8(2), partnerships for operations with specialist bodies, including those which have been set up under other European initiatives such as Audiovisual Eureka, EURIMAGES and the European Audiovisual Observatory in order to implement joint measures that meet the Programme objectives in the field of promotion.

The Commission will make the final selection of the beneficiaries of the Programme and decide on the financial support to be granted, in accordance with Article 8, on the basis of preparatory work conducted by the technical assistance offices. It will give grounds for its decisions to applicants for Community support and ensure the transparency of implementation of the programme.

In order to execute the Programme and, in particular, evaluate the projects benefiting from Programme funding and networking activities, the Commission will draw on recognised, independent audiovisual experts in the fields of development, production, distribution and promotion, who are, where necessary, proficient in the area of the management of rights, especially in the new digital environment.


Official Journal L 026, 27/01/2001 P. 0001 - 0009

Annex 2.3 Implementation.

2.3.1. The Commission, in accordance with the procedure laid down in Article 6, will implement the programme. It will call upon consultants and technical assistance offices to be selected, after a call for proposals, on the basis of their expertise in the sector, experience acquired in the MEDIA II programme, or other experience acquired in this area. The technical assistance will be financed by the programme’s budget. In accordance with the procedure referred to in Article 6(2), the Commission may also conclude partnerships for operations with specialised bodies, including those which have been set up under other European initiatives, such as Audiovisual Eureka, EURIMAGES and the European Audiovisual Observatory, in order to implement joint measures which meet the objectives of the programme in the field of training. The Commission will make the final selection of the beneficiaries of the programme and will decide on the financial support to be granted, in accordance with Article 5.
It will give grounds for its decisions to applicants for Community support and ensure the transparency of implementation of the programme.

The beneficiaries will take steps to publicise the Community's support.

In selecting supported activities, the Commission will, in addition to the priorities set out in Article 2(2), take particular account of the following criteria:

- partnership between training establishments, the professional sector and undertakings;

- the innovatory nature of the measure;

- the multiplier effect of the measure (including utilisable results, e.g. manuals);

- the cost-effectiveness of the measure;

- availability of other national or Community support measures.

For the implementation of the programme, and in particular the assessment of the projects receiving funding under the programme, and for the networking measures, the Commission will ensure that it makes use of the skills of recognised experts in the audiovisual sector in the fields of training, development, production, distribution, promotion and also management of rights, especially in the new digital environment.

In order to ensure the independence of the consultants and experts whose services it uses, the Commission will lay down incompatibility provisions in respect of the participation of these groups of persons in the invitations to submit proposals under the programme.
### Annex to point 91

#### 30.01.2002

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>SINCE FROM</th>
<th>SINCE FROM</th>
<th>01.07.2001</th>
<th>01.01.02</th>
<th>01.07.02</th>
<th>01.01.03</th>
<th>01.07.03</th>
</tr>
</thead>
<tbody>
<tr>
<td>GERMANY</td>
<td>10.05.00</td>
<td>beginning 2003</td>
<td>2.9 %</td>
<td>4.7 %</td>
<td>4.7 %</td>
<td>62.9 %</td>
<td>100 %</td>
</tr>
<tr>
<td>AUSTRIA</td>
<td>06.02</td>
<td>beginning 2003</td>
<td>0 %</td>
<td>0 %</td>
<td>1 %</td>
<td>50 %</td>
<td>100 %</td>
</tr>
<tr>
<td>BELGIUM</td>
<td>01.05.02</td>
<td>01.05.02</td>
<td>0 %</td>
<td>0 %</td>
<td>36 %</td>
<td>77 %</td>
<td>100 %</td>
</tr>
<tr>
<td>DENMARK</td>
<td>01.12.02</td>
<td>01.12.02</td>
<td>0 %</td>
<td>0 %</td>
<td>0 %</td>
<td>100 %</td>
<td>100 %</td>
</tr>
<tr>
<td>SPAIN</td>
<td>10.05.00</td>
<td>15.10.01</td>
<td>5.4 %</td>
<td>100 %</td>
<td>100 %</td>
<td>100 %</td>
<td>100 %</td>
</tr>
<tr>
<td>FRANCE</td>
<td>mid 2002</td>
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<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>FINLAND</td>
<td>01.04.03</td>
<td>01.04.03</td>
<td>0 %</td>
<td>0 %</td>
<td>0 %</td>
<td>0 %</td>
<td>100 %</td>
</tr>
<tr>
<td>GREECE</td>
<td>31.05.03</td>
<td>31.05.03</td>
<td>0 %</td>
<td>0 %</td>
<td>0 %</td>
<td>0 %</td>
<td>100 %</td>
</tr>
<tr>
<td>IRELAND</td>
<td>end 2002</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ITALY</td>
<td>10.05.00</td>
<td>06.01</td>
<td>2 %</td>
<td>6 %</td>
<td>75 %</td>
<td>100 %</td>
<td>100 %</td>
</tr>
<tr>
<td>LUXEMBOURG</td>
<td>09.02</td>
<td>09.02</td>
<td>0 %</td>
<td>0 %</td>
<td>0 %</td>
<td>100 %</td>
<td>100 %</td>
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<tr>
<td>NETHERLANDS</td>
<td>01.10.00</td>
<td>01.01.01</td>
<td>1.6 %</td>
<td>3.2 %</td>
<td>100 %</td>
<td>100 %</td>
<td>100 %</td>
</tr>
<tr>
<td>PORTUGAL</td>
<td>04.03</td>
<td>04.03</td>
<td>0 %</td>
<td>0 %</td>
<td>0 %</td>
<td>0 %</td>
<td>100 %</td>
</tr>
<tr>
<td>UNITED KINGDOM</td>
<td>01.01.03</td>
<td>01.01.03</td>
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<td>0 %</td>
<td>0 %</td>
<td>1 %</td>
<td>60 %</td>
</tr>
<tr>
<td>SWEDEN</td>
<td>01.01.03</td>
<td>01.01.03</td>
<td>0 %</td>
<td>0 %</td>
<td>0 %</td>
<td>100 %</td>
<td>100 %</td>
</tr>
<tr>
<td>EU</td>
<td>4</td>
<td>3</td>
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