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COMMISSION REPORT TO THE COUNCIL

**Measures taken by the Commission in response to the comments accompanying the
Council Recommendation**

Follow-up report on the 2000 financial year

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FOREWORD

In accordance with Article 276 (3) of the EC Treaty and Article 89 (8) of the Financial Regulation and as in previous years, the purpose of the Commission's Follow-up Report is to set out the measures it has taken in respect of observations accompanying the Recommendation on Discharge for the general budget and the ECSC operating budget. This report is the response to the Council's demands in the specific comments accompanying its 5 March 2002 Discharge Recommendation. It should enable the Council to have at its disposal all the necessary information on Commission actions taken when it discusses its next Recommendation for the Discharge 2001.

The measures taken by the Commission in respect of each Council recommendation are described in the boxes.

INTRODUCTION

- 1 The Council is pleased to note that the Commission's implementation of initiatives to improve its management and accounting, many of which originated in the Court's annual report, shows the value of that report as a tool for monitoring the legality and regularity of financial management as well as for assessing its quality. It therefore insists on the need strictly to follow the recommendations expressed during the discharge procedure.

The Prodi Commission is making an unprecedented effort to modernise and improve financial management. In this context, the discharge procedure is seen as an opportunity for constructive dialogue between the Institutions in order to identify areas for potential improvement.

- 2 The Council welcomes the several positive aspects noted by the report, while being aware that the Commission has not yet achieved the objectives it has set itself in the framework of its reform. In that context, the Council wishes to stress the importance it attaches to the recasting of the Financial Regulation, which is the true keystone of the Community's financial system.

The Commission feels that it has already achieved a lot in its Reform activities. The Commission's synthesis report for 2001 contains a detailed analysis of the implementation of Reform. The main elements of this analysis are as follows :

- Priority setting, allocation and efficient use of resources

Milestones were identified and introduced via a strategic planning and programming (SPP) activity, brought into place via the Reform. The preparation of annual management plans by all services was a major step forward. Activity-based management has helped the Commission to focus its activities on clear priorities with clear objectives. Without prejudice to any further improvement, it can be concluded that the Commission delivered in 2001 what had been announced in the White Paper, and that this represented a significant achievement given the considerable time and resource constraints under which services had to work and the fact that such a major change can only be implemented on a progressive basis.

- Human resource policy

The process of consultation with the staff and "concertations" with the trade unions led to the following results:

(1) The October 2001 "Global Package for the reform of personnel policy", which comprised 15 chapters. The first nine were for final decision of the Commission: the social strand, covering measures on family-related leave and flexible working arrangements; equal opportunities; social policy and infrastructure for staff; moral harassment; training; mobility; reporting wrongdoing; discipline; maintaining professional standards; recruitment; middle management; pay and pensions. The last six issues were discussed for final orientation of the Commission: appraisal and promotion; career structure; non-permanent staff; mediation service; flexible retirement and general review of the Staff Regulations.

(2) On 20 December the Commission approved a draft Regulation on modifications to the Staff Regulations and implementing rules for appraisal and promotion with a view to submitting them to the inter-institutional Staff Regulations Committee for an opinion. The draft Regulation incorporates all changes to the basic rules governing the European Public Service, which the Commission deems necessary.

(3) The Commission adopted the remaining decisions during the first quarter of 2002 (guidelines on Job Descriptions; guidelines on mobility; the conduct of administrative enquiries and disciplinary proceedings; the rules applicable to national experts seconded to the Commission; reporting wrongdoing, social policy, the mediation service, training guidelines and maintaining professional standards, appraisal and promotion). The Commission also decided to submit the draft Regulation to the Council with a view to finalising the legislative process by mid-2003.

- Audit, financial management and control

The Reform aims to make procedures simpler, faster and more accountable by decentralising management responsibility to those closer to the decision-making process and improving transparency.

(1) In 2001, based on an assessment of the associated risks, organisational structure and cost effectiveness, the Commission services implemented new financial management circuits outlining the key stages involved in the authorisation of financial transactions and respecting the basic principle that the initiation and verification functions of a transaction should be kept separate. Each Commission service also appointed an internal audit capability to assist the Director-General or Head of Service in verifying the effectiveness of internal controls.

(2) Also in 2001, the Internal Audit Service became independent from the Financial Control. Its role is crucial for giving assurance to the Commission through its independent opinion on the quality of management and control systems.

(3) The central financial service, created in 2000, focused in 2001 on the proposal for the recast of the financial regulation, on the definition and guidance on internal control minimum standards and risk management for the Commission services, on the reinforcement of contract management and public procurement in the Commission services. In addition, special attention was given to the requested support through help desk, training and information. Finally, the necessity to enhance the central financial information systems led to focus action on the overall quality of the existing system and the development of new functionalities set out in the White Paper (contract database, central invoice register, recovery management).

(4) The Directors-General and Heads of Service produced in May 2002 their first Annual Activity Reports for 2001. These reports show that significant progress has been made although there remains much to be done to improve the financial management systems.

(5) The issue of internal control and financial management has been given new impetus by the new Financial Regulation, which mirrors the key principles of the financial reform, and which takes effect from 1st January 2003. The transfer of the centralised prior approval function means that services will need to focus on their state of readiness for assuming full decentralised responsibilities. The supporting central financial and accounting information systems are being developed to ensure that they conform to the requirements of the new Financial Regulation (in particular as regards the new workflows within the authorising

services and the types of transactions). The Commission is also in the process of examining how it can move towards the respect of accrual accounting principles, which involves changes both to the accounting rules and to the computerised system. This project was launched through a memorandum to the Commission by Mrs Schreyer in July 2002 which will be followed by a Communication setting out the project plan in December 2002. In tandem, the Commission is also continuing to take action to improve the performance of the current computer system.

It can therefore be seen that a lot of Reform activity has taken place, and the recasting of the Financial Regulation, which has been decided unanimously by the Council after a very intense process has been achieved in very short time and with the necessary review and debate of interested parties.

- The Commission's accounting framework and its accounting system were developed at a time when cash accounting was in general use across the public sector, and mainly served the purpose of budgetary accounting. The procedures also had to be designed to reflect the provisions of the Financial Regulation. The Commission's accounting system was designed for cash accounting and has only been adapted to a limited extent to meet the requirements of modern general accounting.
- The Commission has already introduced elements of accrual accounting in the presentation of its financial statements in recent years. Nevertheless, the reliability and accuracy of the data used to produce the financial statements are not optimised, mainly because some balance sheet data and information for annexes to the accounts are drawn from sources outside the official accounting system.

3 The Council notes the persistence of significant surpluses at the end of the financial year. This tendency could affect the credibility and sound management of the Community budget.

The origin of these surpluses lies in incorrect estimates of both revenues and expenditure. The Council urges the Commission, with the collaboration of Member States, to make more precise estimates of sources of finance and to adapt expenditure estimates to real requirements.

The Commission continues to develop and improve its approach to managing the budget. Building on the 2001 implementation plan and in line with the joint declaration, the Commission has provided the budgetary authority with a more comprehensive implementation plan for budget year 2002

Steps have been taken to improve the forecasting of payments from the Structural Funds (see point 3.1).

The own resources forecast entered in the preliminary draft budget is drawn up on the basis of the most recent spring economic forecasts from DG ECFIN and after consultation of the Member States in the Advisory Committee on Own Resources (ACOR). Furthermore, the forecast is subsequently revised at an ACOR-meeting (normally held in April) during the budgetary year in question on the basis of that year's spring economic forecasts. Member States' payments are adjusted accordingly through a supplementary and/or amending budget. The Commission is always striving to improve the accuracy of its forecast. It should, however, be remembered that the own resources forecast concerns economic aggregates (GNI, the VAT

base, EU imports etc) that are subject to considerable swings. Some degree of forecasting error is consequently unavoidable.

- 4 The Council must stress that the fact that most expenditure takes place in Member States and is administered by national bodies does not alter the Commission's ultimate responsibility, under the provisions of the Treaty, for implementing the budget.

Although the ultimate responsibility for executing the Community budget rests with the Commission, those in charge of implementing the common policies also bear a management responsibility. This point has been given increasing prominence by the Court of Auditors, which in its Annual Report tends to distinguish more clearly between the roles of individual players.

As it points out in its analysis of the replies by the Member States, the Commission has taken note of the Member States' concern to make the Annual Report of the Court of Auditors into a tool for improving financial management and their determination to take full account of the observations and recommendations addressed to them. The Commission pays special attention to the various questions raised by the Member States, particularly as regards the simplification of the regulatory framework (see below), and intends to provide, within the specific context of the individual policies, any assistance the Member States might require in order to ensure that the regulations are uniformly and effectively applied.

The Commission also believes that discussions and consultations should be launched on how to strengthen its powers to conduct inspections and impose penalties, which in the medium term could lead to practical proposals based on existing mechanisms, such as the inspection rate and financial corrections.

- 5 Regarding the present discharge procedure, the Council must emphasise its concern about the fact that the Court has not yet been in a position to issue a positive Statement of Assurance (DAS), because of the unacceptable level of errors in the operations that underlie payments, noting nevertheless that the Court has given a positive assessment on own resources, commitments and administrative expenditure. The Council is also curious about the fact that the numerous positive findings mentioned by the Court in its report are not reflected, *inter alia*, in the level of errors in the guarantee of the certifications issued.

The positive assessment by the Court, which also covers the accounts, is for a significant number of operations and demonstrates the achievement of the Commission not only where it is fully responsible for its activities but also in a more stable, shared environment such as for own resources. However, the Commission is committed to improving the situation in respect of payments and is confident of the positive effects of the Reform process to improving its financial management. As regard Structural Funds, the Commission points out that with the Council Regulation No 1260/1999 and implementing Commission Regulations No 438/2001 and 448/2001, a framework has been established which should ensure better financial management in Member States, resulting in a more acceptable level of errors in transactions underlying payments. A similar control regulation has now been adopted for the Cohesion Fund, Regulation 1386/2002.

- 6 The Council appreciates the efforts that the Court is making to develop the DAS into an audit and management systems analysis tool but, while welcoming the Court's following up of previous observations, reaffirms its request that it should also

establish indicators allowing progress to be monitored from one year to the next. It nevertheless welcomes the fact that the Court's approach in the present report better permits detection of risks and of improvements by sector of activity.

The Commission is willing to work with the Court in determining representative indicators which can also be used by the Commission not only to measure, but also to improve its financial management performance.

The Council recognises the technical problems of auditing such a broad range of activities as that covered by the Community budget.

With a view to the best possible use of existing resources and to achieving a proportionate cost/benefit ratio, it therefore supports any initiative that would move towards improving the links between audit work done by the Commission and the Member States and the Court's own audits.

While recognising its independence, the Court is asked in this context to extend to other budget sectors the practice, already applied in the context of the CAP, of using the findings of Member States' paying agencies. It could also use the results of the audits and controls carried out by the competent national institutions and make use of the information and expertise of the Commission's internal audit service.

This method could prove very useful, given the increased risks inherent in enlargement, arising from the diversity of political and administrative cultures with which the Commission will in future be faced in implementing the budget.

The Commission will be happy to provide any relevant assistance to the Court in the accomplishment of this task, as needed. For the Structural Funds ideas for closer coordination of audit work have been launched in a series of papers on simplification (see below).

- 7 The Council refers to the joint declaration by the European Parliament, the Council and the Commission on commitments outstanding, formulated during the Budget Council of 22 November 2001. It insists on the need to abolish abnormal commitments outstanding in the medium term and expects the Commission to present, at the same time as or before the preliminary draft budget for 2003, an action plan for examination of all dossiers with associated risks noted at the beginning of the 2002 financial year.

1. The Joint Declaration of November 2001 required the Commission to present to the Budget Authority an action plan, and a series of reports based on the dates 30.4.02, 31.8.02 and 31.12.02, on progress made in the examination of all 'potentially abnormal' commitments (some 16 000 items).

2. The action plan, and first progress report covering the period January 2002 to end- April 2002, were submitted in June 2002 to the Budget Authority with the PDB 2003. By 30 April 2002 the Commission services had examined 27% of all the commitments (Declaration and non-Declaration lines together) falling under this definition)

3. A second progress report covering the cumulative situation January to end August 2002 was submitted to the Authority on 15 October 2002. This showed that under the Declaration

lines, by end August 2002 the Commission had examined some 1850 commitments (74%) of the total cases (2500) to be examined under these lines.

A further report will be prepared based on the situation at 31.12.2002.

4. A new Joint Declaration was agreed at the ECOFIN Council of 25 November 2002. This follows closely the approach adopted under the November 2001 Declaration: a new action plan to examine the potentially abnormal commitments at the start of the 2003 financial year will be submitted with the PDB 2004, and reports will be based on examinations at 31 March, 31 July and 31 December 2003

8 The Council insists on the need to strengthen the protection of the Community's financial interests. In this context, it recalls the importance it attaches to the work of the European Anti-Fraud Office (OLAF) and reiterates its wish to see the last obstacles to the proper operation of the Office removed as quickly as possible.

The restructuring of the Office is over and a period of consolidation is under way. The Office now has three Directorates, respectively for Policy, Legislation and Legal Affairs (Directorate A), Investigations and Operations (Directorate B) and Intelligence, Operational Strategy and Information Technology (Directorate C).

With regard to the appointments of the Directors for Intelligence, Operational Strategy and Information Technology and for Investigations and Operations, the Director Intelligence was appointed early in 2002 while the appointment of the Director Investigations and Operations has now been confirmed.

A recruitment exercise has been launched to fill the remaining vacancies in the Office and it is hoped to complete this before the end of 2002.

Like the Court and the Commission, it calls on the Member States concerned to complete procedures for ratification of the Convention on the Protection of the European Communities' Financial Interests.

All the Member states have now formally ratified the Convention, however, the second protocol, which is an integral part of the Convention, remains unratified by five Member States.

Regarding the distinction between what constitutes fraud as distinct from an irregularity, the Commission has taken an initiative to fill in the void in this area in 2001 with its proposal for a directive of the European Parliament and of the Council on the criminal law protection of the Community's financial interests. The proposal contains elements from the 1995 Convention on protection of financial interests including in its Article 3 a definition of fraud and what constitutes serious fraud. The Commission took the initiative to make this proposal under Article 280 of the Treaty on European Union as it seemed unlikely given the current state of affairs that the Convention and its associated protocols would be ratified by all the Member States, an essential precondition for their being applied throughout the European Union, in the foreseeable future. Article 1(2) of Regulation (EC) No 2988/95 contains a definition of what constitutes an irregularity.

1. CHAPTER 1 - OWN RESOURCES

1.1. Budgetary management

The Council notes that the balance from the implementation of the budget for the financial year 2000 was very large. It therefore calls on the Commission to refine its budget estimates to avoid excessive surpluses in the future. It could if necessary envisage adjustments during implementation as the Court suggests, to take into account significant changes in revenue, and make corrections, if necessary, through a supplementary and amending budget.

In respect of resources, for the 2002 Budget rather than wait for the usual supplementary amending budget (SAB) to be presented in the spring, the Commission presented on the 27th of February an amending budget to take into account significant changes in revenue arising in particular from a potential large surplus for 2001 and the consequences of the new Decision on own resources.

The Commission continues to closely monitor implementation of the budget during the financial year. In June 2002, as set out in the Joint Declaration (SN4608/08), the Commission provided to the Budget Authority its implementation plan for the 2002 financial year covering headings 2, 3, 4 and 7. A preliminary overview for the end-June implementation position was also given. The Commission examined the 2002 plan at end-August against actual implementation and reported to the Budget Authority in October, providing a revised plan for the remainder of the year. A progress report on the end-October position compared to the revised plan was provided in November. In addition the annual end-year budgetary technical adjustment proposal (global transfer) to re-balance payment appropriations was presented to the Budget Authority in October.

The Commission should also in general improve the quality of the information attached to the revenue and expenditure account and in particular it should provide sufficient explanatory analyses.

The Commission has been improving its financial reporting for some time and is continuing to look to make improvements. The Commission informs the European Parliament and the Council on the payments and commitments situation on a weekly basis.

1.2. Specific appraisal in the context of the Statement of Assurance

The Council welcomes the fact that the outcome of the checks carried out has allowed the Court of Auditors to obtain sufficient guarantees to ensure the legality and regularity of the traditional own resources recorded in the Member States and to give, within the limits of the audit, a reasonable assurance of the reliability of the system set up by the Commission for collection of the VAT and GNP resources.

It notes, nevertheless, that progress remains to be made, particularly on the administration and supervision of anti-dumping measures, including the use of existing databases, and on keeping separate accounts for customs debts, as the Court mentions in its report.

The Commission continues to focus on the operation of the B accounts during its own audits. With a view to improving the management of the separate accounts, in particular the write-off procedure, the Commission proposed a modification of the regulation in 1997. This proposal still remains with the Council.

1.3. Protection of the Community's financial interests in the area of Own Resources

The Council welcomes the Court's initiative in examining, in the context of the DAS, the situation regarding recovery of own resources from the point of view of protection of the Community's financial interests.

In this context, it supports any step by the Commission to intensify dialogue with the Member States to make it possible to compare the effectiveness of the tools at national administrations' disposal for protecting the Community's financial interests. In particular, it supports the Court's recommendations on VAT and notes the measures already taken by the Commission.

As regards VAT, the Commission, among other actions, has pursued its efforts to strengthen administrative cooperation between Member States, it has continued to develop a common approach to risk analysis for the purposes of control and has conducted a thorough examination with the national administrations of the Court's recommendations concerning the use of economic statistics as a check on possible levels of tax evasion.

1.4. Follow-up to previous observations

The Council welcomes the progress accomplished as a result of the steps taken by the Commission following the Court's previous observations and encourages it to continue its collaboration with Member States, and particularly as regards the application of the transit procedure, to resolve the problems that procedure raises.

The Commission has continued its efforts for improving the application of the transit procedure by finalising the TRANSIT REFORM, IN PARTICULAR STRENGTHENING the guarantee system, issuing a provisional version of the "Transit Manual" and adopting several administrative arrangements. It has TAKEN further steps aimed at the concrete application, by the target date of 1 July 2003, of the New Computerized Transit System between the COUNTRIES APPLYING the Convention on a common transit procedure of 1987.

Findings from Commission inspections suggest that the situation in Member States is improving overall although unevenly. The Commission has closely cooperated with customs internal audit services in Member States who made some inspections, which were subsequently evaluated by the Commission. The Commission will continue to follow the evolution of the transit regime in particular the roll-out of implementation of the New Computerised Transit System.

The Council also invites the Commission to follow the guidelines of the Court on the desirability of requiring regular reports from Member States on the quality of their statistics on GNP, in the context of the forthcoming GNP Directive.

This observation is addressed in the draft Commission proposal for a GNI Regulation that is currently in written procedure to replace the current GNP Directive. If it is adopted early enough in 2003, the first annual reports on the quality of statistics may be expected in October 2003. Article 2(3) of this draft proposal foresees that Member States will have to transmit to the Commission (Eurostat) a report on the quality of their statistics together with their annual GNI figures.

It would also encourage the Commission to continue its efforts to improve procedures regarding harmonisation of the various sets of statistics to ensure a full accounting treatment of the bases of calculation of the VAT and GNP resources.

The Commission has continued to seek ways of taking account of the recommendations made by the Court of Auditors, and this has led to a number of improvements in internal procedures. These include the development of new safeguards to ensure that the results of controls are accurately reflected at the accounting stage and the adoption of standard tables for recording changes in the bases of calculation in a traceable and transparent way.

2. CHAPTER 2 - COMMON AGRICULTURAL POLICY

2.1. Budgetary implementation

The Council reiterates its concern for compliance with the principle of transparency in implementing agricultural expenditure. Precision in budget forecasts is essential for transparent and effective management of appropriations. In this context, it calls on the Commission to continue, working closely with Member States, to improve the reliability of estimates of budget requirements. In exercising its management powers, the Commission should also attempt to make it easier to interpret the implementation of appropriations, so as to avoid the distortions to which the Court refers in its report.

The Commission establishes its budget forecasts for the financial year (FY) on the basis of hypotheses and activity statistics, concerning agricultural markets and direct payment schemes, which rely mainly on information provided by the competent services of the Member States. Following the Council's wish, the Commission will intensify its collaboration with the Member States in this area.

The budget estimations for the sub-heading dealing with CAP market measures, do not remain steady throughout the year but tend to fluctuate along with the dynamics of market developments of the different agricultural products.

With regard to the sub-heading involving rural development programmes, their effective execution can still diverge from the financial programming decisions for the FY in question because Member States did not realise planned expenditure as forecasted due to delays in carrying out investment schemes, control of lodged claims etc. Furthermore, in both cases, delays longer than foreseen, due to supplementary controls, queries etc in liquidating payment files, can contribute to differences between forecasts and execution of the budget.

Therefore, transfers between budget items are an essential tool in the management and execution of the budget in the dynamic world of agricultural markets. Furthermore, in the case of the EAGGF-Guarantee section of the budget, the number of transfers, due to its very detailed budgetary nomenclature, appear to be more numerous when compared to other headings of the budget which have a simpler nomenclature. Nevertheless, this situation contributes significantly to the objective of transparency in the execution of the budget.

Therefore, transfers between budget items made in the course of the execution and the management of the EAGGF budget can not be characterised as distortions.

Finally, it should be pointed out that the Commission updates its budget estimations at least twice in the course of the FY on the basis of the observed budget execution pattern of the year and of additional information concerning developments and management of agricultural markets and rural development programmes.

The Commission's efforts to improve the precision in the budget gave good results for the financial year 2000. Expenditure amounted to 99% of appropriations. However, even the best forecasting system cannot be 100% accurate because of unforeseeable events, such as changes in the exchange rate and in the agricultural markets. The expenditure for 2001 amounted to 97 % of appropriations because of market conditions better than foreseen.

The Commission took note of the Court's observation in relation the Volume I of the Revenue and Expenditure Account 2000. Changes are made in the 2001 account, to follow the Court's remark.

Finally, the Council welcomes the immediate implementation of a new computerised system of agricultural expenditure management (AGREX), which will make it possible to optimise use of the database.

AGREX2 implementation progresses on schedule.

2.2. Specific appraisal in the context of the Statement of Assurance

The Council notes that the level of substantive errors remains, in the Court's opinion, too high and that the evolution of the trend shows no signs of improvement; it stresses in this connection that most of these errors are recurrent and occur at the level of the final recipient. The Court and Commission are also invited to agree on an unambiguous definition of substantive errors and a method for verifying changes in the incidence of errors over time.

The Court of Auditors and the Commission make considerable efforts to reconcile their respective views as to what constitutes a substantive error. Nevertheless disagreement will foreseeably remain for a number of cases each year.

The incidence of errors can be followed over time, although the number of cases involved in most measures does not allow many useful conclusions to be drawn. The vast majority of errors are small overdeclarations of land or animals by the beneficiary. In no other measure is a pattern discernible.

The Council notes, however, that the financial impact of some of these errors is reduced by the Commission's application of the appropriate financial corrections.

The Commission agrees that financial corrections reduce the financial impact of errors. However, it should be remembered that financial corrections are imposed for inadequate management by the Member States, and not simply for overclaims by the beneficiary.

The Council notes that some of the errors detected by the Court concern small amounts and nevertheless reaffirms the point of view it had already indicated the year before on the need to strengthen controls, emphasising qualitative aspects so as to ensure a good cost/benefit ratio.

The majority of errors detected concern small amounts. Of the extrapolated errors identified by the Court 30 out of 39 are errors of less than 10%, while 22 relate to monetary errors of less than €200 and a further 7 are less than €1000.

Regrettably, a number of beneficiaries continue to overclaim each year, either deliberately or by ignorance of the rules. The Commission is trying to strengthen the quality of controls and the deterrent effect of them (through sanction provisions). It will note the Council's concern that the cost/benefit ratio of controls must be considered.

In this context, it stresses that the Court's analysis shows the persistence of gaps in the supervisory systems of numerous Member States. The Council therefore supports the Court's request to the Commission to revise, simplify and improve the quality of the information which it exchanges with Member States to take better advantage of the Integrated Administration and Control System (IACS).

New regulatory and practical measures have been introduced to ensure improved quality of information from Member States. Revised reporting procedures for the annual supply of animal premium statistics, in conjunction with Regulation (EC) No 2419/2001 entered into force on 1st January 2002 and will lead to greater transparency and enhanced audit potential. Furthermore, and although it must be stressed that Member States have a responsibility to properly apply agricultural legislation, the Commission services have issued a series of guidelines and examples, to be followed up by audits of expenditure, which will ensure a correct and uniform implementation.

Finally, the Council takes the view that setting clear criteria for allocating Community aid and generally simplifying the rules should help resolve certain anomalies noted by the Court.

The Commission shares the Council's view that simple and clear legislation is essential for sound and efficient management. The more complex the rules, the more difficult and costly they will be to implement and manage. Furthermore, complexity both increases the scope for errors and irregularities to occur, and at the same time makes the task of control more difficult. This is a question of importance to all sectors, not only agriculture. The Commission has previously acknowledged that criticism of the complexity of European agricultural legislation is often justified, and over the last few years it has made simplification one of the guiding principles in its deliberations on the common agricultural policy (CAP). The directorate general for agriculture has undertaken simplification work for a number of years, and this has become established as one of its main priorities. Simplification guidelines for use within the directorate general are already in place, to ensure that there is a general awareness of the need for simplification and its purposes and objectives. A simplification working group which includes representatives of the member states was created in the second half of 2000. Furthermore, the need for simplification has been taken into consideration in the reflections on the mid-term review.

The Commission therefore fully shares the Council's view that simplification has an important role to play in reducing the level of anomalies noted by the Court of Auditors.

2.3. Clearance of accounts

Regarding flax aid, the Council is closely following the administrative and judicial procedures currently in progress, and when the time comes will draw the appropriate conclusions within the scope of its powers.

Aid for flax is being dealt with in the context of the Commission's clearance of accounts procedure.

2.4. Follow-up to previous observations

The Council notes with satisfaction the legislative and financial progress made following the observations of the Court and urges the Commission to continue its work to correct remaining deficiencies, where applicable. In particular, it recommends the Commission to use *inter alia* the latest Court of Auditors special report as a reference point for a mid-term analysis of developments in the dairy sector and to continue its cooperation with Member States with a view to the effective operation of the IACS.

In its Mid Term Review Communication of Agenda 2000 the Commission has made specific reference to the recommendations of the Court of Auditors Special report on the Milk Quota regime, durum wheat and dried fodder.

The Commission services continue to play an active role in the organisation of Member States' procedures, not only through observations and recommendations given in the context of its on-the-spot audits of expenditure, but also by means of experts group meetings and distribution of guidelines and interpretations intended to ensure uniform approach and application.

3. CHAPTER 3 - STRUCTURAL MEASURES

3.1. Budgetary management

The Council points out that 2000 was the first financial year of the new Structural Funds programming period 2000-2006, which meant that, as in 1989 and 1994, the year was to a great extent spent on implementing the new provisions of the rules on structural measures and on programming work. The year 2000 was also shaped by work on winding up the programmes from the 1994-1999 period.

It regrets the numerous delays in implementing the 2000-2006 period and especially in adopting the programmes, including the Community initiatives. It urges the Commission to comply better with the regulatory time limits and to take all necessary measures internally to prevent such delays recurring. It notes in particular that it was not possible to approve any programmes in 2000 concerning the new Community initiatives (Leader, Equal, Interreg, and Urban).

The Commission recognizes that part 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 adopted and their management, a process of reflection has already been launched to see what can be learned from it, both for the benefit of the current programmes and especially those after 2006.

The main reason for the length of the approval process for Community Initiative programmes were the preliminary stages required by the regulations. Each step in the process was achieved in the minimum time possible, however. The process was delayed to some extent by late submission of programme proposals by Member States. For example, only 24 of 72 INTERREG III programmes and 13 out of 70 URBAN II programmes were received within the six months' deadline.

The Commission is considering how to simplify the programme approval process in the future. It would like to ensure that the legislative timetable in the Parliament and Council enables programmes to be negotiated before the beginning of the implementation period. For the candidate countries the pre-accession instruments are preparing them for the programming and management of Structural and Cohesion Funds. In the current period the Commission is endeavouring to streamline rules and procedures as far as possible without or with only minor changes to the legislation. It has also reformed its payment procedures.

The Council is aware of the weaknesses that remain in budget forecasting and implementation in the field of structural measures and notes the Court's remark that the network of budget information exchange between the Commission and the Member States was not sufficiently effective. It urges the Commission to continue its efforts to equip itself with appropriate instruments to improve budget forecasts.

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. The Commission has made efforts to improve the reliability 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 Commission's lack of experience with the new reimbursement-based payments system, and has regularly reminded the Member

States of their importance. In 2002 all Member States have supplied the forecasts. Once analysed; 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.

However, in order to improve the budget forecasts from the Member States, the Commission will henceforth:

- inform on a regular basis the Budgetary authority by Member States on the outcome (and errors) of the forecast inquiry.

- and send the forecast request not only to the Permanent Representations, but also in copy via the geographical units in the Structural Funds DGs to the Management Authorities of the different programmes. Thus the Commission will use the existing relations of the geographical units with programme managers in MS in order to obtain more reliable figures, based on data obtained programme by programme.

It is convinced that the new regulatory measures, along with the new financial structure and the current Commission reform process, will ultimately lead to improved quality of forecasts and implementation, and it urges the Commission to continue its efforts to simplify management and to speed up implementation of appropriations for structural measures.

The Commission recognises that the application of the new measures governing the Structural Funds has not always had the desired effect of simplifying management.

Since the informal Council in Namur in July 2001, where this question was discussed, the Commission has begun to examine ways of simplifying the application of the provisions, while retaining the positive aspects of the reform of the regulations adopted in 1999. The discussions are concerned both with the improvements that can be made during the current period and those which should be planned for the period after 2006.

While for the current period the Commission is utilizing the scope for simplification offered by interpretation of the present legislation and better coordination, in future legislation it will have to review the distribution of responsibilities between the Commission and the Member States under the system of shared management, in which the latter bear the bulk of the responsibility for defining the objectives of the Structural Funds and for managing funds.

The debate on simplification is continuing. The subject was discussed at a special meeting with Ministers for Regional Policy on 7 October 2002 and at a technical level at a joint meeting of the Structural Fund committees on 19-21 November.

The Council also notes the Commission's commitment to clarify and make uniform the application of the new regulatory provisions on automatic decommitment of commitments unused at the end of the second year following that of the commitment, and to inform Member States to that effect as soon as possible.

In the case of the 2000-2006 programming period, application of the automatic decommitment rule ("n+2") will have the effect of encouraging the implementation of payments and reducing the RAL by reducing commitments. The Commission drew attention to this rule and the risks it entails in letters sent in November 2001 to all the Member States and in May 2002 in a communication to Member States explaining in detail how the rule would be

applied. Since then, the Commission's departments have kept the Member States regularly informed of the implementation rate, programme by programme.

It welcomes the fact that the information on structural measures presented by the Commission in Volume I of the revenue and expenditure account is fuller than for previous years, and urges the Commission to continue with its efforts to clarify as recommended by the Court.

Regarding the period 1994-1999, the Council notes the Court's observations on the adjustments made to commitments and urges the Commission to adopt final decisions on these interventions as quickly as possible. It urges the Commission rapidly to close interventions relating to the first phase (1994-1996) of Objective 2 and to fill the gaps concerning overall information on the progress of interventions on the ground.

By the end of 2001 the Commission had completed the process of confirming the final financial tables for 1994-99 programmes with a very few exceptions due to late submission by the Member States concerned. By June 2002 good progress had been made with the closure of 1994-96 programmes, with only 29 of the 72 remaining to be closed. On 1994-99 programmes generally some information on their progress towards closure was given in the Commission's annual report on the Structural Funds for 2000, but the report concentrates on the launch of the 2000-06 period programmes.

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.

The Council also reiterates the importance it attaches to a swift winding-up of the last cases from the programming periods before 1994.

The Commission has reduced the number of cases 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.

3.2. Specific appraisal in the context of the Statement of Assurance

The Council notes that, according to the Court, as for previous years, the level of anomalies recorded in the declarations of expenditure for periods prior to 2000 remains high. It notes, too, that some of the substantive errors detected in expenditure statements do not affect the amounts of Commission payments. It nevertheless notes the Court's remark that the frequency of the anomalies noted increases the risk of impact on the Community budget.

A rigorous application by the Member States and the Commission of the closure procedure laid down in the Community regulations, and notably Article 8 of Regulation 2064/97, should give reasonable assurance that non-eligible expenditure is excluded prior to payment of the final balance.

All the substantive errors detected in connection with the Structural Funds and the Statement of Assurance for 2000 were made either at national/local level, or at final beneficiary level. The Commission has taken appropriate steps to remind the competent authorities of the need to ensure strict application of the rules in force and to make the appropriate corrections as quickly as possible.

Furthermore, the Council notes the remarks of the Court on possible weaknesses of the internal control procedures concerning commitments in the field of structural measures and urges the Commission to make the necessary changes and adjustments.

The Commission did not share the Court's view of weaknesses in internal control procedures. In any event there are procedures in place, which would normally ensure that errors of the type found by the Court would not recur.

It welcomes the Commission's commitment to produce an information document on the rules concerning the eligibility of expenditure and in that setting to clarify questions concerning the application of the new rule on the eligibility of VAT owed by public authorities.

The Commission has in the last year clarified eligibility of VAT with Member States, where this was required. The existing rule proved to be sufficiently clear. In the light of repeated requests from Member States to reduce the number of interpretative or other notes, the Commission feels that a further information note is now superfluous and risks complicating matters. However, if Member States request further information, the Commission will be willing to present an information note.

As in its recommendation on the discharge for the 1999 financial year, the Council stresses the importance it attaches to the supervision and control of the closure of programmes and the need to make the necessary releases without delay in the context of commitments outstanding.

The Commission shares the Council's view that closure of programmes should be carried out rigorously and efficiently so that, on the one hand reasonable assurance can be obtained that non-eligible expenditure is not subject to Community co-financing, and on the other that the final balance is paid within the due time limits where the request received from the Member State is complete and correct.

Regarding the Court's observations on the financial control of structural funds expenditure and on the implementation of Regulations No 2064/97 and No 1681/94, the Council refers to its conclusions on the Court's special report No 10/2001, as set out in the Addendum to this recommendation, in particular its request for additional guidelines on the implementation of those Regulations.

The Commission draws attention to the very detailed guidance which has been given on the application of Regulation N° 2064/97 since its adoption and the regular meetings which have taken place with Member States in which it has been discussed. In 2001 and 2002 the Commission carried out a wide-ranging audit of the Member States' compliance with the Regulation. An interim report on the conclusions of the audit was presented to the Member States in October 2001. In preparation for closure, the Commission has recently provided further specific guidance on the application of Article 8 of the Regulation by way of information notes which have been distributed in the Committee for the Development and Conversion of the Regions and at a joint meeting for all Funds in February 2002.

In the autumn of 2002 the Commission services and OLAF are carrying out an audit of the reporting and follow-up of irregularities by Member States under Regulations 1681/94 and 1831/94.

The Council takes note of the Court's observation that the Commission units responsible for control of the European Regional Development Fund (ERDF) and of the Cohesion Fund made fewer checks in 2000 than in previous years, *inter alia* for reasons connected with the Commission's internal reform process, and that those units planned to prioritise the audit of management and inspection systems. It welcomes the Court's observation that the services responsible for control of the ERDF and of the Cohesion Fund have initiated a number of measures to improve the preparation, scope, quality and monitoring of their checks. It also notes the Commission's commitment to increase the emphasis on auditing closure of measures in its work programme for 2002.

Whilst 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, it can be seen now that this was a temporary phenomenon. 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 Commission to verify directly managed projects financed under Articles 7 and 10 of Regulation 4254/88. Further reinforcement of the audit units has taken place in 2002, which will be reflected in a continuing increase in the level of audit activity, in particular for the Cohesion Fund.

The Commission confirms that it has carried out audits on a sample of closed Objective 2 programmes (1994-96) during the first half of 2002. In 2003, it will carry out a more extensive audit enquiry on a selection of programmes for the 1994-99 period for which the request for final payment is received up to the end of March 2003.

3.3. Follow-up to previous observations

The Council welcomes the various measures taken by the Commission in response to the Court's observations on Community financial instruments specifically intended for small and medium-sized enterprises (SMEs), and considers that the new 2000-2006 regulatory framework will make it possible to provide the Commission with additional instruments to remedy the weaknesses noted.

The Commission takes note of the Council's statement regarding Community financial instruments. Improving the financial environment for business is a key objective of the "Multiannual programme for enterprise and entrepreneurship, in particular for small and medium sized enterprises (2001-2005)"¹. Approximately 70% of the overall budget is reserved for financial instruments with the aim to help bridge some of the gaps or failures in capital markets. These initiatives, which are managed by the European Investment Fund (EIF), target especially start-up companies and SMEs through Start-up and Guarantee facilities as well as Seed Capital instruments.

It urges the Commission to take into account, in the framework of the new Leader Plus Community initiative programme, the Court's observations on certain shortcomings observed in the implementation of the Leader Community initiative.

¹ Council Decision of 20 December 2000 (2000/819/EC)

The Commission is looking at these points and will be aware of them for the new programme.

The Council restates the importance it attaches to Community policy on equal opportunities for men and women, and emphasises the importance of adequately following up the content of its Recommendation linked to the discharge for the financial year 1997.

The Commission has constantly endeavoured to take into account the Council recommendations as regards the Community policy on Equal Opportunities, and notably in the design of the framework strategy on Gender Equality for years 2001-2005 .

4. CHAPTER 4 - INTERNAL POLICIES

4.1. Budgetary management

The Council notes the improvements made by the Commission regarding the revenue and expenditure account in the part of it that concerns internal policies, and urges the Commission to continue its work on harmonising presentation and making it more exhaustive, in particular as regards the part concerning the results of budget implementation.

The Commission will continue to develop its reporting.

(see reply to item 7 of the Introduction)

4.2. Specific appraisal in the context of the Statement of Assurance

The Council welcomes the Court's new audit approach concerning the fifth framework programme, consisting of an analysis of the systems, since this contributes helpfully to identifying potential weaknesses connected with the operation of the programme, whether at the level of implementation, of monitoring or of controls.

The Council warmly urges the Commission to remedy the problems identified in the analyses, for example regarding the gaps in internal control procedures, in the correct and uniform application of operational procedures and of working methods, or in the quality of computer resources to manage proposals and contracts. It notes, for instance, that cases of overstating of real costs by beneficiaries are at present hard to identify, in particular because of the limited number of checks carried out, the restricted scope of *a posteriori* financial audits and the lack of contractual sanctions.

The Council hopes that the Commission will implement the Court's recommendations in this field to a clear timetable.

The Commission welcomes the Court's new audit approach consisting of a systems analysis of the management of the 5th Framework Programme for Research. This has set a standard, which should be generally applied as a basis for future Declarations of Assurance. The systems audit of research is still ongoing, and updated results and recommendations have been announced for a Special Report on this subject, which is not yet available.

Many of the management problems identified in the systems analysis are not limited to the research area. They continue to be addressed in the context of the Commission reform and its Internal Control Standards. The completion of the financial circuits, manuals and check lists, regular reporting on key indicators for management and by management, continuous training and recruitment of financially qualified staff are key areas in this respect.

More specifically for the implementation of the Research Framework Programme, a priori controls of financial viability of contractors have been established at a high professional standard. For the 5th Framework Programme work has started on improving the computerised management systems. For instance, a system has been set up in DG TREN for processing expenditure statements at both beneficiary and Member State level. The a posteriori financial audits are steadily increasing (for DG Research from 220 in the year 2000, to 232 in 2001 and expected 280 in 2002) to achieve the target of about 10% of the auditable contractors during the duration of the 5th Framework Programme. A pilot action for audit certificates has been recently set up. Although in the Fifth Framework Programme

there are no specific contractual sanction clauses, the Commission is entitled to withhold or recover payments in case of contractual non-compliance. At the same time recovery efforts have been intensified and often make use of the effective possibility to compensate at the time of subsequent payments. However, the increased pressure on contractors has to be accompanied with additional explanations and clarifications to assist them in complying with the various requirements of different sources of funding in the research process.

For the 6th Framework Programme the matters raised were the subject of Commission proposals which were endorsed by the legislative authority as regards their main points.

The Commission should continue setting up and developing compulsory key controls for all the Research DGs, supplement existing documentation in support of the controls and follow them up adequately. The Council furthermore urges the Commission to study closely the Court's recommendations on the inclusion of sanctions clauses in model contracts for RTD actions.

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. With regard to Actions 73 (Advice on contracting), 74 (Contracts database) and 94 (fraud proofing of legislation and contract management) of the White Paper on reform, 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 sanctions, making them more effective).

The rules of participation of the 6th Framework Programme explicitly refer to Council Regulation No 2988/95. Model contracts will – wherever appropriate - provide for sanctions as recommended by the Court.

The Council would encourage the Commission to carry on with its efforts on harmonising and simplifying operational procedures and its working methods, and on improving computer systems to provide them with the functions needed for drawing up contracts and for payments. In addition, the Council notes the Commission's intention to set up an integrated computer system with a shared database for the next research framework programme, and urges it to liaise with Member States in doing this.

Great efforts to improve the computer system used to manage contract production, projects and payments under the 5th Framework Programme continue to be made. Harmonised concepts for proposal evaluation, negotiations and contracts have been jointly defined by the research DGs, with specific rules to accommodate the requirements of the individual programmes. In addition, the five Research Directorate Generals have charged an inter-service project office with the development of a common integrated computer system for the next framework programme by the end of 2002. In line with the aims of the "e-Commission", this system is designed to maximise the use of electronic transactions, both internally and between participants and the Commission, at every step of the process from the submission of proposals to the closure of projects as well as to facilitate the easy production of management information and statistics. Based upon modular principles, the system will be adaptable to reflect the evolving needs of FRAMEWORK PROGRAMME6 and subsequent framework programmes. Where appropriate and feasible within the limited time available, the Commission will liaise informally with Member States on the system, in particular in relation to the new electronic proposals submission system.

4.3. Other observations of the Court

The Council takes note of the various measures taken by the Community's Joint Research Centre (JRC) following the remarks of the Court in its special report No 10/2000 and urges the JRC to continue its reforms and improvements, e.g. on the overall management system. Particular attention should be paid to control over the contracting cycle on the various sites and to due compliance with the procedures for awarding contracts. Regarding the use of service contracts, the Council urges the JRC duly to take the Court's remarks into account.

The Commission confirms that reforms and improvements have taken place on the overall management system. In particular a system of double control, splitting up the operational and administrative aspects, has been put in place throughout the JRC's Institutes and Directorates.

The Contracting cycle and in particular compliance with the procedures for awarding contracts is monitored by a group which analyses files, documenting the procedure followed, before submission of the same to the CCAM.

In view of the dismantling of the CCAM, the group will adopt a sampling system in order to analyse files concerning markets to be awarded, before the Authorising Officer's decision. Moreover a continuous system of "a priori" legal support is centrally available, in order to advise AO prior to the undertaking of any action related to contracts award or for legal matters in general.

The Court's remark on the use of service contracts have been fully taken into account by the JRC.

Regarding the audits carried out by the Commission in the field of internal policies, the Council welcomes the fact that, overall, the Commission has considerably increased the number of its audits in comparison with 1999, and the number of contracts audited, but it hopes that it will pay closer attention to, *inter alia*, questions connected with the implementation and monitoring of recovery and the transmission of updated data. In this context, the Council much regrets that the Employment DG was not able to provide data on these questions, but notes the Commission's commitment to take a full inventory.

The Commission continues to take measures in order to reinforce the financial audits:

Thus, for instance, in the research area, financial audits have been increased in 2001, while 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. The Commission has concluded, whenever necessary, general contracts with specialist auditing firms in order to increase significantly the number of audits of recipients of its financial assistance and any intermediaries involved. Hence, in the Education and Culture area, in the first half of 2002 alone, contracts were concluded with these firms for almost 100 audits, marking a significant increase in auditing in the field of education and culture.

The increase in audit efforts and the increase in recoverable amounts in the year 2001 have led to a refinement of the recovery procedures to reinforce the monitoring and the timely implementation of the recoveries. The Commission has adopted on 3 December 2002 a communication on measures taken specifically to reinforce the recovery of amounts, both for direct and indirect management.

DG EMPL carried out the in-depth analysis announced both to the Court and the Council concerning audits and recovery orders. As regards the audits and controls, DG EMPL provided the Court with up-dated figures for years 1999, 2000 and 2001 . This information was sent to the Court in February 2002 in the framework of the preparation of the 2001 Annual Report.

5. CHAPTER 5 - EXTERNAL ACTION

5.1. Budgetary implementation

The Council regrets the persistence of a very marked concentration towards the end of the financial year of implementation of commitment appropriations. As regards payment appropriations, it welcomes the fact that their spread over the financial year is much more regular than the spread of commitment appropriations, in all fields, though there is still some measure of concentration in December.

In commitment appropriations, the measures introduced by the Commission are having positive effects. This year the target was to commit at least 50% of available appropriations in the first nine months of the year. At end-September, the rate was 51.5% at the accountings level (and 60% at the ordonnateur level) to be compared with a rate of 35% at end-September 2001.

Regarding commitments outstanding, the amount of which at the end of 2000 is increasing, the Council notes the efforts of the Commission, which undertook a thorough review of "old" and "sleeping" commitments, and at the end of 1999 drew up an action plan to reduce the overhang of RAL; it hopes that these appropriations will therefore be decommitted as part of the Commission's actions and in accordance with the current regulations.

There has been a perceptible stabilisation of the RAL between 2001 and 2000: given the constant disparity between commitment appropriations and payment appropriations for all previous financial years, the stabilisation of the RAL achieved in the field of external aid is a clear reflection of the active policy to improve disbursement rates and portfolio management, leading to a high level of decommitments associated with the closure of projects (approximately € 580 million).

Available data suggests that the increase in volume of RAL dating back five years and over is the result of steady and substantial growth in commitment appropriations between 1994 and 1998, despite a steady increase in payments between 1998 and 2001 (€2 258.67 million paid out in 1998, €2 522.10 million in 1999, €2 992.50 million in 2000, and €3 266.,60 million in 2001).

However, the Commission is conscious of the need to monitor the proportion of old RAL in its external aid management portfolio. Since 2000, the administering departments have been pursuing an active policy of systematic examination and closure wherever possible of old or sleeping external aid commitments. This systematic examination and the closures made have also led to a large number of decommitments in 2001 as mentioned above (approximately €580 million).

As regards the accounting and administrative information needed to analyse the development of RAL in greater depth, particularly in terms of the state of execution on the ground and the nature of the payments made, the CRIS Data Entry system (Saisie) and the accounting system adapted to the new demands of the Financial Regulation as regards types of payments should make this kind of analysis possible from 2003.

The Council regrets, as the Court does, that the documents drafted by the Commission to transmit financial information during this financial year have not made possible an overall view of the field of external actions, while the Commission does produce this kind of

information for its internal requirements. It also shares the Court's view that the Commission ought to explain the reasons that led it to an implementation that differed from the estimates and that it should have systematically provided comments on the implementation of the different headings that would have shown the actual use of the appropriations.

These comments are noted. The Commission is developing its reporting to better meet the needs of users.

The Council urges the Commission to continue introducing performance indicators in all new programmes coming under the heading of external actions.

The Commission considers of major importance indicators of results, and therefore, in the framework of its programming process, has launched joint work with Member States and other donors in order to move towards a common approach on the use of result indicators to monitor country performance. Guidelines have been prepared on this question for use by Commission services in programming external aid and they were reviewed in October 2002 at a further meeting with Member States experts. The Commission intends to disseminate a final version early in 2003. The monitoring and review of all Country Strategy Papers will in due course be based on result indicators, closely linked with the Millennium Development Goals and drawn wherever possible from national Poverty Reduction Strategy Papers.

5.2. Specific assessment in the context of the Statement of Assurance

The Council notes that the audit work carried out by the Court concerning the financial year 2000 only covers the TACIS programme, this being part of a series of in-depth audits covering different parts of the external actions in the budget field each year. While recognising the value of more targeted and thorough studies, the Council regrets that the programme chosen for this financial year represents only a small part of total expenditure on external actions and recalls the hope it expressed in 1999 that their number would be extended to well-specified areas. It nevertheless welcomes the fact that for the restricted scope of the audit the Court was able to conclude that overall the contracts awarded by the Commission and the payments under the Tacis programme were legal and regular.

In addition, the Council welcomes the introduction of the new practical guide to procedures for EC external aid, and supports the Court's recommendations to the Commission with a view to giving greater attention to the quality, experience and training of project managers and to strengthening its internal control system.

As recommended by the Court of Auditors and Parliament, the Commission concentrated its efforts on improving the quality and professional experience of project managers.

Since 2001 EuropeAid has organised a number of management training courses spread over three weeks.

The training offers two options : the EDF and the budget. This training is regarded as essential for all staff called upon to manage external aid, whether at headquarters or in a Delegation.

The course is organised on a modular basis and is made up of the following modules :

- Reform, the Office and deconcentration ; - Life expenditure Cycle ;

- Ethical standards ; - PCM courses; - EDF Financial Procedures (EDF option) ; - Financial execution (budget option) ; - Contractual Procedures (budget option) ; - Management information systems (MIS, CRIS, OLAS and SINCOM).

These courses are constantly being assessed and this has enabled us to adjust the content and duration of the CRIS and SINCOM courses, as well as the OLAS courses (financial and operational management and statistics). In addition, in the light of the new guidelines decided on by EuropeAid, changes have been made to a number of courses (PCM and ECOFIN courses) and in other cases existing modules will be extended (Practical Training on contractual procedures. Service Module – Grants Module – Supplies and Works Module).

Between July 2001 and the end of 2002, EuropeAid will have organised 15 training courses.

Some of the courses have already taken place in the Delegations, organised by the geographical Directorates responsible. The Compact Module is in the process of being finalised and will be able to be organised in the Delegations at their request and with the agreement of the competent geographical Director. This module includes courses on financial and contract management, management information systems, AIDCO guides and manuals and project identification and preparation.

Some courses can also be organised at the Delegation on request, such as : - Reform, the Office and deconcentration ; - Life expenditure Cycle ; - Ethical standards; - PCM courses; - EDF Financial Procedures (EDF option) ; - Ecofin courses.

The next steps include linguistic diversification, coordination of course content, the creation of multidisciplinary and multilingual teams, and making course material available to the Delegations via the Training website.

5.3. Follow-up to previous observations

The Council welcomes the Commission's follow-up to the Court's special report No 25/98 on nuclear safety, which has meant that it can now have a strategy for the future and follow up its projects better. It also notes that has slightly reduced the time needed for payments and applies the rules more strictly.

A constant decrease of both number and amount involved of pending invoices has been achieved in the nuclear safety unit. (e.g. from May 1999 to May 2002 the number decreased by 70% and the amount by 80%). The delays (150 days from tender submission to signature of the contract) involved in the procedure for contract launch in equipment procurement are strictly obeyed, which has a positive effect on the project contracting pace.

However, it takes note of the Court's remarks on the shortcomings that still remain, in particular the lack of indicators, failure to comply with the regulations on calls for tenders and the significant delays in paying local service providers.

All projects since 1999 are accompanied by a LogFrame specifying verifiable criteria; indicators thus exist for individual projects. With regard to the evaluation of the overall impact of the program, the IAEA (the official body of the UN Convention on Nuclear Safety) report of 2000 mentions that the level of nuclear safety has improved in general in the CIS and notoriously in some Tacis-supported power plants. The report indicates that the Commission through the Tacis program has made a substantial contribution to this positive development. Nevertheless the Commission is now drafting Terms of Reference on the safety

relevance for a contract to develop verifiable indicators for the assessment of the impact of the nuclear safety program.

Regarding the Council's remark on compliance with the regulations on Calls for Tender, the Commission has realised the risks of conflicts of interest in case Western, on-site technical assistance firms (assisting the beneficiary in drawing up the technical specifications in equipment projects) are involved in tender evaluations etc. Therefore the JRC have become fully involved in all evaluations for supply and works contracts. The mentioned Western firms do not play a role anymore in the tender process.

Concerning the Council's statement on delays in the payment of local sub-contractors, the Commission states that it has no influence on the contents of sub-contracts made to local service providers. But in view of the strong decrease of the number of delayed payments (mentioned above), local service providers should receive timely payment for their invoices.

It notes with satisfaction the information provided by the Commission on the negotiations in progress with international donors (IMF, World Bank, OECD) to find a common definition of output indicators so that data comparability can be achieved.

5.4. Other observations

5.4.1. TACIS cross-border cooperation programme

The Council regrets the limited impact of this programme resulting from the delays in the first stages of implementation and from the need for a stronger framework for dialogue.

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; four border crossings were completed in 2002, Salla and Svetogorsk on the Finnish/Russian, the border post in Chop on the Hungarian/Ukrainian border, and the post at Kameny Log on the Belarus/Lithuanian border; and one bridge, the Jagodin over the Bug River between Ukraine and Poland with its access road was also completed in 2002. These have contributed to more efficient and effective controls and reduced waiting times. Construction of a new border post at Bagationovsk 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.

5.4.2. Common Foreign and Security Policy (CFSP) management

The Council shares the concerns of the Court regarding the delay between the Council's decision and the first payment. It also considers that the rate of implementation of the CFSP budget is linked to the fact that actions under this policy are not entirely programmed, since some are subject to ad hoc utilisation in the light of the international situation.

The Council welcomes the fact that the Commission has taken measures to reduce time needed for payments, namely: use of standard contracts, the fact that the Commission

concerned can take decisions without going through the College of Commissioners, to launch projects faster, and the fact that the Commission's reorganisation envisages one person being in charge of each case until it is concluded. It urges it to continue its efforts to take the necessary measures and find solutions to the problems that still remain.

The Commission agrees that speed is often an important factor in CFSP. However, it is equally important to invest on the proper shaping of the overall implementation framework in order to avoid problems during the implementation phase and to ensure quality output. The first payment will only be made after the implementation framework and the respective responsibilities and obligations have been codified in a contract between the Commission and the implementing body. Moreover, the rapid launching of an action is largely dependent on its proper preparation prior to the Council Decision.

The Commission shares the Council's view that the rate of implementation of the CFSP budget is linked to the fact that actions under this policy are not entirely programmed, since some are subject to ad hoc utilisation in the light of the international situation.

The Commission is pleased to inform of yet another recently adopted measure with a view to speedier launching of CFSP actions, namely the introduction of sub-delegation from the Commissioner to the Director-General of DG External Relations to take financing decisions.

6. CHAPTER 6 - PRE-ACCESSION AID

6.1. Budgetary implementation

The Council regrets the pronounced concentration of its commitments at the end of the financial year, due inter alia to the late commitment of the ISPA and SAPARD programmes and to the increase in commitments outstanding arising from the very low uptake of payments for those programmes. It takes note of the problems encountered by the Commission in implementing these new instruments and shares the Commission's concern to avoid making payments in poor conditions.

Late commitments for Sapard were, inter alia, the consequence of the fact that 2000 was the first year of implementation of this very complex instrument. The concentration of ISPA commitments at the end of the financial year are a direct consequence of the delays in developing the legal and administrative framework of this instrument. The Commission is cognisant of the continuing weakness of public administration in the candidate countries. 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.

- PHARE funds are being used to assist OLAF's ambitious efforts to build candidate countries' own institutional capacity in the fight against fraud, particularly in relation to the management of EU funds.

- 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..

It emphasises the importance, for public acceptance of the enlargement process in Member States, of efficient financial control and fraud prevention in the candidate countries, similar to those currently in existence in the Member States.

The Council shares the Court's view that the Commission should speed up the analysis and setting-up of the implementing arrangements accompanying the new expenditure programmes, and provide candidate countries with the maximum guidance and technical advice in time to help them make the necessary commitments.

6.2. ISPA

The Council welcomes the fact that, despite the delays in developing the legal and administrative framework of this instrument, the Commission has succeeded in approving and committing a large number of projects for the year 2000.

The Commission would like to emphasise that the preparation of candidate countries for the new pre-accession instrument started already before the adoption of Regulation EC No 1267/1999 (the ISPA-Regulation) in June 1999 and efforts were intensified thereafter and before the entry into force of the basic legal framework. Both the Commission services and Candidate countries need some time to set up the necessary administrative structures, but - as noted by the Council – have succeeded in deciding a sufficient number of ISPA projects (measures) to commit the available appropriations.

However, it asks the Commission to continue its efforts to make good the shortcomings emphasised by the Court in its annual report, in particular as regards poor assessment of requirements in terms of technical support, weaknesses of internal coordination, poorly harmonised working methods regarding the assessment procedure and the follow-up given to the comments of the various DGs and the challenge of setting up this instrument for the candidate countries.

The Commission pays highest attention to the deficiencies identified by the Court. It has encouraged candidate countries to use technical assistance funds that are available under ISPA for the preparation of project applications and activities that need to be carried out for complying with the requirements of the extended decentralised implementation system – EDIS (in 2001, the Commission decided about 30 technical assistance measures for project preparation, and it makes available technical assistance funds for EDIS in all ten ISPA beneficiary countries).

Internal coordination in this field is governed by the empowerment procedure. The empowerment decision of 12 July 2000 (SEC(2000) 1197 PV 1487), which defines the services that must be consulted on ISPA measures before these can be presented to the ISPA Management Committee and decided by the Commission. Moreover, internal coordination is also assured through the regular meetings of the Co-ordination Committee at Directors level of the Commission services concerned; and an audit working group.

In addition, it reminds the Commission that one of its essential priorities is to complete the process of decentralisation effectively while retaining strengthened controls, and as quickly as possible, so that it can begin to consider the transition from the ISPA funds to the Cohesion Fund.

ISPA is currently implemented on the basis of the Decentralised Implementation System (DIS): ex-ante approval of the tendering and contracting process is exercised by the

Commission, but the beneficiary country is responsible for the implementation of the project, and in particular for the financial management and control. Article 12 of the Coordination Regulation provides for the waiver of this ex-ante control when certain conditions are met, resulting in extended decentralised implementation (EDIS). The Commission is providing technical assistance funds through ISPA to undertake necessary steps towards EDIS, as set out in the "Roadmap to EDIS for ISPA and PHARE ". It is hoped that for a number of countries and sectors conditions are so that the Commission can waive the ex-ante approval early in 2003. While the candidate countries are strongly encouraged to move toward EDIS, it should be recalled that they are in any event responsible for the setting up of adequate financial management and control systems by virtue of Article 9 of Regulation 1267/1999 (the ISPA Regulation). For all 10 ISPA beneficiary countries DG REGIO has undertaken in the period October 2001 until January 2001 systems audits to assess to what extent the beneficiary countries have established such systems, to assess the adequacy of these systems and to provide recommendations. In the second half of 2002, DG REGIO has followed up on these actions.

6.3. SAPARD

The Council welcomes the efforts of the Commission and the candidate countries to approve all the rural development programmes within the deadlines set and to complete in a satisfactory way the procedure for drawing up and signing international agreements, despite the complexity of the legal framework involved in this kind of instrument.

The legal framework set up for SAPARD is largely analogous and thus not more complex than the requirements to apply Community co-financed policies in Member States. The Commission also recognises the efforts made by Candidate Countries to accomplish this important work and to complete the various components in a time frame that generally compares well with that of Member States.

It notes the Commission's intention to prepare the candidate countries at the time of their accession, when the SAPARD instrument expires, by strengthening their capacity to use the structural funds and the EAGGF Guarantee funds, as regards projects such as calls for tenders, and by continuing with technical support during the period running up to their accession.

By May 2002 seven of the ten beneficiary countries had secured Commission conferral of management Decisions. Such Decisions are taken only when the country concerned has demonstrated it has the capacity to apply the SAPARD instrument on a fully decentralised basis. Such capacity, in view of the nature of SAPARD provisions which as pointed out above are largely analogous to those required to apply Community co-financed policies in Member States, is relevant also to application post accession of structural funds as well as EAGGF guarantee funds. As regards the remaining three countries they are making progress towards securing such conferral decisions. Technical support continues to be provided in accordance with needs under the PHARE instrument. It is also provided, within the constraints of Council Regulation 1268/1999, via SAPARD.

7. CHAPTER 7 - ADMINISTRATIVE EXPENDITURE

7.1. Specific appraisal in the context of the Statement of Assurance

The Council welcomes the fact that the Court considers the operations and accounts covered by heading 5 of the financial perspective satisfactory as a whole, as was already the case for the financial year 1999.

The Council also welcomes the significant improvement in the management of tangible assets, other than property, thanks to the implementation of a new inventory system (ELS).

The Council also notes with satisfaction that the Court considers that the procurement procedures applied in the institutions are in general legal and regular and that the control system complies with the Financial Regulation. Like the Court, it urges all the institutions to continue to improve these procedures, in particular through a system of preventive measures and training actions for authorising officers and managers.

Since end 2000 the Commission has implemented an extensive training programme in budget and financial administration/procedures targeted mainly at authorising officers, managers and financial administrators. The programme covers both the procedural aspects as well as the operational aspects. In 2001, 162 courses were organised in this area, involving over 4.600 participant days, making it one of the most important training areas in terms of participation. The efforts are being continued in 2002 and 2003 putting particular emphasis on the new Financial Regulation.

7.2. Follow-up to previous observations

- (a) Follow-up to Special Report No 8/98 concerning the Commission departments specifically involved in the fight against fraud

The Council welcomes the fact that, following the Commission Decision of 28 April 1999 establishing the European Anti-fraud Office (OLAF), the fight against fraud has a more appropriate administrative framework, granting the Office greater independence than its predecessor, UCLAF. It notes with satisfaction that the initial problems of personnel recruitment have been almost entirely resolved. It urges OLAF to define its priorities and strategies well and to continue to improve, modernise and effectively use its information system.

The structure and the establishment plan of the European Anti-Fraud Office have now been adjusted to reflect its new tasks and priorities.

The Office is conscious of the need to have clear priorities and strategies in all its areas of responsibility. Now that all the management posts have been filled, further progress can be made on the setting of priorities and strategies. The establishment of its Intelligence, Operational Strategy and Information Technology Directorate underlines the priority the Office gives to an enhanced use of intelligence and information systems in the fight against fraud. The Intelligence Directorate aims to provide a more proactive role for the Office in defining operational and strategic priorities. It will do this by collecting, analysing and disseminating all kinds of information from various sources intended to provide assistance both to the Office's partners in the Member States and to its own operational and investigation staff.

The Office will continue, together with its institutional partners in the Member States through the Advisory Committee on the Co-ordination of Fraud Prevention (COCOLAF), in the European Parliament through its Budgetary control committee and the services concerned in the Commission, to refine its priorities and strategies.

Furthermore, the Office has already made clear that its highest operational priority is in the area of internal investigations where a policy of zero tolerance towards internal corruption is pursued. All cases related to enlargement are also accorded a high priority.

The Office will continue to offer its assistance to the Member States in the co-ordination of transnational cases following the Community platform of services approach.

The Council, like the Court, believes that simplification of the administrative steps and procedures is necessary, to facilitate and speed up the progress of enquiries within the institutions.

On 19 February 2002 the Commission adopted a decision in order to improve efficiency and speed of the conduct of administrative inquiries and disciplinary proceedings (C(2002)540). By this decision a specialised office, IDOC (Investigation and Disciplinary Office of the Commission) was created. IDOC consists of a multidisciplinary team of experienced investigators and qualified lawyers. Its main tasks are to conduct coherent and professional inquiries and to prepare disciplinary proceedings.

With a view to ensure efficiency and speedy action IDOC has been directly attached to the Director General of DG Personnel and Administration.

The new procedural rules on the opening and conduct of administrative inquiries should result in a more effective preliminary investigation of suspected wrongdoing. In particular Article 3 of the aforementioned decision obliges IDOC to exercise its powers as rapidly as possible. Article 5.4 of the decision ensures that inquiries shall be conducted continuously and over a period of time, which is proportionate to the circumstances and complexities of the case.

All these measures will allow the Appointing Authority to define the possible infringement more precisely, which should avoid delays in disciplinary proceedings at a later stage.

Action has also been taken regarding the modification of the Staff Regulations. The Commission has proposed simplified proceedings, in particular regarding the opening of disciplinary proceedings and through the possibility of a rapid procedure in case an official recognises his or her misconduct. In addition the Disciplinary Board will have a more stable composition and will therefore be able to operate more professionally. Finally, the official concerned will be entitled to give evidence in writing instead of being heard, which should also accelerate the procedure.

- (b) Follow-up to various previous observations made by the Court concerning the institutions' management of expenditure on buildings

The Council points out that the Treaty does not allow European institutions to borrow.

Nevertheless, in the light of its conclusions on the Court's special report No 5/2000, the Council considers it necessary that the institutions should, before undertaking

large building projects, inform the budgetary authority, especially on the multi-annual financial implications.

The Commission has several times promised to inform the budgetary authority before undertaking any large or sensitive building project.

This was the case with the Palmerston crèche, when, by letter of 18 March 2002, the Commission informed the President of the Council Budget Committee that it intended to rent the Palmerston building with a purchase option.

The Commission will continue to follow this procedure for any future large building project with multiannual implications.

7.3. The pay system applicable to EU employees

The Council notes the Court's observations on the need for a match between the pay system and merit.

In a career system the link between merit and pay is essentially through promotions. The promotion systems in the Commission have always been, and still are, primarily based on merit. The new evaluation and promotion system that will be in operation as of 2003 strengthens this link even more. Finally, the proposed modifications to the Staff Regulations include a new career system where the weight of seniority will be drastically reduced in favour of a salary progression through successive promotions.

As regards calculating the basic minimum pension, the Council agrees with the Court on the need for harmonisation on this point.

The Commission can confirm that an agreement has been found between the administrations of the Institutions with a view to harmonize this practice. On 28 May 2002 the CPQS (Preparatory Committee for questions related to the Staff Regulations) agreed on a common basis for taking into account years of service for the purposes of calculation of the minimum pension. The basis agreed was that of real years worked, not including additional bonus years attributed to the official by way of a transfer of pension rights..

8. CHAPTER 8 - FINANCIAL INSTRUMENTS AND BANKING ACTIVITIES²

8.1. Guarantee Fund for External Actions

The Council expects the Commission and the European Investment Bank (EIB) to reach agreement as soon as possible on the system of annual fees to be received by the bank for managing the Guarantee Fund for External Actions.

A new fee structure has been agreed between the EIB and the Commission. It is applicable from 01 January 2001. The corresponding Convention was signed on the 26 April and 08 May 2002 by the respective Presidents.

8.2. European Investment Fund

The Council notes the new distribution of rights in the EIF's capital structure and is curious about the practical consequences in the management of risk capital activities for which the Fund is responsible.

The Community is represented in the EIF's Board of Directors by two members, one being the present Chairman of the Board. This ensures a balance between the pursuit of Community objectives and commercial principles and practices of the EIF.

As regards the pilot project "Growth and environment", the Council also notes the Court's observations and the Commission's replies and urges the latter to complete its assessment of the project as soon as possible and to continue its monitoring and supervision work.

An internal evaluation of the Growth and Environment initiative has been carried out and the report is scheduled to be submitted to the Commission in late summer 2002. The Commission services continued in 2002 the monitoring and supervision work that they had started in early 2000. In July 2002, the Commission had carried out sample-based controls, monitoring visits and internal audits concerning 5 Financial intermediaries who at 31 December 2001 had extended 2,442 loans, i.e. 51.7% of total number of loans granted by all intermediaries approved under Growth and Environment. These 5 intermediaries had provided loans for a total amount of € 918 million, representing more than 49% of the total loan volume under Growth and Environment as at that date. As in the past, the Commission's observations and recommendations have been transmitted to the EIF who has been invited to take the appropriate measures, where necessary.

The Council welcomes the fact that the Commission, the Court and the EIF have reached an agreement allowing the Court adequately to supervise the Community's share in the Fund's capital.

² In accordance with the provisions of the Treaty, discharge only covers the implementation of the Community budget. Lending and borrowing are therefore not covered by the discharge, except as regards those aspects linked to implementation of the budget.

9. CHAPTER 9 - THE STATEMENT OF ASSURANCE AND SUPPORTING INFORMATION

The Council regrets that the Commission has still not been able to obtain an overall Statement of Assurance on the legality and regularity of the operations underlying the financial statements, except for the positive assessment regarding revenue, commitments and operating expenditure; it regrets that other sectors have not been able to receive this positive assessment as it had hoped during the last financial year and considers this situation unsatisfactory.

The positive assessment by the Court is for a significant number of operations and demonstrates the achievement of the Commission not only where it is fully responsible for its activities but also in a more stable, shared environment such as for own resources. However, the Commission is committed to improving the situation in respect of payments and is confident of the positive effects of the Reform process to improving its financial management in the fullness of time.

The Council acknowledges that the implementation of reforms that the Commission has already begun inevitably requires a maturing period and notes, as the Court does, that progress has been made in some sectors. It hopes that gradually this progress will have a positive effect on the Statement of Assurance. The Council must stress in this context the fact that it regards the conclusion of the recasting of the Financial Regulation as a priority, and in general it supports any measure that tends to simplify the regulatory framework.

The recasting of the Financial Regulation, which has been decided unanimously by the Council after a very intense process, has been achieved in very short time and with the necessary review and debate of interested parties. 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 proposed in June 2002 a major action plan on better regulation, introducing inter alia a common framework for ex-ante assessment of its initiatives.

The Council welcomes the new approach that the Court has followed in its report on the Statement of Assurance, which gives more precise and better substantiated information on the location and causes of problems by field of activity, and analyses on the supervisory systems, thus providing the budgetary authority with a better basis for its assessments, and considers this a step in the right direction.

The Commission is also appreciative of efforts by the Court to provide better information, which the Commission can then use to improve its financial management processes.

The Council notes nevertheless that the Court's report does not contain sufficient information on, at least, trends in the incidence of errors observed in the sectors concerned. In these circumstances, the Council can only reiterate its request that the Court provide at least enough information for an objective comparison of progress made in relation to the objectives set, and to adopt a method that makes it possible to assess the results from one year against another.

The Council reiterates its request to the Commission to develop such objectives in the context of improvements to the action plan.

The Commission will work with the Court to define useful measures, at its request.

The Council, while noting the fact that the revenue and expenditure account and the consolidated balance sheet faithfully reflect the revenue and expenditure for the financial year at 31 December 2000, remains concerned by the persistence of recurring errors and inadequacies which led the Court to express reservations on the subject, particularly as regards information on advances and payments on account, the overstatement of commitments still outstanding, "off-balance-sheet" commitments corresponding to legal obligations that have not been the subject of the required budgetary commitments and the lack of budgetary commitments. The Commission should as a matter of utmost urgency implement the action plan that it has drawn up in order to modernise its accounting framework, which envisages evolving from a cash accounting towards an accrual accounting system and to take it into account in the amended proposal for the recasting of the Financial Regulation.

In recent years the Commission has undertaken to reform its accounting system and change from a cash-based system to an accrual-based system. The European Court of Auditors has acknowledged improvements in the accuracy of accounting expenditure. This will improve the presentation of the Communities' financial situation in future. The Commission has already introduced elements of accrual accounting when drawing up the annual accounts but the information does not yet come from an integrated system of accounts. To modernise its accounting framework still further, the Commission has included in the new Financial Regulation, adopted in June 2002, new accounting rules which refer to internationally accepted accrual accounting principle. However, the introduction of this new approach will take time and will take the form of successive stages covering several financial years.

The Council notes the Commission's commitment to strengthen and develop internal control systems. It asks it to ensure that the existing rules are strictly applied as regards the checking of the management and control systems of Member States in implementing the Structural Funds. The Commission should also remedy the weaknesses detected in the operation of the IACS and further extend the supervision mechanisms in that part of agricultural expenditure not covered by it. It further urges the Commission to continue its efforts effectively to implement supervision systems for other expenditure categories.

In 2001 and 2002 the Commission devoted a considerable proportion of its audit resources to verifying the management and control systems put in place in Member States for the Structural Funds for the 2000-06 period. It is preparing a report on its conclusions for presentation to Parliament by the end of 2002. In its audits the Commission pays close attention to possible systemic deficiencies in management and where appropriate recommends remedial action or applies financial corrections. The Commission is also endeavouring to improve the effectiveness of its audit work, through computerisation of planning and follow up (SYSAUDIT), timelier delivery of audit reports and better coordination with the work of national audit bodies, including making better use of the reports supplied to it under bilateral agreements. This process is consistent with the Commission's internal reforms including the annual management declarations. This process should be fully completed by the end of 2003.

In the Agricultural sector, the Commission actively promotes good administrative and control practice by issuing guidelines and clarifications at specially arranged expert groups and also bilaterally on request.

As concerns the extension of supervisory mechanisms to that part of agricultural expenditure not directly covered by IACS, it is recalled that Council Regulation (EEC) No 3508/92 requires the administration and control systems applied to certain Community aid schemes to be set up so as to allow a common functioning and the exchange of data between them and IACS. The deadline for this “compatibility” is fixed as 1 January 2003 at the latest. The Commission services have already taken steps to monitor this development.

As regards the setting up of the SINCOM 2 accounting system, the Council is perturbed by the operational deficiencies indicated by the Court and asks the Commission to make it a high priority to make the system more secure.

Significant efforts have and are continuing to take place to improve SINCOM 2 from a number of aspects, including security (see reply to box 2 (5) of the introduction).

ANNEX - SPECIAL REPORTS 2000

The Annex hereto contains extracts, requesting Commission actions, of the Council's conclusions, with Commission responses thereto, on the Court of Auditor's special reports.

- **Conclusions on Special Report No 6/00 by the Court of Auditors concerning the granting by the Community of interest subsidies on loans by the European Investment Bank to small and medium-sized enterprises through its temporary lending facility**

No points for the Commission to comment on.

- **Conclusions on Special Report No 16/00 by the Court of Auditors on tendering procedures for service contracts under the Phare and Tacis programmes**

The Council expresses its concern about practices which, in some cases, led to reduced competition, inadequate provision of information, possible confusion of interests, inconsistent evaluation practices and shortcomings in the management of files.

The Council is of the view that the Commission needs, in particular, to monitor the situation regarding staffing and financial control. This is particularly important in the light of the increased decentralisation of the management of the PHARE programme and, to a lesser extent, that of TACIS. For this purpose the new Financial Regulation – currently under revision – will serve as a basis.

The Council invites the Commission to continue to draw upon the Court's report to improve further the effectiveness and efficiency of the tendering procedures for service contracts under the PHARE and TACIS programmes and to inform the Council by the end of the year of the measures taken to this effect. But the Council recognises that improvements, especially those concerning public procurement, are closely linked to the provisions of a revised Financial Regulation.

Improvements to procedures are continuing to be made, in particular to take into account weaknesses noted. The Commission reports back regularly on its initiatives and can report on these activities to Council at its request.

- **Conclusions on Special Report No 18/00 by the Court of Auditors concerning the programme to supply agricultural products to the Russian Federation**

The Council recommends that:

- in future, food aid programmes should take due account of the experience acquired with the food aid programme in Russia and should provide guarantees of efficiency and smooth operation;
- in the event that long-term support of the Russian agri-foodstuffs sector becomes necessary, means of supporting Russian agriculture other than food aid should be considered in order to avoid problems in the market mechanisms;
- the Union should strengthen cooperation with the humanitarian organisations working in Russia in order to enhance the coordination of humanitarian efforts.

The programme to supply agricultural products to the Russian Federation was decided by the Council in December 17 1998. The programme was the EU's response to a plea from the Russian Government to assist in addressing food availability brought about by the dual impact of the 1998 economic crisis and the failure of grain harvests, and is unlikely to be repeated in exactly the same way. The lessons learned will be applied in any future exercises, in particular the need to have dedicated resources, right from the start of the operation, to assess the type of products to be supplied and to determine a system of product pricing in advance;

In the event that long-term support of the Russian agri-footstuffs sector becomes necessary, means of supporting Russian agriculture other than food aid should be considered in order to avoid problems in the market mechanisms.

• **Conclusions on Special Report No 21/00 by the Court of Auditors on the management of the Commission's external aid programmes (in particular country programming, project preparation and the role of delegations)**

The Council invites the Commission to:

- define further the allocation of responsibilities between headquarters and delegations;
- ensure the appropriate competence is in place for each post at headquarters and in the field;
- propose measures for how to ensure closer collaboration between ECHO and delegations in order to improve the linkage between relief, rehabilitation and development;
- work, together with the budgetary authority, towards a reduced number and differentiation of budget lines;
- remedy weaknesses analysed by the Court in the description of responsibilities, counterpart contributions, objectives and timing of the financial proposals and agreements;
- reinforce planning and systematic monitoring throughout the programming cycle, through in particular clarifying objectives, instruments and performance indicators;
- further clarify the routines for lesson-learning and for operationalising and implementing policies;
- organise its work, in the context of multi-annual programming, so as to also balance the workload of the committees throughout the year.

The Council calls on the Commission to concentrate in particular on operationalising and implementing the joint declaration on the European Community's development policy and to translate the recommendations made by the Court of Auditors into concrete actions and to consider these recommendations in the Programme of Action for implementation of the EC Development Policy.

The Council will follow up the progress made by the Commission in improving the efficiency and effectiveness of EC development cooperation and invites the Commission, in its annual report on development cooperation, to inform the Council and the European Parliament of measures taken.

On the key elements of the reform of the external service launched in May 2000, the following results have already been obtained by July 2002:

- On the intention to obtain 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 Co-operation 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 ACP region will be working with this new model.

The Commission fully subscribes the Council recommendation on budget lines rationalisation. It already proceeded to rationalisation within some budget chapters in 2002 and 2003 PDB and would thus expect support of the budget authority if further steps are taken in this direction.

• **Conclusions on Special Report No 22/00 by the Court of Auditors on evaluation of the reformed clearance of accounts procedure**

The Council considers that, since there are too many paying agencies in certain Member States, steps have been taken to improve their operation in those Member States in order to respond satisfactorily to that situation.

The Council notes the Court's comments on the technical improvements that need to be made in the activities of national certifying bodies, while regretting the lack of Community databases for comparing Member States. It would like the comparison elements available to make it possible to improve the information of those bodies.

The Council considers that, in general, recourse to the conciliation body has worked satisfactorily. However, there are still improvements to be made, and therefore the guidelines for the intervention of that body must be governed by independence and efforts to find a compromise in order to prevent an increase in Community litigation.

The Commission considers that Member States could take further steps to limit the number of Paying Agencies. A number of Paying Agencies continue to exist without real justification, and could easily be closed. Furthermore, a number of Paying Agencies fail by a wide margin

to meet the accreditation criteria but the Member States often do not take adequate action pursuant to Council Regulation 1258/1999 Article 4(7)³.

The Commission promised to consider the proposal of the Court to establish a database of error rates. At the moment it cannot see that the benefits justify the costs. Almost all Certifying Bodies report a rate of error under the 1% materiality level. For the small number of cases where a higher rate of error is identified financial corrections are proposed. This is set out clearly in the summary reports. Comparisons of Total Error (or Upper Error Limits) are only valid if the whole population can be examined using statistical sampling techniques. However, many Certifying Bodies are unable to use statistical sampling for the whole population for perfectly valid reasons. Any comparison would therefore not be valid.

The Commission shares the Council's favourable opinion of the conciliation procedure, and feels that it has played a role in the general improvement in the procedure for the clearance of accounts. The independence of the Conciliation Body is already a clear requirement laid down in Commission Decision No 94/442/EC which, as amended by Decision 2000/649/EC of 12 October 2000, states that the five members of the Conciliation Body must be "selected from among eminent persons offering every guarantee of independence and highly qualified in EAGGF Guarantee Section matters or in the practice of financial audit."

As regards attempts to reach a compromise, the Commission would point out, as it has already stated in its reply to Special Report No 22/00 of the Court of Auditors, that it is legally obliged to exclude expenditure from Community financing where that expenditure has not been effected in compliance with Community rules and therefore cannot accept compromises that would not be compatible with this obligation. The Commission nevertheless follows the conclusions of the Conciliation Body where they are better suited than its departments' initial proposal to the nature and seriousness of the infringement and to the financial damage caused to the Community.

Finally, on the matter of disputes before the Court of Justice, it should be pointed out that the Treaty confers this right on the Member States and that neither the Commission nor the Conciliation Body can place restrictions on it. In this connection, the Member States may lodge an appeal against a clearance decision, even if they have obtained a reduction of the proposed financial correction through the conciliation procedure.

- **Conclusions on Special Report No 23/00 by the Court of Auditors concerning valuation of imported goods for customs purposes (customs valuation)**

No points for the Commission to comment on.

- **Conclusions on Special Report No 1/01 by the Court of Auditors on the URBAN Community initiative**

No points for the Commission to comment on.

³ which requires the Competent Authority to replace the Paying Agency if the accreditation criteria are not met or to give clear instructions about the improvements to be made and a timetable for their implementation

- **Conclusions on Special Report No 2/01 by the Court of Auditors concerning the management of emergency humanitarian aid for the victims of the Kosovo crisis (ECHO)**

The Council invited the Commission to report back before autumn of 2002 at the latest on the follow-up given to the Court of Auditor's Report. It also recalled its 29 May 2000 conclusions, when examining Special Report No2/2000 of the Court of Auditors, in which it recognised the desirability and usefulness of the Court of Auditors continuing to produce special reports on EU activities in the Balkans. In this respect, the Council recommended that the special reports should also aim at assessing the impact of the aid provided.

The Court identified a need to simplify the regulatory and procedural framework for humanitarian actions. In the context of administrative reform, recasting of the Financial Regulation and of its implementing rules, the needs of Humanitarian actions have duly been taken into consideration. ECHO is developing the Framework Partnership Agreement to further enhance clarity and compliance with both the adapted rules and the mandates of ECHO and its international partners, especially the UN.

The Council is already aware that the Commission approved a new framework decision procedure for emergency procedures to give further flexibility in responding to such situations. This new procedure has allowed ECHO since 2001, to become a first wave donor in all breaking emergencies since it has been introduced. The new procedures enable ECHO to make a decision in the case of new emergencies inside a given framework and within a maximum delay of 72 hours. Since these new procedures have been adopted, the new 'first emergency procedure' has been applied 4 times. In all cases the Commission approved the funding Decision within a maximum of 3 days after the emergency occurred. A fast track process for the disbursement of funds (5 days) then follows these decisions.

The larger negotiations between the Commission and the United Nations family to develop new streamlined working practises as well as the development of strategic dialogs with the UN and other international partners are active and well advanced. The revision of the EU-UN agreement will take some time further 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 dialog.

- *A UN-EC sub-group working on the issue of reporting has identified a number of areas where improvements can be made and will be the linchpin of the revised Agreement. The Commission is already willing to exempt its UN partners from interim financial reporting for contracts of 12 months or less provided the UN partners provide ECHO interim narrative reports that contain sufficient operational information to be able to assess the impact of the results achieved.*
- *In May 2002 the Commission completed an exchange of letters with the UN Secretariat General in order to prolong the financing of indirect costs at the World Food Programme until such time as the UN-EC Agreement is finalised.*

- **Conclusions on Special Report No 3/01 by the Court of Auditors on the Commission's management of international fisheries agreements, together with the Commission's replies**

The Council has examined Special Report No 3/2001 by the Court of Auditors on the Commission's management during the period 1993 to 1999 of the fisheries agreements concluded with Morocco, Mauritania, Greenland, Senegal and Argentina, which together accounted for 92% of the payments charged to the financial year 1999.⁴

While noting the explanations given by the Commission as to the actions taken it calls upon the Commission to increase its efforts to remedy the shortcomings identified by the Court of Auditors.

The Council notes the presentation of the external evaluation report in 1999⁵ while observing that it was not adequately discussed. The Council therefore considers it necessary to have an in-depth exchange of views on the 1999 evaluation report and the 1997 Council Conclusions based on an updated evaluation by the Commission of the 1999 report and the experience gained in the meantime. It is noted that such a discussion could provide valuable input for the general review of the Common Fisheries Policy. The Council further urges the Commission to present a comprehensive analysis of all third countries' agreements before considering a new external evaluation. This analysis should aim at a general policy review including non-quantifiable elements such as the Union's political relations, the strategic importance of the Community's fleet presence in the waters of the third country, the economic and social costs of the non-conclusion of fisheries agreements, the contribution of fisheries agreements to sustainable fisheries throughout the world and the development effects of the agreements for the third countries.

The Council invites the Commission to come forward with proposals that seek to address the deficiencies outlined in the 1999 report and the Court of Auditors' report. Monitoring and evaluation of agreements need to be improved yet further with greater emphasis on the sustainability of stocks. In particular, it invites the Commission to set up an on-going monitoring system and to define criteria and performance indicators for each of these agreements in order to measure their effectiveness throughout their lifetime.

In accordance with its 1997 conclusions, the Council calls upon the Commission to consider to what extent a greater flexibility in the implementation of fisheries agreements can be achieved.

In accordance with its 1997 conclusions, the Council notes the need to avoid underutilisation of fisheries agreements. In that context, the Council recalls its invitation to the Commission to examine the feasibility of reattribution of underutilised fishing possibilities to other Member States, without prejudice to the principle of relative stability.

In accordance with its 1997 conclusions, the Council invites the Commission to present appropriate proposals for sharing the cost of agreements in a more balanced manner by extending the scope for shipowners' payment of licence fees in a non-discriminatory manner, and to improve the cost/benefit ratio of the agreements.

⁴ The Council has noted that two of the agreements concerned (with Argentina and Morocco) are no longer in force and that new fisheries protocols with Greenland and Mauritania have been negotiated.

⁵ 11763/99 PECHE 181.

The Council invites the Commission to explore the appropriateness and feasibility of introducing financial guarantees and advance payments from shipowners in all fisheries agreements, as a means to avoid underutilisation of fishing possibilities.

a) Comprehensive analysis of agreements

In December 2002, the Commission will present a communication setting out a framework for Community action for distant-water fishing which will take account of the conclusions of the Council of October 1997, the 1999 evaluation report, the 2001 Court of Auditors' report and the experience acquired by the Commission's departments in implementing fisheries agreements.

In its communication, the Commission will suggest redirecting its action in the field of fisheries beyond Community waters towards the introduction of sustainable fisheries by means of fisheries partnership with developing countries.

The Commission is eager to promote the rules and principles of good governance, and recommends the use of the existing evaluation instruments and insists on the need to follow up future partnerships.

The comprehensive evaluation of fisheries agreements will be launched in 2003.

b) Definition of performance indicators

The Commission has started work on launching a study which will define criteria and performance indicators for bilateral agreements. The study is expected to be completed during 2003.

c) Re-use of fishing opportunities between Member States

To maximise the use of fishing opportunities offered by fisheries agreements, the Commission always transfers fishing opportunities which have not been used by one country to other countries which have requested them, with due regard for relative stability.

Similarly, it systematically tries to obtain the best value for money for the Community budget, taking account, among other factors, of the ship-owners' contribution.

Against this background, the protocols negotiated most recently by the Union (Senegal, Angola, Kiribati) include an increase in the ship-owners' contribution.

• **Conclusions on Special Report No 4/01 by the Court of Auditors on the audit of the EAGGF – Guarantee – the implementation of the Integrated Administration and Control System (IACS)**

The Council recommends:

- that the Commission clarify the IACS rules in order to end interpretation problems and facilitate the imposition of sanctions;
- that the Commission should make continuing efforts for increased simplification of the IACS rules;

- that the Commission plan to conduct cost/benefit assessments of the IACS on the basis of sound financial information on sanctions;

The new IACS Regulation (EC) No 2419/2001 entered into force on 1st January 2002, accompanied by a series of guidelines and clarifications, which has significantly simplified the administrative, control and sanctions procedures. Although considered as a major step towards simplifying controls, the new Regulation is also deemed to have strengthened overall control of expenditure. However, it is emphasised that to maximise potential benefits, Member States will in many cases have to adapt their administrative and control procedures accordingly.

Improved regulatory reporting procedures, especially as regards information on sanctions, will facilitate cost / benefit assessments of the IACS. Please verify also answer given above (introduction to chapter 10).

- **Conclusions on Special Report No 6/01 by the Court of Auditors on milk quotas**

The Council recommends that this Special Report should be used as a contribution to the Commission's mid-term review on the development of the milk quota system.

In its Mid Term Reform proposals of Agenda 2000 the Commission has made specific reference to the recommendations of the Court of Auditors Special report on the Milk Quota regime.

- **Conclusions on Special Report No 7/01 by the Court of Auditors concerning export refunds – Destination and placing on the market**

The Council recommends that:

- the Commission should be responsible for the approval of supervisory companies, as is already the case for food aid;
- when approval is withdrawn from a supervisory company, it should also be suspended with respect to all companies within the same group;
- the Commission should be responsible for maintaining and updating files of model proofs of arrival which can be accepted, and should coordinate verifications in non-member countries;
- the Commission should examine ways of ensuring that refunds are not paid on products which are subject to reduced rate of import duty in non-member countries and in the EU under free-trade agreements where a carousel situation is observed;
- the Commission will examine the possibility of requiring proof of arrival only in cases of doubt or for high-risk destinations by implementing alternative proof (transport documents, invoices) and alternative checks.

The use of supervisory companies as part of the procedure for paying export refunds on agricultural products under Commission Regulation (C) No 800/1999 or in the selection of supervisory companies responsible for "monitoring" for the mobilisation of products to be

supplied as Community food aid under Council Regulation (EC) No 1292/96, are intended to meet different objectives.

The Commission is responsible for providing Community food aid and in order to coordinate all the operations involved in supply it employs the services of supervisory companies, called "monitors", who are responsible for carrying out quality and quantity checks and supervising the packaging and labelling of products. These checks are carried out throughout the supply chain, from the factory, before loading, during loading, up to final delivery. To carry out these checks, the Commission employs the services of a number of such supervisory agencies, selected by invitation to tender, and pays them for the services they provide.

The Commission has made a thorough exam of the export refunds' procedures. The amendments to Regulation (EC) N° 800/1999, were adopted by the Commission on 11 July 2002 and published under Regulation N0 1253/2002 on OJ L 183, 12.07.2002, p. 12.

Work has begun on preparing an invitation to tender procedure for the production of a catalogue of customs forms and stamps used in 51 non-member countries.

The Commission is examining the Council's recommendation that refunds should not be paid on products which are subject to reduced or zero rates of duty on import into the European Union. The Commission has already considered this question in connection with relations between the European Union and the Central and Eastern countries and especially the three Baltic States.

An easing of the conditions relating to proof of arrival at destination as recommended by the Council is not feasible because the fact of requiring such proof only in cases of doubt or for high-risk destinations would entail a potential risk of losing control of exports to countries for which there is no refund. It would also expose the European Union to considerable criticism for the way in which it carries out the monitoring and control of its subsidised trade with third countries, particularly in view of the fact that it entered into an international undertaking to refrain from granting refunds for exports to specific markets.

The Commission takes the view that the presentation only of transport documents and commercial invoices in the case of differentiated refunds would not provide sufficient guarantees of arrival in the third country for which the refund is paid.

However, as part of the administrative simplification of the procedure for presenting proof of arrival, the Commission has doubled the amounts set out in Article 17 of Regulation (EC) No 800/1999, for which it is not necessary to provide proof of importation – the transport document alone is enough. This amendment is included in the Regulation mentioned in the second indent.

Moreover, EAGGF auditors are planning to visit international maritime transport companies this year to assess on the spot the possibility of making use of data relating to movements of vessels and containers for inspection purposes.

• Conclusions on Special Report No 8/01 by the Court of Auditors concerning refunds for the production of potato and cereal starch and potato starch aid

The Council recommends that:

- with regard to the scheme for starch production refunds the Commission:
 - simplify the administrative measures for calculating refund rates;

- clearly set out the checks which need to be carried out in order to redress the shortcomings in checks identified in this area;
- focus checks more closely on financial risk;
- and with regard to aids for the production and processing of starch potatoes, it recommends that the Commission:
 - clearly set out regulations to enable uniform checking in the Member States.

The method of calculating refunds is currently under examination in the light of the findings and conclusions of the study to evaluate the starch sector ordered by the Commission. All factors affecting the calculation and hence 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 effect of transport costs.

• **Conclusions on Special Report No 9/01 by the Court of Auditors on the Training and Mobility of Researchers programme**

The Council stresses the need for the Commission to check systematically whether all criteria (e.g. age limits, female participation) it establishes for euroconferences, practical training courses and summer schools are respected. In particular, information should be obtained on sponsorships received from other entities for these events, and procedures should be altered to ensure that all necessary checks are carried out and that total sponsorship/funding does not exceed the total costs of the event.

The Commission verifies systematically the criteria linked to eligibility of costs (age, nationality) before proceeding to payment. The other criteria to be promoted (geographical equilibrium, gender parity, participation from less favoured regions, from industry) are verified on the basis of responses to questionnaires distributed to participants. Moreover, for the corresponding activity under the 5th Framework Programme, the Commission has made sure that the cost statements contain a requirement to declare total costs, and that the contract excludes any profit for the contractor.

The Council looks forward to the Commission managing mobility actions with the utmost rigour and with reinforced internal audit measures being applied during the course of the current Fifth Framework Programme and the future Sixth Framework Programme. The latter is likely to expand considerably Community activity and expenditure in this important area.

Internal audits were carried out between 2001 and 2002 into the IHP programme as regards financial channels, data processing and the pilot scheme for the transfer of certain contractual activities of the "Administration and finance" unit to the operational units with a view to improving the quality of project management through greater integration of scientific and contractual aspects. Action is currently being taken on these comments and recommendations.

Internal audit standards, including for the programme for training and mobility of researchers, have been introduced in accordance with a detailed action plan. Its aim is to provide better control of activities in relation to objectives.

The standards introduced will be incorporated in the planning of management arrangements for the future framework programme.

- **Conclusions on Special Report No 10/01 by the Court of Auditors on the financial control of the Structural Funds – Commission Regulations (EC) No 2064/97 and (EC) No 1681/94**

Accordingly, the Council considers that the Commission should continue to give clear and consistent instructions, identifying in particular the respective responsibilities, for the application of the Regulations concerning the programming period 1994-1999 and those concerning the programming period 2000-2006.

Coordination for the application of Regulation 2064/97 between the Structural Funds services is assured 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.

For the period 2000-06 Regulation 438/2001 has taken over the provisions of Regulation 2064/97 for the Structural Funds, while Regulation 1386/2002 applies them for the first time to the Cohesion Fund. The Commission is conducting audits of the systems Member States have put in place to meet their obligations under this legislation, in particular regarding independent auditing of systems and projects and the provision of audit certificates before closure. It will present a report on the new systems at the end of 2002.

- **Conclusions on Special Report No 11/2001 by the Court of Auditors concerning the Tacis Cross-Border Cooperation programme**

While taking note of progress made since the end of the audit period, the Council expresses its concern about the slow implementation of the Tacis CBC programme, notably in relation to its main component dealing with border crossing facilities and border management. The Commission is therefore encouraged to continue and intensify its efforts to speed up the implementation of the programme particularly in this field and urgently consider how the EU assistance can be better focused with the aim of improving effectiveness and efficiency of border control and transit at Phare-Tacis crossings.

The Council welcomes the successful funding under the small project facility (SPF) and encourages the Commission to increase further the proportion of SPF in the overall funding. The Council also welcomes the intensification of the work of the CBC programme on the Tacis-Phare borders.

In the context of developing a strategic approach concerning the present and future external borders of the Union, the Commission is invited to continue and intensify its efforts to improve coordination and interoperability between Tacis, Phare and Interreg. External coordination could also be improved by establishing dialogue between the NIS beneficiaries and their counterparts in the EU and Phare countries. In this context, the Commission is invited to consider ways to ensure that Phare funding is made available more easily for projects at Tacis-Phare borders.

Following these conclusions and the Court's report, the Commission is invited to report to the Council on measures taken to enhance the impact of Tacis CBC programme not later than the end of June 2002.

The programme has achieved some measurable results. One border post was completed at Leushen in Moldova in 2001; four border crossings were completed in 2002, Salla and Svetogorsk on the Finnish/Russian, the border post in Chop on the Hungarian/Ukrainian border, and the post at Kameny Log on the Belarus/Lithuanian border; and one bridge, the Jagodin over the Bug River between Ukraine and Poland with its access road was also completed in 2002. These have contributed to more efficient and effective controls and reduced waiting times. Construction of a new border post at Bagationovsk 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 Commission takes note of the Council's wish to increase further the proportion of the Small Project Facility in the overall funding. The Small Project Facility has been identified as being well-suited to promoting integration across the borders at both local and regional level by linking Tacis projects with INTERREG and PHARE projects

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. A seminar 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 co-ordination between the different Community instruments and cross border co-operation 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 co-ordination with the Tacis cross-border co-operation programme.

In border regions adjacent to NIS countries, candidate countries' authorities are being encouraged to enhance the use of the PHARE national programme funds to support social and economic activities of a cross-border nature, thus addressing potential new dividing lines on the future borders of the Union. A well- designed proximity policy, building on the present policy framework, will ensure that the enlarged EU and its neighbours deepen their common interests and activities. The PHARE national programme funds provide candidate countries with the flexibility needed to promote economic and social development in their border regions, to develop cross-border relations and good neighbourliness with adjacent non-candidate countries. In so doing, the PHARE national programme funds can provide the matching funds required to further develop co-ordination with the Tacis-CBC programme.

The Commission welcomes the Council's invitation to report on the above mentioned measures taken to enhance the impact of Tacis CBC.

- **Conclusions on Special Report No 12/01 by the Court of Auditors concerning structural measures to improve the employment situation: the impact of ERDF aid on employment and ESF measures to combat long-term unemployment, together with the Commission's replies**

The Council considers that the evaluation of the impact of structural interventions on employment needs to be improved in order to maximise the effects.

The Council considers that, in any case, any improvement in evaluation should take account of the diverse nature of the interventions and methods used to assess the impact of interventions, together with national and regional practices, and that, consequently, evaluation should not mean the harmonisation of procedures, methods or techniques.

Finally, with regard to the role of the European Social Fund in supporting the European Employment Strategy, the Council is of the opinion that additional efforts must be made to ensure that the Fund is fully integrated into the Strategy, and would point out that, with the reform of the ESF, there will henceforth be a closer link between the activities supported by the ESF and the four pillars of the European Employment Strategy.

The Commission considers that the Regulation for the Structural Funds 2000-2006 sets out more clearly the framework for evaluation than was the case in the past. In addition, the Commission has provided guidance for the different stages of evaluation which should contribute to an improvement in the quality of evaluations and the effectiveness and impact of structural interventions.

The Commission does not seek to harmonise procedures, methods or techniques, but its guidance aims to disseminate best practice and to encourage Member States to develop methods which will enhance the quality of evaluations undertaken.

The Commission agrees with the fact that the methods to evaluate the impact of structural interventions on employment could be further improved. However, since the nature of the interventions is quite diverse and the objective of the interventions is to improve efficiency and impacts within Member States, the Commission considers that it would not be appropriate to impose any particular method or technique to evaluate the impact of structural interventions. The Commission prefers to favour comparability through the use of shared terminologies, definitions and approaches, where appropriate.

Since the approval of the new ESF Regulation, the Commission has endeavoured, together with the Member States, to reinforce the integration of the ESF into the European Employment Strategy. The mid-term review of the Structural Funds will provide an opportunity for strengthening the links between the four pillars of the Strategy and the activities supported by the ESF.

- **Conclusions on Special Report No 13/01 by the Court of Auditors concerning the management of the Common Foreign and Security Policy (CFSP)**
- **Conclusions on Special Report No 14/01 by the Court of Auditors on the follow-up to the Court's Special Report No 19/98 on BSE**

The Council recommends that the Commission propose the improvements necessary to introduce a more efficient system of cattle identification and registration ensuring that the origin of the animal and the holdings through which it has passed can be traced in the event that BSE is diagnosed.

The reinforced regime for identification and registration of bovine animals introduced by Council Regulation (EC) No. 820/97 and carried over in Regulation of the European Parliament and of the Council (EC) No. 1760/2000 provides for the tracing of the origin of any animal as well as the holdings through which it has passed. Member States must set up a computerised database containing information on all bovine animals and all movements of bovine animals. The Commission is following the implementation of the system of identification and registration of bovine animals in the Member States by Food and Veterinary Office inspection missions providing recommendations when necessary.