

Official Journal

of the European Union

ISSN 1725-2423

C 174

Volume 46

23 July 2003

English edition

Information and Notices

Notice No

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I *Information*

Court of Auditors

2003/C 174/01

Special Report No 7/2003 on the implementation of assistance programming for the period 2000 to 2006 within the framework of the Structural Funds together with the Commission's reply

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(Information)

COURT OF AUDITORS

SPECIAL REPORT No 7/2003

on the implementation of assistance programming for the period 2000 to 2006 within the framework of the Structural Funds together with the Commission's reply*(pursuant to the second subparagraph of Article 248(4) of the EC Treaty)*

(2003/C 174/01)

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ABBREVIATIONS AND DEFINITIONS

CSF	Community support framework: document approved by the Commission, in agreement with the Member State concerned, following appraisal of the plan submitted by the Member State; it details the strategy and priorities for action of the Funds and the Member State, their specific objectives, the contribution of the Funds and other financial resources
DOM-F	French overseas department (<i>département d'outre-mer</i>)
EAGGF Guidance	European Agricultural Guidance and Guarantee Fund — Guidance Section
EIB	European Investment Bank
ERDF	European Regional Development Fund
ESF	European Social Fund
FIFG	Financial Instrument for Fisheries Guidance
GDP	Gross domestic product
MEANS	Means for evaluating actions of a structural nature
NUTS	Nomenclature of territorial units for statistics
Objective 1	To promote the development and structural adjustment of regions whose development is lagging behind. As a rule, all the Funds contribute to the programmes targeting these regions. In Objective 1 regions, measures designed for all rural areas in the Union are financed by appropriations either from the Structural Funds (EAGGF Guidance) or from the Common Agricultural Policy (EAGGF Guarantee). The Financial Instrument for Fisheries Guidance (FIFG) also contributes under Objective 1.
Objective 2	To support the economic and social conversion of areas facing structural difficulties. Only the ERDF and the ESF contribute under this objective.
Objective 3	To support the adaptation and modernisation of policies and systems of education, training and employment. The ESF is the only Fund active in this field.
OP	Operational Programme: document approved by the Commission with the aim of establishing a community support framework. It contains a coherent set of priorities consisting of multiannual measures whose application may depend on one or more Funds, one or more existing financial instruments and the EIB.
PC	Programme Complement: document implementing the assistance strategy and priorities and containing detailed elements at measure level.
Performance reserve	The Commission having previously established an indicative distribution by Member State of the commitment appropriations available for structural projects, 4 % of the appropriations earmarked under each distribution will be allocated at mid-term, and not later than 31 March 2004, to those operational programmes or single programming documents or their priorities which are considered to be successful.
PSM	Mezzogiorno Regional Development Plan
RDP	Regional Development Plan: analysis of the situation, prepared by a Member State in the light of the objectives and the priority needs for attaining those objectives, together with the strategy, the planned action priorities, their specific goals and the related indicative financial resources.
SF	Structural Funds
SFC	<i>Structural Funds common database</i>
SPD	Single Programming Document: document, submitted by a Member State and approved by the Commission, defining a set of multiannual priorities and measures to be implemented with national and Community co-financing.
VAT	Value added tax

SUMMARY

I. In common with previous reforms, the 2000 to 2006 reform of the Structural Funds (SF) aims to promote the harmonious development of the Community as a whole by conducting measures to strengthen social and economic cohesion. Under the reform 195 000 million euro was earmarked for structural assistance. The main features are renewed emphasis on the subsidiarity principle, efforts to improve the performance of structural programmes and greater rigour in financial management and control.

II. The Court's audit addressed SF programming for the period 2000 to 2006, especially in the context of Objective 1 ⁽¹⁾. The main themes for assessment were:

- (a) whether the way in which the regions eligible for SF were determined ensured that measures were focused on the least developed areas;
- (b) whether programming procedures and processes ensured that the structural measures were consistent and effective, in order to reduce regional and national disparities within the Community;
- (c) whether the management, payment, monitoring and control systems in force were satisfactory.

III. Examination of the selection of eligible areas within the programming for the 2000 to 2006 SF led to the following conclusions:

- (a) the Objective 1 eligible areas were determined in accordance with the Regulation. However, it was not possible for the statistics used to take into account all the most recent socioeconomic effects so as to scrupulously respect the principle of focusing on the least-favoured regions;
- (b) the criteria taken as the basis for determining Objective 2 eligible areas were insufficiently objective and the manner in which they were identified left too much room for manoeuvre during the bilateral negotiations between the Member States and the Commission;
- (c) the areas eligible for State aid and those eligible for SF assistance do not always coincide. Regional policy is not sufficiently consistent with competition policy.

IV. In comparison to the previous programming period, significant progress was observed as regards the quantification of objectives and the quality of the programming. However, there were found to have been major delays and unwieldiness in the process of approving the structural programmes. The introduction of the programme complement has served to complicate the sharing of responsibilities between the Member States and the Commission.

V. The Commission's guidelines on methodology are still too imprecise, which may impede the search for best practice regarding, on the one hand, the consistency and impact of structural assistance and, on the other hand, the subsequent evaluation of them. These guidelines are particularly needed for determining the optimum programming structure and the most appropriate allocation of finance. On the basis of the programmes examined, the Court judges that *ex ante* evaluation carried little weight and added very little to the choice of strategies on the basis of anticipated results and impacts. With regard to the processes of negotiation and decision-making, necessary information about national and regional policies was found not to be available.

VI. It is left to the discretion of the Member States to devise criteria for distributing the performance reserve. This may lead to inconsistencies and ineffectiveness.

⁽¹⁾ Certain aspects have already been addressed in the Court's Annual Report for 2001. See in particular paragraphs 3.30 to 3.35, 3.65 to 3.78 and 3.82 (OJ C 285, 28.11.2002).

VII. Management, payment, monitoring and control systems in the Member States still contain weaknesses as regards compliance with deadlines, separation of functions, certification of expenditure, electronic data exchange and the preparation of annual implementation reports.

VIII. The eligibility rules for the period 2000 to 2006 remain incomplete and imprecise and could lead to unjustifiable differences in the treatment of beneficiary Member States.

IX. The project selection criteria submitted in the programme complements are often too broad and could be more detailed.

X. The Court recommends that the Commission pursue its efforts to make the current task of simplification more effective while guaranteeing the high quality of the structural measures in terms of legality, regularity and sound financial management. In this connection:

- (a) it should establish clearer rules for identifying Objective 2 eligible areas, thereby avoiding inconsistencies and lack of uniformity when they are applied to Member States;
- (b) it should provide a better definition of the division of responsibilities between those concerned;
- (c) it should ensure that there are strategic priorities for SF programming and should reinforce the existing decentralised management procedures (programme complement, indicators, information systems, eligibility, selection criteria, mid-term evaluation and review);
- (d) emphasis should be placed on the effectiveness of the Structural Funds rather than the optimum take-up of funding.

INTRODUCTION

The 2000 to 2006 reform

1. The Berlin European Council decided in March 1999 to earmark 195 000 million euro for Structural Funds (SF) assistance

for the period 2000 to 2006. *Tables 1 and 2* respectively show the breakdown between the Member States of the appropriations and assistance approved for the three priority objectives ⁽¹⁾. It is apparent from *Table 1* that six Member States received 84 % of the appropriations provided. *Annex 1* contains a diagram of the programming process and, underlined, the various stages of partnership implementation.

⁽¹⁾ Objectives 1, 2 and 3.

Table 1

Structural Funds commitment appropriations for the period 2000 to 2006, in million euro (1999 prices) ⁽¹⁾

Member State	Objectives					FIFG (not including Objective 1)	Total
	1	Objective 1 transitional support	2	Objective 2 transitional support	3		
B	0	625	368	65	737	34	1 829
DK	0	0	156	27	365	197	745
D	19 229	729	2 984	526	4 581	107	28 156
EL	20 961	0	0	0	0	0	20 961
E	37 744	352	2 553	98	2 140	200	43 087
F	3 254	551	5 437	613	4 714	225	14 794
IRL ⁽²⁾	1 315	1 773	0	0	0	0	3 088
I	21 935	187	2 145	377	3 744	96	28 484
L	0	0	34	6	38	0	78
NL	0	123	676	119	1 686	31	2 635
A	261	0	578	102	528	4	1 473
P	16 124	2 905	0	0	0	0	19 029
FIN	913	0	459	30	403	31	1 836
S ⁽³⁾	722	0	354	52	720	60	1 908
UK ⁽²⁾	5 085	1 166	3 989	706	4 568	121	15 635
EUR15	127 543	8 411	19 733	2 721	24 224	1 106	183 738

⁽¹⁾ Not including Community initiatives and innovative actions.⁽²⁾ Including PEACE appropriations (2000 to 2004).⁽³⁾ Including appropriations for the special programme for Swedish coastal areas.

Source: Commission (12th Annual Report on the Structural Funds (2000) — COM(2001) 539 final of 3 October 2001)

Table 2

Assistance adopted in 2000 and 2001 for the period 2000 to 2006

Country	Assistance measure	CSF/SPD (Objective 1)	OP (Objective 1)	SPD (Objective 2)	Objective 3
Belgium		1 SPD	—	7	5 SPD
Denmark		—	—	1	1 SPD
Germany		1 CSF	8	11	1 SPD
Greece		1 CSF	24	—	1 CSF
Spain		1 CSF	18	7	1 CSF 7 OP
France		8 SPD	—	23	1 SPD
Ireland		1 CSF	5	—	—
Italy		1 CSF	14	14	1 CSF 15 OP
Luxembourg		—	—	1	1 SPD
Netherlands		1 SPD	—	4	1 SPD
Austria		1 SPD	—	8	1 SPD
Portugal		1 CSF	19	—	—
Finland		2 SPD	—	3	2 SPD
Sweden		2 SPD	—	4	1 SPD
United Kingdom		5 SPD 1 CSF	1	14	1 CSF 3 OP
Total		7 CSF 20 SPD	89	97	3 CSF 14 SPD 25 OP

Source: Commission.

2. Without calling into question the basic principles of the previous reforms, the revised framework of SF regulations approved by the Council of the European Union in 1999 ⁽¹⁾ has as its principal aims simplification of the Structural Funds and their effectiveness by:

- (a) further concentrating and simplifying SF activity by reducing the number of priority objectives from seven to three. The number of Community initiatives as such has been limited to four ⁽²⁾. The proportion of the Community population covered by the regional objectives will be 41,4 % at the end of the period 2000 — 2006, compared with 50,6 % in the previous period. The percentage of resources earmarked for Objective 1 is 69,7 % (including transitional support for areas previously eligible but not selected for 2000 to 2006), slightly higher than for the previous period. The Objective 1 aid is primarily focused on five Member States;
- (b) distributing responsibilities more clearly and reinforcing application of the subsidiarity principle, chiefly with the aim of speeding up and simplifying programming procedures. Within this framework, the Commission is responsible for the strategic priorities, and therefore adopts the Community guidelines and priorities for the three objectives. On the other hand, management of operational programmes (OPs)

and Single Programming Documents (SPDs) is more decentralised. Thus it is that OPs and SPDs no longer contain details of programmed measures, and a new document, the programme complement (PC), determines the beneficiaries and the financial allocations for the various measures envisaged. Greater prominence is also given to the role of the monitoring committees (the Commission representative now has consultative status only), which approve PCs, annual implementation reports and any related amendments;

- (c) improving performance and effectiveness through more detailed evaluation. In order to do this the revised regulations specify that the evaluations will take place at three stages (*ex ante*, mid-term and *ex post*) and define the responsibilities of the Member States and the Commission in this area. More importantly, *ex ante* evaluation is the responsibility of the national authorities responsible for preparing plans, assistance measures and the programme complement. In the interest of effectiveness, the reform also provides for more comprehensive monitoring based, firstly, on indicators which reflect the progress of assistance in terms of physical achievements, results and impact and, secondly, on an annual implementation report for each programme and the creation of a reserve of commitment appropriations (a 4 % performance reserve) so that additional appropriations can be allocated at mid-term on a performance-related basis;
- (d) improving the separation of management, payment, monitoring and control functions, and reinforcing them, by defining the responsibilities of the new organs (managing authorities, paying authorities and intermediary bodies acting for one of these authorities), the monitoring committees and the authorities responsible for controls in the Member States;
- (e) managing finances in such a way that programmes are implemented more effectively by means of a system which is theoretically simpler, but is also more demanding: all payments made after the initial advance (7 % drawn down at the programme's adoption) are based on actual expenditure, and the part of the commitment which has not been disbursed by the end of the second year following the year of commitment will be automatically decommitted by the Commission (the 'n + 2' rule).

⁽¹⁾ — Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds (OJ L 161, 26.6.1999).

— Regulation (EC) No 1783/1999 of the European Parliament and of the Council of 12 July 1999 on the European Regional Development Fund (OJ L 213, 13.8.1999).

— Regulation (EC) No 1784/1999 of the European Parliament and of the Council of 12 July 1999 on the European Social Fund (OJ L 213, 13.8.1999).

— Council Regulation (EC) No 1263/1999 of 21 June 1999 on the Financial Instrument for Fisheries Guidance (OJ L 161, 26.6.1999).

— Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations (OJ L 160, 26.6.1999).

This legislative framework was extended in 2000 and 2001 by the addition of:

— Commission Regulation (EC) No 1685/2000 of 28 July 2000 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards eligibility of expenditure of operations co-financed by the Structural Funds (OJ L 193, 29.7.2000),

— Commission Regulation (EC) No 438/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the management and control systems for assistance granted under the Structural Funds (OJ L 63, 3.3.2001),

— Commission Regulation (EC) No 448/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the procedure for making financial corrections to assistance granted under the Structural Funds (OJ L 64, 6.3.2001).

⁽²⁾ Interreg III and URBAN II in the field of the ERDF, EQUAL in that of the ESF and LEADER in the field of EAGGF Guidance.

Scope and objectives of the audit

3. The audit examined the programming of assistance (essentially in the context of Objective 1) and the introduction of management tools. Thus it aimed to establish:

- (a) whether the exercise of identifying Objective 1 and 2 regions ensured that measures were focused on the least developed areas (paragraphs 6 to 16);

(b) whether, in the case of Objective 1, the programming procedures and processes introduced by the Commission and the Member States ensured consistency between the various programming documents and between them and the specific needs of the regions and Member States in question so as to reduce the gap between them and the EU average (see paragraphs 17 to 53);

(d) whether the new rules on management, payment, monitoring and control had resulted in the introduction of satisfactory systems in these areas (see paragraphs 54 to 85).

4. The problems relating to the implementation of commitment and payment appropriations, the revision of the majority of financial plans for assistance and the introduction of systems for budget estimates were addressed in the annual report concerning the financial year 2001. Consequently, they will not be commented on here ⁽¹⁾.

5. The audit was carried out in Commission departments and in 11 Member States receiving Objective 1 assistance ⁽²⁾. It focused on 15 selected regions ⁽³⁾, four of which ⁽⁴⁾ are in receipt of transitional support (phasing-out regions).

IDENTIFICATION OF ELIGIBLE REGIONS

6. The principal task was to assess whether the regions eligible under Objectives 1 and 2 had been identified on the basis of recent data that allowed appropriate comparisons to be made on the basis of clear rules so that assistance could be concentrated on the least developed areas.

Objective 1 regions

7. In the context of SF programming the task of identifying eligible areas takes on special importance in that it determines for a seven-year period which regions, as Objective 1 regions, will receive the lion's share of financing. In contrast to the previous programming period, when the regulations made provision for derogations, the general criterion ⁽⁵⁾ of per capita gross domestic

product (GDP) below 75 % of the Community average has been rigorously applied, as the rules for 2000 to 2006 no longer allow for the inclusion of exceptions to this criterion. The definitive list of the regions concerned was quickly laid down by the Commission in its Decision of 1 July 1999 ⁽⁶⁾ on the basis of the Nomenclature of territorial units for statistics (NUTS) ⁽⁷⁾.

8. Since GDP was to be calculated on the basis of Community figures for the last three years available on 26 March 1999 (the date set by the Regulations), the data corresponded to years 1994, 1995 and 1996. In the case of four Objective 1 regions (DOM-F), only data for 1994 were available. Furthermore, these data were not yet based on the new European system of national and regional accounts ⁽⁸⁾, which standardises methods of recording economic and statistical information.

9. The Commission has applied the regulation correctly. Nevertheless, it was not possible for the data used (1994, 1995, 1996) to take account of all the structural effects of the previous period's assistance on the development of the regions in question. Given that there is no mechanism for making adjustments on the basis of more recent data, as in the case of Objective 2 ⁽⁹⁾, regions that have partially made up the development gap may continue to receive Community finance from the SF ⁽¹⁰⁾. In principle, this rules out the possibility of increasing the funds available for regions whose situation is more critical.

10. Since the administrative division into regions (on the basis of NUTS) may possibly not reflect geographical or historical boundaries, it is not a neutral method of determining SF eligibility ⁽¹¹⁾. By way of example, the new regional division in Ireland did not exist before and has enabled one of the newly created

⁽¹⁾ See paragraphs 3.7 to 3.24 of the Court's Annual Report for 2001 and the corresponding replies.

⁽²⁾ The audit was carried out between 2000 and 2001 in the following countries: Belgium, Germany, Greece, Spain, France, Ireland, Italy, the Netherlands, Austria, Portugal, the United Kingdom.

⁽³⁾ Hainaut (B), Berlin (D), Brandenburg (D), Attiki (GR), Andalucia (E), Galicia (E), Corsica (F), Réunion (F), Southern and Eastern Region (IRL), Calabria (I), Flevoland (NL), Burgenland (A), Algarve (P), Cornwall (UK) and Merseyside (UK).

⁽⁴⁾ Hainaut (B), Corsica (F), Southern and Eastern Region (IRL) and Flevoland (NL).

⁽⁵⁾ — The criteria for identifying regions eligible for the period 2000 to 2006 under Objective 1 are set out in Article 3 of Council Regulation (EC) No 1260/1999.

— Article 3(1), first subparagraph, of Council Regulation (EC) No 1260/1999 and Commission Decision of 1 July 1999 drawing up the list of regions covered by Objective 1 of the Structural Funds for the period 2000 to 2006, C(1999) 1770.

⁽⁶⁾ Commission Decision 1999/502/EC of 1 July 1999 drawing up the list of regions covered by Objective 1 of the Structural Funds for the period 2000 to 2006 (OJ L 194, 27.7.1999, p. 53).

⁽⁷⁾ NUTS is a hierarchical nomenclature that divides each Member State into a whole number of regions (NUTS level I). These are then subdivided into NUTS level II regions, which are again subdivided into NUTS level III. NUTS level II is used when calculating 75 % of the average Community GDP.

⁽⁸⁾ Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community (SEC 95) (OJ L 310, 30.11.1996, p. 1).

⁽⁹⁾ Regulation (EC) 1260/1999, Article 4(11).

⁽¹⁰⁾ Had more recent statistics (1996, 1997 and 1998) been used, 10 regions would not have been eligible, since their GDP was more than 75 % of the Community average (Stereia Ellada, Notio Aigaiio, Comunidad Valenciana, Canarias, Leipzig, Sardegna, South Yorkshire and Border, Midland and Western, Attiki and Castilla-León).

⁽¹¹⁾ See also the Annual Report concerning the financial year 1995, paragraphs 5.18 to 5.23 (OJ C 340, 12.11.1996).

regions to remain under Objective 1 ⁽¹⁾. The changes of region were possible because NUTS updates were negotiated bilaterally between the Commission and the Member State concerned. It was only in February 2001 that the Commission proposed a regulation to establish a legal basis for the relevant rules ⁽²⁾.

Objective 2 regions

11. With regard to the identification of Objective 2 areas, the SF Regulations for 2000 — 2006 specify, firstly, a population ceiling for the areas concerned of 18 % of the total population of the Community. This is used by the Commission as the basis for establishing a population ceiling for each Member State. Within the limits of these ceilings, some Member States submitted partial areas in order to maximise the territorial coverage. As a result, there can be no guarantees that the areas selected were those most seriously affected by structural problems.

12. Moreover, there are two categories of criteria for identifying areas — 'Community' and 'national'. The Community criteria, targeting industrial and rural areas, rely on statistics which are harmonised at NUTS III level ⁽³⁾, while the national criteria are based on statistics and other relevant information forwarded by the Member States concerning the situation in the areas in question.

13. The objective Community criteria laid down in the SF Regulations have steadily become less important than the national criteria. For example, 77 % of the population of the Objective 2 areas met the Community criteria in 1989 to 1993, 55 % in 1994 to 1999, but only 47 % for the period 2000 to 2006. Moreover, the provisional list of areas eligible under Objective 2 was drawn up on the basis of proposals and information submitted by the Member States, the content of which was difficult to verify and sometimes to compare. The definitive list was the outcome of bilateral negotiations between the Commission and the Member States.

14. In practice, it is usually the national criteria that are conclusive for the selection of Objective 2 areas. However, application of the national criteria allows the Member States a good deal of flexibility as regards justifying the eligibility of most Commu-

nity areas adopted under Objective 2. For example, one of the criteria ⁽⁴⁾ was the main criterion used to identify Objective 2 areas in eight ⁽⁵⁾ of the twelve Member States concerned.

Regions eligible under competition policy

15. The Court's audits showed that the areas eligible for State aid did not always coincide with those eligible for SF assistance. This inconsistency has already been pointed out in respect of previous periods, by the Court (in its 1995 Annual Report ⁽⁶⁾), the European Parliament ⁽⁷⁾ and the Commission itself ⁽⁸⁾.

16. Although the Commission undertook to improve consistency between regional policy and competition policy so as to ensure that this situation would not recur in the period 2000 to 2006 ⁽⁹⁾, it has to be acknowledged that matters have improved very little. The percentage of the population covered by SF qualifying regions but not covered by national regional aid is still high: 5,8 % for the period 2000 to 2006 compared with 6,6 % for 1994 to 1999. The inconsistencies mainly concern Objective 2, where the figure in question reaches 12,9 %. In the case of one Member State ⁽¹⁰⁾ it is 41 %.

OBSERVATIONS ON THE PROGRAMMING OF OBJECTIVE 1 ASSISTANCE

17. The Commission has played an active and positive role, especially through its indicative strategy guidelines, its efforts to make an effective analytical tool of *ex ante* evaluation, and the negotiations aimed at improving the quality and consistency of CSFs and assistance. Despite considerable progress, especially as regards quantification and indicators, the programming of Objective 1 assistance for the period 2000 to 2006 is marked by a number of weaknesses.

⁽⁴⁾ Article 4(9)(c) of Regulation 1260/1999: 'areas facing or threatened by serious structural problems on account of relevant, verifiable characteristics, or a high level of unemployment arising from an ongoing or planned restructuring of one or more activities in the agricultural, industrial or service sector'.

⁽⁵⁾ Belgium, Denmark, Germany, France, Italy, the Netherlands, Austria and the United Kingdom.

⁽⁶⁾ Paragraph 5.37 (OJ C 340, 12.11.1996).

⁽⁷⁾ Resolution of 9 February 1999 on the communication from the Commission to the Member States on the links between regional policy and competition policy (Report PE 226.204).

⁽⁸⁾ Communication from the Commission to the Member States on the links between regional and competition policy: Reinforcing concentration and mutual consistency (OJ C 90, 26.3.1998, p. 3).

⁽⁹⁾ — Section 4 (Conclusions) of the above Communication, in particular paragraph (c).

— Agenda 2000; Volume I: For a stronger and wider Union; Part One: The policies of the Union; Chapter II: Economic and social cohesion; Section 2: Greater concentration.

— Recital 16 of Regulation (EC) No 1260/1999.

⁽¹⁰⁾ The United Kingdom.

⁽¹⁾ Border, Midland and Western.

⁽²⁾ The Commission aimed in particular to 'assure comparability and impartiality when regional statistics are compiled and used for various policy purposes', in particular for the Structural Funds, and to 'define clear rules for future amendments of the NUTS breakdown, so as to forestall conflicts of the kind that have occurred in the past'. Proposal for a Regulation of the European Parliament and of the Council on the establishment of a common classification of territorial units for statistics (NUTS), COM(2001) 83 final of 14 February 2001.

⁽³⁾ Unemployment and industrial employment for industrial areas; agricultural employment, unemployment and population density or decline for rural areas.

Lengthy and unwieldy programming procedures

18. The audit examined whether the Commission's instructions and the procedures set in place ⁽¹⁾ allowed assistance measures to be adopted in good time, given the administrative and institutional constraints on the Member States and the Community.

19. As the Commission itself pointed out in its Communication ⁽²⁾, it was not possible for it to adopt the vast majority of programming documents in less than a year, and in some cases even longer. Of the 123 Objective 1 programming documents received, only three ⁽³⁾ were adopted within five months of receipt of the plans or draft SPDs, as laid down in the regulations. The deadlines stipulated by the regulations have thus proved to be unrealistic.

20. These delays in programming can be explained, amongst other things, by the variable quality of the documents submitted by the Member States (see paragraph 31), which forced the Commission to take steps to improve the effectiveness and consistency of the Member States' proposed CSFs and assistance measures. Other causes of delay were the cumbersome nature of the adoption process (see paragraph 21) and insufficient clarification of Community and national responsibilities with regard to the adoption of programme complements (see paragraphs 22 and 23). At the time when the programming documents were being adopted, in 2000, the internal reform of the Commission was in full swing. The internal restructuring and changes in consultation procedures which ensued from the reform contributed to delays in processing and lengthened the time taken by Commission departments to reply.

21. Different approaches to the drafting and finalisation of programming documents existed alongside each other. Since 1998, the Member States have made a considerable effort to draft all programming documents (plans, CSFs, OPs, SPDs and PCs) as holistically as possible and at the same time. The Commission separates the various phases of programming sequentially into a succession of stages each of which must be duly completed before the next one can begin. As a result, the programming documents prepared by the Member States were submitted to the Commission only in separate phases. This gave rise to substantial delays, even though the questions raised by the Commission at each stage were often relevant and rendered assistance more effective and consistent with the policies of the European Union.

⁽¹⁾ The Court has already stressed in the part of Opinion No 10/98 concerning proposals for regulations governing the SFs that programming procedures should be designed in such a way that they do not perceptibly complicate management, prolong the period of preparation or detract from the consistency of the whole.

⁽²⁾ Communication on the results of the programming of the Structural Funds for 2000 to 2006 (Objective 1), SEC(2001) 1140 and COM(2001) 378 final of 5 July 2001.

⁽³⁾ CSF Portugal, SPD Burgenland (Austria) and SPD Hainaut (Belgium).

22. As regards the programme complement (PC), the Commission itself stated ⁽⁴⁾ that the regulatory three-month deadline for forwarding the PC was observed in only a few cases. The final presentation of the PC to the Commission was sometimes delayed because Community and national responsibilities were not sufficiently clear. Interim payment requests are subject to compliance with the requirement that the programme complement submitted to the Commission must contain the information specified in Article 18(3) of Regulation (EC) No 1260/1999. In certain cases, non-compliance with this requirement led to the Commission's delaying the corresponding interim payments, thereby slowing down the progress of structural measures ⁽⁵⁾.

23. It was expected that simplification would be achieved by leaving responsibility for approving the programme complement with the management authority and the monitoring committee, but in cases such as these it has not always materialised. In effect the gain obtained by simplifying the earlier stages, and OP and SPD approval in particular, is not necessarily carried over to the subsequent process. It can even lead to loss of efficiency since the Commission always has to verify the PC content subsequently, before making the corresponding payments.

24. The timetables envisaged for the adoption of regional aid and SF maps were not respected for the majority of Member States. Almost all the regional aid schemes expired on 31 December 1999. After that date, it was no longer legally possible for the regions to grant aid. The late adoption of the new regional aid maps led to uncertainty among managers and beneficiary enterprises and caused a hiatus in the aid-granting process, especially where grants to enterprises were concerned.

Programming and ex ante evaluation approaches and techniques: the need for improved consistency and greater impact

25. The audit was to assess:

- (a) whether the Commission specified the formal characteristics (in terms of precision, quantification, consistency and transparency) of plans, draft SPDs, OPs and PCs and whether it provided suggestions and recommendations concerning the programming and evaluation methods and techniques to be applied;

⁽⁴⁾ The results of the programming of the Structural Funds for 2000 to 2006 (Objective 1), COM(2001) 378 final of 5 July 2001.

⁽⁵⁾ Annual Report concerning the financial year 2001, Chapter 3, Structural measures, paragraph 3.31 (OJ C 295, 28.11.2002).

- (b) whether the various programming stages made use of appropriate verifiable methods and techniques and, in particular, whether the *ex ante* evaluations had the desired impact;
- (c) whether the actual programming was consistent and relevant in terms of the specific problems of the regions and whether, with the help of appropriate indicators at the different levels, it resulted in precise (or quantified) attainable objectives that clearly showed the hierarchical links and the links of complementarity and interchangeability, between objectives and between objectives and measures.

Methodological guidelines for programming

26. The Commission's working documents are useful for the Member States and contribute to the success of their programming work (especially as regards the content of plans, CSFs, OPs and SPDs under Articles 16 to 19 of Regulation (EC) No 1260/1999). Although the Commission documents refer in a general way to some basic documentation⁽¹⁾, with the exception of the indicators methodology they are still not sufficiently detailed. It was noted that:

- (a) there was very little practical explanation of methods of analysing requirements in order to grade identified needs. This also applies to the method of drawing up a hierarchy of objectives, which should result in a genuine tool for appraising the financial weightings of different priorities, OPs or measures relative to an objective⁽²⁾;
- (b) the Commission's working documents place emphasis on the quantification of objectives and indicators and refer to existing methods in this area. They do not require details of them in the programming documents, although clarification in this respect would be a factor for transparency;
- (c) the working documents made no attempt to investigate alternative strategies and activities within the socioeconomic development framework, with an evaluation of them in terms of impact, efficiency and cost;
- (d) although the strategy and priorities of a CSF or an SPD are to be consistent with regional, national and Community policies, the working documents do not specifically require detailed information on all the national and regional policies concerned, especially as regards their general and specific objectives, the measures implemented, the financial resources allocated and the timetables for implementation.

Without such information it is difficult to establish the justification for choices made in connection with a CSF or a draft SPD;

- (e) the basic principles which justify public intervention, and to which political decision-makers may refer⁽³⁾, are inadequately highlighted. The working documents and guidelines also fail to highlight other principles, such as those which aim to avoid deadweight⁽⁴⁾ or displacement effects⁽⁵⁾ or to guarantee the added value or incentive effect of aid or the sustainability of results and impacts;
- (f) the main emphasis is placed on thematic priorities to be taken into account under the three strategic priorities (regional competitiveness, social cohesion and employment, development of urban and rural areas). Other approaches to regional development⁽⁶⁾ or the reduction of disparities were not covered in the Commission's guidelines and working documents.

⁽³⁾ Such principles distinguish mainly between:

- measures in the field of public goods (services or investments that ideally are produced only by the public sector);
- measures that are designed to have a corrective effect in view of price distortions and external factors, whether positive or negative;
- measures designed to effect changes in behaviour, where this does not conform to expectations;
- measures that aim chiefly at the redistribution of income, for example by maintaining employment.

(EU Structural Funds in Ireland: a Mid-Term Evaluation of the CSF 1994-99, Economic & Social Research Institute (ESRI), Dublin, 1997, Part 2 - Microeconomic effects and recommendations, pp. 72-161; National Investment Priorities for the Period 2000-2006, ESRI, Dublin, 1999, pp. 134-273).

⁽⁴⁾ Dead-weight effects are effects which would have come about even without intervention.

⁽⁵⁾ The substitution effect occurs, in the context of assistance to a geographical area, when the creation or maintenance of employment is favoured at the expense of jobs in other areas covered by the programme.

⁽⁶⁾ In particular, regional development approaches based on:

- clustering, a strategy which aims chiefly to bring about a production system characterised by an increase in productivity owing largely to cooperation and partnerships, the internalisation of external factors, economies of scale and specialisation,
- convergence, whereby a combination of factors such as market integration, international trade, direct foreign investment, innovation, knowledge and technology transfer, and improvements to infrastructure, should reduce the per capita income gap between developed and less developed regions,
- the dichotomy between central and peripheral areas, which arises in development situations where the economic dominance of the core zone attracts the lion's share of direct investment from home and abroad,
- the establishment of growth hubs, an approach which states that an enterprise (or group of enterprises) may stimulate its economic surroundings, resulting in a focus of growth that promotes faster growth in the region in which that focus is located.

⁽¹⁾ In particular, the MEANS collection (Means for Evaluating Actions of a Structural Nature), which is a broad reference framework for the evaluation and programming of socioeconomic development programmes, could have given a more comprehensive presentation.

⁽²⁾ In principle the structure of objectives must include the most important hierarchical impact relationships and must preserve complementarity and interchangeability of objectives and of objectives and measures.

27. The Court noted that all these weaknesses in the working documents and guidelines subsequently had repercussions on the policy analysis techniques that were applied (see paragraphs 31 to 36).

Methods and techniques in practice

The role of ex ante evaluation

28. According to Article 41 of Regulation (EC) No 1260/1999 the purpose of *ex ante* evaluation is to provide a basis for preparing the development plans, assistance and programme complement with which it is associated. It must involve analysis of the strengths, weaknesses and potential of the Member State, region or sector concerned. Further, it aims to assess the consistency of the strategy and objectives selected with the specific features of the regions or areas concerned, and the expected impact of the priorities for action, by quantifying their specific targets in relation to the starting situation, where they lend themselves thereto. In its working paper on *ex ante* evaluation the Commission stressed the need for a strong degree of interaction between *ex ante* evaluation and programming, with the evaluators independently providing justification for the balance of priorities and the allocation of resources in terms of the expected impact and results.

29. In practice, at Member State level the evaluator's role was often not clearly defined by contract and ranged extensively between the provision of advice and critical analysis. One reason was that, unlike in the past, the Commission was unable to influence the choice of evaluator. In several of the countries and regions visited ⁽¹⁾ evaluation took the form of scientific help with the preparation and drafting of the CSF and focused on justifying the chosen strategy. There was no critical appraisal or analysis of alternative strategies ⁽²⁾.

30. A further result of this lack of precision concerning the evaluator's role was that the quality of evaluations was rather uneven and at times unsatisfactory. This view was shared by the Commission ⁽³⁾, which, however, intervened in only a few cases, mainly in the context of large-scale regional development plans (RDPs), by insisting that the Member State supplement the *ex ante* evaluation or by deciding that the plan should undergo further evaluation ⁽⁴⁾.

⁽¹⁾ Germany (new *Länder*), Greece, France (Corsica, Réunion), Italy (Mezzogiorno), the Netherlands (Flevoland), Portugal and the United Kingdom (Merseyside).

⁽²⁾ True critical appraisal was explicit and systematic only in the case of Ireland and Hainaut (B).

⁽³⁾ Spain and France (Réunion).

⁽⁴⁾ In particular, the Italian Objective 1 plan and the plan for the new German *Länder* were subjected to macroeconomic assessment.

Policy analysis techniques

31. Various weaknesses were found as regards the application of analysis, evaluation and programming methods and techniques.

32. For example, although the strengths, weaknesses and potential of the Member State or region were examined, this seldom included the use of analytical techniques for grading needs and highlighting the relative importance of factors contributing to development or decline and the relationships between them and the structural actions ⁽⁵⁾.

33. Similarly, the structure of objectives and structural measures adopted in the plans and CSFs was often the result of approaches other than that of highlighting the most important relationships between objectives, objectives and measures and between the latter in terms of a given objective, even though this approach would have simplified choices and decisions ⁽⁶⁾.

34. Only a few national development plans included a detailed presentation of a significant proportion of the national and regional priorities and measures concerned (see paragraph 26(d)) ⁽⁷⁾.

⁽⁵⁾ Belgium (Hainaut).

⁽⁶⁾ The structure of Réunion (F) Objective 1 SPD was influenced more extensively by administrative requirements, with the result that it is built around 10 priority themes using a single financing source. The draft SPD, however, broke measures down according to four priority guidelines that better reflected the structure of objectives and means and the synergy between funds.

Operational requirements strongly influenced the structure of the Italian Objective 1 CSF, making it essentially operational in its subdivision into themes, sectors and macro-areas, the last of which are the only points that are the direct target of specific objectives, while the links between themes and general or global objectives designed to ensure a given rate of growth for GDP and employment are not made clear. This structure is not conducive to the making of choices or the identification of priorities.

The chief criterion affecting the structure of the Spanish Objective 1 CSF was the institutional and administrative system: the CSF and the RDP are based upon a combination of regional plans and elements of national sectoral plans that are not necessarily homogenous. On the other hand, the integration of the Funds was no guarantee of the integration of structural measures. Although the regional programmes originally submitted by the Spanish authorities under the Objective 1 CSF were monofund in nature (ERDF, ESF or EAGGF Guidance), for ease of management the integration of the Funds was in fact confined to the production of a single combined document with no guarantees that activity would be based on the genuine integration of structural measures.

In Portugal, the effect of previous programming has been that the new core priority is not explicitly reflected in the structure of the CSF. The goal of significantly improving productivity has had too little impact on the CSF structure, the main aims of which are not fundamentally different from those of the previous period and are not explicitly linked to this priority.

⁽⁷⁾ Spain, Ireland and Portugal.

35. The audits revealed shortcomings in the quantification of relevant indicators and objectives (see paragraph 44) which impeded any subsequent technical analysis. For example, the global objectives were sometimes overstated ⁽¹⁾, so that it was impossible to establish to what degree the CSFs and SPDs might contribute to them. Generally speaking, the programming did not ensure that the methods used to quantify indicators and costs were verifiable. In a similar vein, the Commission and the Member States seldom verified that the principles justifying public-sector intervention had been applied ⁽²⁾. The other principles described in paragraph 26(e) were barely touched upon in the programming of CSFs and assistance.

36. These are significant omissions, because they weaken the cohesion of CSFs and SF intervention (OPs and SPDs). They are a barrier to the optimum choice of the resources to be used to satisfy the specific needs of the regions as regards sustainable development, convergence, employment, competitiveness, productivity and the integration of target groups.

Evaluation of the macroeconomic impact of the SF ⁽³⁾

37. In the case of the Objective 1 regions (especially those above a certain size), the use of models to evaluate the macroeconomic impact of the SF is an important analytical tool, yielding results that can make a useful contribution to the process of programming as regards choices and decision-making at the level of objectives and instruments (see *Annex 2*). In the case of major Objective 1 plans the Commission also recommended the use of state of the art macroeconomic models ⁽⁴⁾ for *ex ante* analysis of impacts on regional GDP, employment, productivity and competitiveness.

38. This type of evaluation was not always developed and applied as effectively as it might have been in the context of CSF and assistance programming. In point of fact, the models applied by the Member States did not deal in full with all of the four types of impact envisaged (see *Annex 2*). The impact of some major Objective 1 plans was not measured in the light of a macroeconomic model, and the measurement was sometimes incomplete ⁽⁵⁾. In order to obtain comparable and, often, more complete

measurements, the Commission had to arrange for the impact of the CSFs (and sometimes of the plans) of eastern Germany and of the Member States in receipt of aid from the Cohesion Fund ⁽⁶⁾ to be evaluated using models that it had developed ⁽⁷⁾. In the case of Italy, the Commission arranged for the Objective 1 plan to be independently modelled.

39. In the context of Objective 1 programming the models were used to limited effect, mainly to quantify the expected results of a proposed strategy. They were not, in fact, used to evaluate alternative strategies by comparing the impact of each strategy and thus identifying the optimum plan structure and financial allocation in the light of the objectives and available resources. Furthermore, the estimations based on the models were found to contain some anomalies at the level of impacts. The Commission did not subsequently take them into account during the programme process, thus highlighting their limited influence (see *Annex 2*, paragraph 6). Macroeconomic models were indeed sometimes used to evaluate the impact of programmes, but only at a later stage, after work on the national plan had been completed, but before the CSFs and assistance measures were due to be approved by the Commission ⁽⁸⁾.

40. In this context it must also be pointed out that, despite the relatively comprehensive results achieved by some of the models, their relevance was nevertheless still limited by the fact that they were essentially national in scope, and so could not always be used as the basis for assessing convergence between regions of a Member State or the role of plans, CSFs and SPDs in making up permanent ground on European averages ⁽⁹⁾. Moreover, these models simplify economic mechanisms and thus require additional information in order to improve the interpretation of economic circumstances. For example, the information needed to quantify supply-side effects in relation to investment in infrastructure or human resources is not always available, and further investigation of these effects is still necessary. Lastly, in the context of the models used, adequate statistical information is sometimes lacking (see *Annex 2*).

⁽¹⁾ This was the case in particular for Spain, Réunion (F), Italy and Flevoland (NL).

⁽²⁾ Ireland and Belgium (Hainaut).

⁽³⁾ During its audit the Court called on the services of an external assessor specialising in macroeconomic modelling and models of the European economy.

⁽⁴⁾ Commission working paper 2: The *ex ante* evaluation of the Structural Funds interventions, p. 18. The Commission specified in Annex 1 the elements to be taken into account.

⁽⁵⁾ In the case of the Mezzogiorno there was no direct assessment of the different impacts of the plan; only its impact on GDP and employment were estimated directly.

In the case of the new German *Länder* there was no impact assessment within the framework of the plan itself: at CSF level less sophisticated techniques were used to estimate the impact on GDP, and the impact on productivity and competitiveness was not calculated.

⁽⁶⁾ Greece, Spain, Ireland and Portugal.

⁽⁷⁾ The Hermin and QUEST II models.

⁽⁸⁾ In the case of eastern Germany, the Hermin model was developed and applied largely outside the framework of programming the *Länder* CSFs and OPs.

⁽⁹⁾ This limit was observed in particular in connection with the Hermin model, which always adopts an essentially national approach; in the case of Ireland, for example, this approach does not coincide with the regional objectives and precludes estimates of the development of each Irish region, especially in terms of impact. Similarly, eastern Germany is considered separately from the German economy as a whole. Lastly, it does not examine convergence at the European level. In contrast, the HELM model allows the situation of Hainaut to be examined in terms of European averages.

41. Even though they may have certain shortcomings, these models are useful, both for the national authorities responsible for programming and for the Commission. However, the Commission has not yet mastered this combining of approaches and models in order to obtain a valid comparative analysis of results between Member States.

Indicators

42. Quantified indicators of physical achievements, results and impact must be introduced:

- (a) in order to establish adequate causal relationships between objectives, between measure targets and the end results at measure level and at the level of the component actions. Indicators must thus express objectives, results and achievements in a relevant way;
- (b) so that, at specified intervals while the programme is being implemented, the indicators can be monitored and a record made of their real change in relation to a known baseline, thereby providing data for the mid-term and *ex post* evaluations;
- (c) as an aid to any necessary adjustments that have to be made where results do not match forecasts, or where priorities have changed.

43. Progress was observed as regards the weaknesses detected in connection with the Court's Special Report No 15/98 on the assessment of Structural Fund intervention for the periods 1989 to 1993 and 1994 to 1999 ⁽¹⁾. During the programming phase for 2000 to 2006, a Commission working document was wholly devoted to indicators for programming methodology and to the selection of key indicators for the various fields of intervention ⁽²⁾. Furthermore, the Member States and regions concerned have all tried ⁽³⁾ to ensure that there is greater consistency between indicators (see paragraph 42(a)) and to improve quantification ⁽⁴⁾.

44. However, work still needs to be done, with a view to the mid-term reviews and evaluations and the *ex post* evaluations in particular:

- (a) it was noted that indicators had not yet been established ⁽⁵⁾ or, if established, not quantified ⁽⁶⁾ or without a baseline ⁽⁷⁾. Quantifications were not properly justified by pertinent analysis (see paragraph 35);
- (b) for all the regions where audits were carried out, it was also noted that the indicators' expression of objectives, results and achievements was often incomplete or sometimes irrelevant. Therefore the indicators could not readily be used to establish clear causal relationships between objectives and between plan or programme level, priorities level and measures level. The lack of coherence between indicators of different levels stems from the programme logic, which identifies indicators for overall objectives and priorities within the CSF and SPD framework, before moving on to identify indicators at the level of the measures in the programme complement. Had a 'bottom-up' approach been applied at the same time, starting from actions and measures and going on to priorities and programmes, priorities and general objectives, there would have been more coherence in the indicator structure.

Financing plans

45. The financing plans for the assistance measures that result from the programming process reflect the annual breakdown set out in the financial perspective, whereby a similar amount is distributed every year. The allocation profile for available budgetary appropriations is similar (see *Tables 3 and 4*). The financing plans thus do not take account of the real cycle of structural assistance programming, which generally consists of a start-up phase, followed by a consolidation phase and, finally, completion. In actual fact they simply reproduce the annual breakdown set out in the financial perspective, without including realistic forecasts of how the structural actions will progress. This robs this particular financial instrument of its effectiveness as a means of monitoring the progress of assistance measures and evaluating them ⁽⁸⁾.

⁽¹⁾ OJ C 347, 16.11.1998, paragraphs 4.16 to 4.21.

⁽²⁾ According to the Commission they were chosen on the basis of their relevance to common priorities, ability to determine objectives quantitatively and define a baseline, clarity and reliability of aggregation.

⁽³⁾ The Irish authorities in particular have developed indicators of the same nature for both the cofinanced part of its Regional Development Plan and the part that is not cofinanced.

⁽⁴⁾ In general the quantification of outturn indicators was satisfactory, whereas that was seldom the case for the period 1994 to 1999. For example it was then difficult to make an overall assessment of the productive investment generated by Community investment aid. The content of the result indicators is often similarly better defined, so that it is possible to quantify variables such as time saved or traffic increase in relation to transport infrastructure.

⁽⁵⁾ Impact indicators for the Irish OPs, overall performance indicators for the SPD for Corsica, impact indicators at measure level for the Réunion SPD, the Flevoland SPD, indicators for the Calabria OP.

⁽⁶⁾ In the France-Réunion SPD, where the indicators were often expressed in qualitative terms, in the CSF for Germany, the programme complement to the NOP *Sviluppo Imprenditoriale Locale* and the Calabria OP (Italy), and the programme complements for the Portuguese OPs and some of the Réunion SPD.

⁽⁷⁾ In the programme complement to the NOP *Sviluppo Imprenditoriale Locale* (Italy) and the Flevoland SPD.

⁽⁸⁾ This point was made in the 2000 Annual Report, paragraph 3.19.

Table 3

Annual breakdown of appropriations available for Objective 1 programming (excluding performance reserve) in mio EUR at current prices*Regions eligible under Objective 1 (after revision of the profile)*

	2000	2001	2002	2003	2004	2005	2006	Period 2000 to 2006
B	0	0	0	0	0	0	0	0
DK	0	0	0	0	0	0	0	0
D	2 852	2 887	2 919	2 954	2 705	2 760	2 882	19 959
EL	3 054	3 115	3 179	3 241	2 998	3 057	3 118	21 762
E	5 506	5 614	5 724	5 836	5 392	5 499	5 615	39 186
F	491	495	498	499	453	465	475	3 376
IRL	236	215	195	171	130	188	118	1 253
I	3 203	3 264	3 326	3 391	3 131	3 195	3 260	22 770
L	0	0	0	0	0	0	0	0
NL	0	0	0	0	0	0	0	0
A	38	39	40	40	37	38	39	271
P	2 553	2 445	2 354	2 506	2 194	2 271	2 399	16 722
FIN	133	136	138	141	131	133	136	948
S	54	55	56	58	53	54	55	385
UK	745	732	718	704	623	672	663	4 857
EUR15 (1)	18 865	18 997	19 147	19 541	17 847	18 332	18 760	131 489
				19 712	20 235	20 702	137 199	

PEACE Programme

	2000	2001	2002	2003	2004	2005	2006	Period 2000 to 2006
IRL	20	21	21	22	22			106
UK	82	83	85	87	88			425
Total (2)	102	104	106	109	110			531
								531

Special programme for Swedish coastal areas

	2000	2001	2002	2003	2004	2005	2006	Period 2000 to 2006
S (3)	51	52	53	54	50	51	52	363
				55	56	57	378	

Total

	2000	2001	2002	2003	2004	2005	2006	Period 2000 to 2006
Total (1)+(2)+(3)	19 018	19 153	19 306	19 704	18 007	18 383	18 812	132 383
				19 877	20 291	20 759	134 253	

Indexation rate	1	1	1	1	1	1	1
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Source: Commission.

Appropriations assigned to the performance reserve			
2004	2005	2006	Total
0	0	0	0
0	0	0	0
283	289	295	867
309	315	321	945
556	567	578	1 701
48	49	50	147
18	18	19	55
323	329	336	988
0	0	0	0
0	0	0	0
4	4	4	12
237	242	247	726
13	14	14	41
5	6	6	17
69	70	72	211
1 865	1 903	1 942	5 710

Appropriations assigned to the performance reserve			
2004	2005	2006	Total
5	5	5	15

Appropriations assigned to the performance reserve			
2004	2005	2006	Total
1 870	1 908	1 947	5 725

Table 4

Annual breakdown of appropriations available for Objective 1 programming (excluding performance reserve). Transitional support in mio EUR at current prices

	2000	2001	2002	2003	2004	2005	2006	Period 2000 to 2006	Appropriations assigned to the performance reserve			
									2004	2005	2006	Total
B	105	100	95	95	79	78	49	600	13	13	0	25
DK	0	0	0	0	0	0	0	0	0	0	0	0
D	122	121	121	120	104	103	8	700	15	15	0	29
EL	0	0	0	0	0	0	0	0	0	0	0	0
E	78	67	56	45	30	30	32	338	7	7	0	14
F	83	81	79	79	67	65	75	529	11	11	0	22
IRL	400	350	300	250	165	115	123	1 702	35	35	0	71
I	32	30	28	26	21	20	22	180	4	4	0	7
L	0	0	0	0	0	0	0	0	0	0	0	0
NL	23	21	20	19	16	15	5	118	2	2	0	5
A	0	0	0	0	0	0	0	0	0	0	0	0
P	650	640	610	350	242	213	84	2 789	58	58	0	116
FIN	0	0	0	0	0	0	0	0	0	0	0	0
S	0	0	0	0	0	0	0	0	0	0	0	0
UK	216	204	193	181	143	110	73	1 119	23	23	0	47
EUR15	1 709	1 614	1 502	1 165	866	748	471	8 075	168	168	0	336
					1 034	916	471	8 411				

Source: Commission.

The processes of negotiation and decision-taking

46. The negotiations between the Commission and the Member States could not deal fully with all the problems of consistency between the CSFs and assistance measures, or determine precisely what their foreseeable impact on regional development might be. The shortcomings that were identified during the audits, in terms of information, quantification and consistency between needs, objectives and measures (see paragraphs 31 to 35 and 44), will have to be considered again, at a later date, as part of the mid-term review, in order to make the Community programmes as effective as possible (see paragraph 36).

47. In particular, the Commission did not seek substantial improvements in some key aspects of programming in the negotiation phase:

- (a) for example, since there was no request for detailed information about the national and regional policies surrounding the CSF or SPD, the negotiations between the Commission and the Member States barely touched on the issue of the overall funding earmarked for regional development. This was also true of the small number of development plans that covered a relatively large part of national and regional development priorities and measures, with no more than a small part being devoted to the CSF ⁽¹⁾. The part of development measures that is not cofinanced and not systematically addressed during the negotiations ⁽²⁾ is therefore not necessarily subject to the same principles. Because measures are interactive, whether or not they are cofinanced, differences in the treatment of them affect the consistency and impact of CSFs and SPDs at every level;
- (b) in practice, with the exception of grants for investment in the production sector, the Commission paid little attention to the principles of public-sector financing, or to the dead-weight and displacement effects that may characterise some measures (see paragraph 26(e)).

48. As regards the appropriateness of the measures submitted and the level of funding to be allocated to them, some of the negotiations suffered from a lack of relevant study data.

⁽¹⁾ In Ireland the CSF accounts for 12 % of the plan, while in Spain it accounts for 37 %.

⁽²⁾ For example, negotiations with a view to approval of the Irish CSF did not address in any detail the subject of growth to be developed in relation to investment, either in general terms or in specific fields, or the question of State aid for the production sector, even though these themes were a matter of disagreement between the external assessors and the national bodies responsible for drawing up the national development plan (NDP).

This made it difficult for the Commission to put forward workable proposals ⁽³⁾.

49. Importance was attached to such formal aspects of programming as the description of priorities or measures, details of the Funds' contribution for each priority and each year, the description of the management authority and management procedures, the description of monitoring systems and specific control procedures. The budget breakdowns for CSFs and programmes were thus heavily influenced by previous utilisation of appropriations in connection with certain measures, the history of implementation and the need to guarantee the best possible take-up of funds in each Member State, rather than by a well-established development strategy and technical analysis of alternative allocations.

⁽³⁾ Some examples:

- the question that was not sufficiently addressed was whether the approach adopted for the Mezzogiorno Regional Development Plan (PSM) should be a territorial one, with the main focus on growth hubs, rather than the sectoral approach eventually adopted. The former would have been more advisable, in that the functional structure of the PSM and the CSF and limited use of the macroeconomic model do not prove that the CSF's budgetary allocation for the various priorities and measures represents the most appropriate strategy for tackling development problems in the Mezzogiorno,
- one of the main priorities of the Portuguese CSF is to improve productivity and industrial modernisation. However, given the greater emphasis placed on regional programmes in the new CSF, it is insufficiently clear how important a contribution they can make to improving productivity (especially in those sectors where they had no role to play in the previous CSF), and to pursuing the objectives specified for each economic sector,
- the quantitative evaluation of the anticipated impact of the CSF for the new *Länder* on the economy of the new German regions does not satisfactorily lend itself to an assessment, based on the programmes and quantitative indicators of whether the proposed strategies will allow sufficient progress to bring development in the new *Länder* up to speed with the German and European Union averages. Similarly, the repercussions of regional initiatives on other regions are not taken into account when *Länder* development plans are being formulated. More consideration should have been given to whether the national aid scheme ('Common task') would contribute more to the development of regional growth hubs, as well as to the matter of the Funds' integration,
- in the case of Hainaut (B), a number of important measures, such as the clearing and rehabilitation of former industrial sites with the main aim of enhancing area attractiveness, were supported by no study data — even, on occasion, no site inspection — demonstrating the real interest or impact of the measure or the amount of financing essential to achieve a certain level of effectiveness,
- in the case of Corsica (F), neither the *ex ante* evaluation nor the available information are enough for any conclusions as regards the effectiveness and relevance of the proposed strategy and its priorities.

Risk of inconsistency and ineffectiveness in the application of the performance reserve

50. The audit was to assess whether, using the machinery for allocating the performance reserve provided for in Article 44 of Regulation (EC) No 1260/1999, it is possible to compare and assess the performance of SPDs/OPs on the basis of indicators that give a fair view of effectiveness, management and financial implementation and measure mid-term results against the initial specific objectives.

51. The performance reserve was introduced as an incentive for each programme to achieve objectives determined in advance by means of quantifiable operational indicators. To this end, the Commission provided the beneficiary Member States with an indicative list of indicators for financial, effectiveness and management criteria and drafted a working document on the subject.

52. In practice, the performance reserve entails a complex procedure for reallocating funds, where the almost free choice of criteria or indicators and the freedom to exploit them in the form of specific objectives to be achieved by the mid-term may lead to inconsistencies and ineffectiveness in the use of the reserve. In this context, many of the choices made by the Member States depart substantially from the indicative list provided by the Commission. What is more, a number of SPDs, OPs and CSFs state that the performance reserve will in any case be allocated to the OPs or within the SPD, and that in no event will it remain unused. In such circumstances, the actual function of this performance instrument is severely compromised.

53. Two beneficiary Member States have set up additional reserves that are not required by the regulations, worth 6 % in Italy and 2,6 % in Portugal. On this point, the Commission should verify that use of the Community budget has been uniform and rigorous, so that these Member States cannot, without the Commission's agreement, readjust Community appropriations within the allocation decided beforehand.

OBSERVATIONS CONCERNING THE MANAGEMENT, PAYMENT, MONITORING AND CONTROL SYSTEMS

Weaknesses connected with the introduction of new systems and procedures

54. The question under consideration was whether, in relation to the period 2000 to 2006 and as result of the new rules on management, payment, monitoring and control, the requisite systems and procedures were put in place without delay, in order to ensure a proper separation of functions, reduce irregularities and provide adequate flows of reliable data between the Member States and the Commission.

55. The delayed publication of implementing Regulation (EC) No 438/2001, dated March 2001, does not entirely justify the late introduction of management and control systems by the Member States. The foundations of the *ex post* control system had already been laid by the previous regulation, Regulation (EC) No 2064/97 ⁽¹⁾, especially as regards the requirement for certification by an independent body. It was noted that, as at the end of 2001, the systems were in some cases still being put together or finalised. Current national legislation did not always allow the new structures to receive the full range of responsibilities and resources required by the 2000 to 2006 SF regulations.

56. In Greece, for example, national regulations had to be specially introduced in order to meet the new Community requirements and the start of some programmes was substantially delayed in consequence. In Spain detailed provisions were drawn up to coordinate the sharing of responsibilities between national and regional levels. In Portugal the regional programmes have a strong sectoral element, calling for a sound functional framework at national and regional level to accommodate shared management responsibilities.

57. As the Commission itself noted ⁽²⁾, there were delays in introducing the control structure and organising the controls that are to cover the whole of the 2000 to 2006 period ⁽³⁾. As a result the certification of the expenditure statements submitted in 2001 had often not been checked by the paying authority and *ex post* sample checks had still not been carried out for the period 2000 to 2006 ⁽⁴⁾. Weaknesses (no on-the-spot check, insufficient audit trail) were also found at the level of the internal controls for which the managing authority is responsible ⁽⁵⁾.

⁽¹⁾ Commission Regulation (EC) No 2064/97 of 15 October 1997 establishing detailed arrangements for the implementation of Council Regulation (EEC) No 4253/88 as regards the financial control by Member States of operations co-financed by the Structural Funds, (OJ L 290, 23.10.1997, p. 1).

⁽²⁾ Audits of the management and control systems for the Structural Funds for the period 2000 to 2006 — initial results — CDRR/01/01340/00.

⁽³⁾ In Ireland the national structure of controls and responsibilities was determined in June 2001. In the case of the Hainaut (B) SPD the Walloon government decided in June 2001 that the paying authority should set up an internal audit unit within the authority, with the assistance of a private audit company, so that the paying authority would be able to fulfil the obligations laid down in Article 9 of Regulation (EC) No 438/2001.

In Germany, at the end of 2001, some *Länder* did not have a control system that fulfilled the requirements of Regulations (EC) No 1260/1999 and No 438/2001, and even as of mid-2002 the control system was still not operational. In Portugal, because of the number of control bodies concerned with the SF, procedures for linking the various control levels had to be formulated at the end of 2001 in order to take account of the Community requirements regarding certification of expenditure for the period 2000 to 2006.

⁽⁴⁾ See Annual report of the Court of Auditors concerning the financial year 2001, paragraphs 3.70, 3.71 and 3.72.

⁽⁵⁾ See Annual report of the Court of Auditors concerning the financial year 2001, paragraphs 3.67 and 3.68.

58. In addition to the delays in introducing control systems in the Member States, problems of interpretation arose in several Member States ⁽¹⁾ concerning the actual definition of the control approach to cover at least 5 % of total eligible expenditure (a threshold already laid down for the period 1994 to 1999 in Regulation (EC) No 2064/97 and repeated in Regulation (EC) No 438/2001) by means of sample checks of transactions before the closure of each intervention. Furthermore, the descriptions of management and control systems (which were notified after the prescribed deadlines ⁽²⁾) were of varying quality and not always practical, as further information was needed to ensure that they could be followed up or updated.

59. Council Regulation (EC) No 1260/1999 ⁽³⁾ on the Structural Funds 2000 to 2006 affirmed the principle of devolving implementation of measures under the Funds to the Member States. Devolution requires reliable data to be collected efficiently and quickly and regularly updated. The Commission has established a database, SFC, for that purpose, to be used in programming, monitoring and implementing structural programmes. In practice, as at the end of 2001, some Member States had not succeeded in making the electronic data interchange fully operational.

60. In Hainaut (B), a new multi-user IT application was brought into service in June 2000, but did not include the projects that had not been adopted. In Spain the FONDOS 2000 system, which had initially been designed for ERDF management, was to be extended to the other Funds and the other existing IT systems, but this was causing technical problems with conversion and the maintenance of data integrity. In France the PRESAGE system became operational in June 2001, but the connections to the French regions, and the overseas départements in particular, were erratic, as were the links with the Commission. In Portugal the new SIFEC IT system was installed in October 2000 and regularly updated so that it was possible for all the OP management systems to be transferred to this one database, with the migration taking place between April 2001 and August 2002.

61. The Commission database (SFC) still has some gaps and is difficult to use for verifying and analysing expenditure statements, annual reports and payment forecasts. In most cases the Commission consulted the database only to ascertain totals for eligible amounts at the level of the measure in question. This situation makes the Commission's role more difficult, since it has to use data interchange both for dynamic and strategic monitoring of programme priorities and for formulating observations or recommendations for improving implementation to the managing authority concerned.

62. The Member States have installed IT systems with links to the Commission (SFC) database, but for many of the systems the data from previous programming periods had not been fully recorded, making it difficult to carry out comparative analysis and identify project phases. In some cases there is even a risk of duplicate payments to beneficiaries.

63. Annual implementation reports were submitted late, with delays of one month or more, in the cases of several OPs in Spain (average delay four months), France (average three months), Ireland (average two months) and the United Kingdom (average three months). This was explained by the delay in forwarding instructions about the content of the reports. The instructions were contained in a Commission working document dated 25 May 2001, but it did not specify sufficiently the extent of the information required, nor explain the consequences of its being found not satisfactory by the Commission. The quality of the different annual reports also varied widely between Member States. Delays in approving SF intervention and the consequent delays in carrying out the related measures also combined to reduce the content of the first annual implementation reports.

64. In general, the audits showed that whenever new functions or procedures had been introduced incompletely or piecemeal into the framework of national institutional, financial or administrative systems there was an inherent risk as regards the separation of functions and the independence and operational efficiency of the new bodies.

65. Chains of responsibilities and coordinating bodies can complicate management and control if there is no back-up in the form of precise, detailed guidelines and instructions to intermediate bodies on EU rules, the requisite lists of controls and the procedures to be followed. This was not always the case ⁽⁴⁾.

66. Allocating the entire responsibility (for management, payment and certification) to a single authority, even in the form of

⁽¹⁾ In Ireland, Italy and the Netherlands the approach for the 5 % minimum *ex post* control had still not been defined.

⁽²⁾ Article 5 of Regulation (EC) No 438/2001.

⁽³⁾ In particular Articles 34(1) and 18(3) of Regulation (EC) No 1260/1999.

⁽⁴⁾ For example, in the case of the Brandenburg OP the managing authority (the Ministry of Finance) concluded an agreement with the ministries responsible for managing OP measures (the Ministry of Economy, the Ministry of Social Affairs and Employment and the Ministry of Agriculture for the ERDF, ESF and EAGGF segments respectively) whereby the latter were made delegated managing authorities, but with no clarification as to practical arrangements. In Spain (Objective 1), a system of shared responsibility was set up by means of a declaration annexed to all the OPs concerning the specific tasks of the national and regional authorities. Under the declaration the Autonomous Communities and other entities assumed responsibility for a number of measures that in principle fell to the managing authority, however, no list of essential operational controls was drawn up. In Ireland, certification by the paying authority is dependent on a ladder of approval in which each level relies on the assurance granted by the level immediately below it in the hierarchy.

different departments, may lead to conflict of interests ⁽¹⁾, unless their operational independence has been safeguarded in advance. Some departments even combined several functions ⁽²⁾.

67. In many cases the paying authority did not clearly inform managing authorities and intermediate bodies how it proposed to apply the controls for ensuring that the regulations have been respected ⁽³⁾. In many cases lists of controls and instruction manuals were still not available ⁽⁴⁾. It then became difficult for the paying authority to verify that all controls had been correctly implemented.

The eligibility rules for the period 2000 to 2006: lack of precision

68. In contrast to the previous programming period ⁽⁵⁾, Article 30(3) of Regulation (EC) No 1260/1999 states, in relation to the eligibility of expenditure for the period 2000 to 2006, 'The relevant national rules shall apply to eligible expenditure except where, as necessary, the Commission lays down common rules on the eligibility of expenditure...'. The new provisions ⁽⁶⁾ have led to some rules being abolished or relaxed, while others have been added.

69. The aim was to evaluate the precision of the new rules, as well as the legal security provided for final beneficiaries.

Eligibility principles not carried over to the period 2000 to 2006

70. The concept of final beneficiary and the role and responsibilities of final beneficiaries are less clearly defined than they were in the previous programming period. Clarification of these

concepts is now a matter for individual Member States and they must define them, but they do not always do so.

71. For example, the concepts of legal commitment and financial commitment are no longer clearly defined. The new rules no longer require a Member State to certify that deadlines have been met when it makes its expenditure statement, nor do they impose specific obligations for projects that overlap two separate programming periods. They no longer provide for the possibility of alternative financing ⁽⁷⁾ of projects cofinanced by the SF. Certainly for one Member State (France), this severely impeded the start of structural measures for which national cofinancing was not yet available. The Court's audits showed that for the period 2000 to 2006 the practice of alternative financing continued to exist in practice, although eligibility and specific obligations were not defined in this context ⁽⁸⁾.

72. In some cases, expenditure related to a beneficiary's current activity (administrative costs) or the restructuring of company balance sheets (capital increase or debt reduction) could now be considered eligible, without limitation, even though improving the corporate trading account is not one of the SF aims. Similarly, because of the absence of provisions specifically covering repayable assistance (zero-rate loans), it is no longer possible to determine the allocation of capital repayments beyond the end of the programming period, nor to determine the owner of the sum in question.

New eligibility rules for 2000 to 2006

Eligibility criteria already applied for the period 1994 to 1999

73. Certain eligibility concepts have been carried over in the new rules, but their meaning has sometimes been changed or partially eroded, allowing final beneficiaries a very wide margin for manoeuvre as regards limitations or differences of interpretation and leading to the persistence of unjustifiable differences between regions or Member States.

74. For example, as regards the concept of actual project costs, the new rules do not always make it clear that only clearly identifiable expenditure is eligible and that expenditure based on an arbitrary allocation is to be excluded.

⁽¹⁾ For example, in Lower Saxony (D), the Ministry of Economics and Transport comprises (in different departments) the managing authority, the paying authority and the independent body responsible for *ex post* control and final certification. In the case of PONSIL (NOP Sviluppo Imprenditoriale Locale, Italy) the managing authority and the paying authority are part of the same Directorate-General (Direzione Generale per il Coordinamento degli Incentivi alle Imprese — DG C11).

⁽²⁾ In France, SGAR (Secrétariat général pour les affaires régionales), the department for regional matters, reports direct to the prefecture (the managing authority), assists it in programming, commitment of expenditure and certification and takes part in *ex post* sample checks. The delegated paying authority, Trésorier payeur général, also participates in controls of this type.

⁽³⁾ Regulation (EC) No 1260/1999 and more specifically, Article 9(2)(a) of Regulation (EC) No 438/2001.

⁽⁴⁾ Germany, Greece, Spain, France (Corsica), Ireland, Italy, Portugal.

⁽⁵⁾ Eligibility datasheets adopted by Decision of 23.4.1997 (OJ L 146, 5.6.1997).

⁽⁶⁾ Regulation (EC) No 1685/2000 (OJ L 193, 29.7.2000).

⁽⁷⁾ Alternative financing is mainly a form of financial engineering. On the principle that cofinancing rates are set at measure level, alternative financing offers the possibility of financing some projects entirely from national appropriations and others entirely from Community appropriations but, overall, still respecting the average cofinancing rate at the level of each measure.

⁽⁸⁾ Spain, France.

75. Administrative expenses in connection with the implementation of a project are not capped in terms of a percentage of the total cost of the cofinanced operation. As a consequence projects may be eligible for financing by the SF, even though more than 80 % is made up of administrative expenditure.

76. In order to prevent unjustifiable differences in treatment between Member States the inclusion of depreciation as eligible expenditure ought to be better defined, since the fiscal and economic rules governing it may differ substantially from one Member State to another.

77. The eligibility of expenditure such as value added tax (VAT) and various other taxes and charges should be better defined in view of their complexity, specific national aspects and intrinsic characteristics: expenditure of this type does not necessarily contribute to regional development. Likewise, in connection with the acquisition of real estate, the possibility of providing accommodation for public departments if such use is compatible with the qualifying activities is not sufficiently specified in a regional development context.

78. Mention must also be made of the absence of procedures for establishing the rate of SF contribution to the financing of revenue-generating investment (enterprises, infrastructure) ⁽¹⁾; Article 29(4) of Regulation (EC) No 1260/1999, for example, lends itself to various interpretations as regards the revenue components in question, the reference period, part of the project concerned and method for calculating the gross self-financing margin. The absence of defined procedures allows final beneficiaries and managing authorities to set the rate of contribution as they see fit, so giving rise to variations in treatment among identical projects.

Specific aspects concerning the period 2000 to 2006

79. The new rules on eligibility have added new concepts, but without specifying how they are to be applied. For example, expenditure relating to an operation outside an eligible area may now be eligible under the new provisions, in proportion to the impact on an adjacent eligible area. The rules do not deal with the treatment of revenue potentially generated by projects on account of their location. Furthermore, although the SF contribution to an operation may not be retained, if the latter undergoes substantial modification within five years, specific provisions for special cases such as privatisation of a project or discontinuation of a project for justifiable reasons are not stated.

80. In general, the Court also found that at Member State level the managing and paying authorities paid little attention to

the eligible expenditure aspects. They often referred to the Commission's eligibility datasheets, but seldom provided specific details. There is thus a real risk of variations in treatment within a Member State and from one Member State to another.

Eligibility of private expenditure

81. Various interpretations were made of the situation regarding the eligibility of private expenditure ⁽²⁾ under the SF. Articles 18(2)(c), 18(3)(c) and 19(3)(c) of Regulation (EC) No 1260/1999 can be interpreted as meaning that only public financing is eligible. On the other hand, Article 29(2) does not necessarily imply the same thing as it states that 'the contribution from the Funds shall be calculated in relation to either the total eligible cost, or the total public or similar eligible expenditure... under each assistance', without specifying the nature of this 'similar' expenditure. Some managing authorities have therefore eliminated all reference to private expenditure from their programming documents, while others continue to refer to it as in the previous period, mainly to show the complementarity and synergy of the two types of funding. Whilst decisions and financing plans both distinguish between public expenditure and private funds, neither of them specifies which of the two constitutes the eligible cost. The type of decision being equal, the Commission's management is not always consistent. By way of example, in one case ⁽³⁾ the Commission calculated the amount of the payment by applying the cofinancing rate to the total cost, whereas in another case ⁽⁴⁾ the same rate was applied only to public expenditure for each measure.

Project selection criteria

82. Within six months of assistance being approved the Monitoring Committee must consider and approve the criteria for selecting the operations financed under each of the measures and, if they are available, annex them to the programme complement ⁽⁵⁾.

83. The audit considered whether implementation of the new regulations has led to the introduction of systems which allow projects to be selected on the basis of objective selection criteria which reflect the aims pursued, after transparent decisions have been taken.

⁽²⁾ Expenditure by private enterprises or individuals.

⁽³⁾ Portuguese OP Agriculture and rural development (99PT061PO007).

⁽⁴⁾ German OP Mecklenburg-Vorpommern (AGRI1999DE161PO004).

⁽⁵⁾ Article 35 of the general regulation on the SFs for the period 2000 to 2006 (Regulation (EC) No 1260/1999).

⁽¹⁾ As mentioned in Special Report No 15/2000 on the Cohesion Fund (OJ C 279, 2.10.2000) and the Annual Report concerning the financial year 2000, paragraph 3.82 (OJ C 359, 15.12.2001).

84. The Court's audits showed that the establishment of these project selection criteria still varied widely from one Member State to another and, as far as making the best possible use of objectives and priorities was concerned, the criteria did not add anything to the value of structural actions. In some Member States ⁽¹⁾ an additional scoring system combined with criteria weighting was added to the pre-established selection criteria in order to make them more selective and enhance the value added by the structural actions.

85. In other Member States, on the other hand, selection criteria for the projects mentioned in the programme complement were not selective and were not explained in detail. In this connection, every managing authority should be given the task of making the criteria workable and ensuring that they are consistent with the objectives of structural intervention. In practice the effort devoted to the selectivity aspect was not enough to ensure that the best projects were actually adopted. There were many examples of vague project selection criteria that did not include a clear definition of the baseline, for example, increasing productivity, regional GDP or the number of SMEs (small businesses). Concepts such as dead-weight effect, added value, maintaining employment, leverage effects, private sector participation or cost-effectiveness were poorly explained and were rarely among the selection criteria that were verified. On a similar level, the method of ranking selection criteria was seldom mentioned.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

86. The audit confirmed that, for the programming period 2000 to 2006, the Commission had played an active and positive role through its indicative strategic guidelines, negotiation of plans and programmes with the Member States, promotion of best practice and constant concern to improve the effectiveness of the SF. At all stages of the audit significant progress was noted relative to the previous period. Alongside these broadly positive aspects, a number of difficulties remained.

87. The audit results showed that the Commission had determined the eligible areas more rigorously than for the previous period. In the case of Objective 1, the data used for this purpose related to years 1994, 1995 and 1996, as required by the regulations. However, they did not include all the structural effects of actions during the previous period and, in contrast with Objective 2, there was no provision for a mechanism for making necessary adjustments in order to ensure that SF assistance was effectively focused on the least favoured areas of the Community. In the case of Objective 2, there were still shortcomings in the relevance of the information used to determine eligible areas, and

the exercise was based on criteria that were too imprecise and allowed too much scope for bilateral negotiation. In addition, regional policy and competition policy still lacked consistency (see paragraphs 6 to 16).

88. In the programming context the Commission's guidelines were a useful concept. However, the Member States' approaches to SF programming differed from those of the Commission and this was a cause of delays. The objectives which the Commission pursued at the approval stage were supposed to improve the quality of programming, but they were successful only in part and at the cost of substantial overruns on the deadlines imposed by the regulations. The new mechanism of the programme complement eventually proved to be a supplementary procedure which heightened delays and gave rise to problems of interpretation counter to the objective of simplification laid down in the SF Regulation. Furthermore, the programme complements did not always supply relevant information as intended (see paragraphs 18 to 24).

89. *Ex ante* evaluation had little impact on the programming process. Evaluation was confined to justifying the programming as proposed and only rarely considered its validity and the underlying strategy. Although the Commission's aim was to reinforce the evaluation approach, it did not prepare enough relevant information or provide all the necessary resources (best practice, dissemination of methods and techniques, etc.). Models of the macroeconomic impact of the SF were not always adequate to the task of identifying the optimum programming structure or the most suitable allocation of funds. In the same way, although the Court did note some progress as regards indicators, these were still not sufficiently quantified or relevant (see paragraphs 26 to 44).

90. The internal and external coherence of the structural programmes adopted is an important factor in ensuring that the desired objectives and impact are successfully achieved. Their coherence can best be evaluated by a hierarchical structure of priorities. Analysis of various programmes highlighted a number of shortcomings in this area (lack of correspondence between objectives and between objectives and resources, ill-defined synergies between Funds or actions, insufficient supporting information, etc.). The negotiations between the Commission and the Member States did not always succeed in improving the coherence of assistance measures before they were adopted (see paragraphs 31 to 35 and 46 to 49).

91. The budgetary allocations for CSFs and programmes was determined less by a well-established development strategy than by the previous use made of appropriations in connection with certain measures, the history of implementation and the need to guarantee the best possible take-up of funds in each Member State (see paragraph 49).

⁽¹⁾ Belgium, United Kingdom and Ireland for some measures.

92. As the Court has already observed on previous occasions ⁽¹⁾, the programming weaknesses detected affect the subsequent implementation of programmes. For example, if the Commission has insufficient data concerning the national and regional policy frameworks within which a plan or draft SPD is being implemented, or if the indicators are found to be deficient, there will be problems with any subsequent revisions of the CSFs or OPs. Programme revisions would consequently tend to be shaped by the rapid absorption of appropriations rather than reliable indications of actual achievements, results and impact.

93. The choice of criteria on which to base allocation of the performance reserve is mainly a matter for the Member States. This brings an inherent risk that application of the reserve will be inconsistent and ineffective (see paragraphs 50 to 53).

94. The management systems for the programming period 2000 to 2006 are still incomplete and inadequately defined as regards the composition and responsibilities of managing and paying authorities, electronic data interchange, the drafting of annual implementation reports and procedures concerning project selection criteria. Furthermore, several Member States have not yet fully developed the national control systems provided for in Regulation (EC) No 438/2001 in connection with the certification of expenditure (see paragraphs 54 to 68).

95. Efficient management of structural programmes presupposes that eligibility rules are clear and as comprehensive as possible. The new rules for the period 2000 to 2006, however, are incomplete and insufficiently precise, leaving room for inequalities of treatment when they are applied and making controls more difficult (see paragraphs 68 to 81).

96. Similarly, project selection criteria are supposed to ensure that, as far as possible, projects target the same objectives as the programme of which they are part. Some of these selection criteria need to be further refined if they are to be fully effective (see paragraphs 82 to 85).

97. The objective of simplification has still not been fully attained, and sometimes, in fact, the reverse has been achieved. This is particularly the case, as mentioned above, with the process

of programme adoption (paragraph 88), programming consistency (paragraph 90), the setting up of decentralised management systems (paragraph 94) and eligibility rules (paragraph 95).

Recommendations

98. In order to focus the SFs on the areas that are most seriously affected and at the most appropriate geographic level, the Commission should take full account of the most up-to-date reliable information. As regards Objective 2, in view of the weaknesses affecting the determination of eligible areas, the Commission should seek to improve the objectivity of the relevant criteria and establish clearer rules in order to avoid all inconsistency and lack of uniformity in Member States' application of them.

99. The definition of responsibilities should be clarified, especially as regards the programme complement and the duties of the bodies that are involved in the management of assistance measures at Member State level.

100. It is recommended that the Commission and the Member States take the necessary steps to make the programme complement an effective decentralised management instrument, to achieve a correct approach to the later stages of mid-term and *ex post* review and evaluation (by means especially of more appropriate indicators) and to allocate the performance reserves consistently and fairly.

101. On the management side, the Commission should ensure that it collects sufficient information and carries out relevant analyses to guarantee consistency between the structural programmes adopted; it should also clarify the eligibility rules in detail and ensure that adequate selection criteria are developed.

102. In overall terms, the observations concerning the implementation of SF programming for 2000 to 2006 demonstrate the need for the Commission to continue its efforts to improve the effectiveness of the current drive for simplification whilst maintaining the high standard of structural measures in terms of legality, regularity and sound financial management. Programming, programme revisions and management must focus above all on effectiveness rather than merely seeking the best possible take-up of funds.

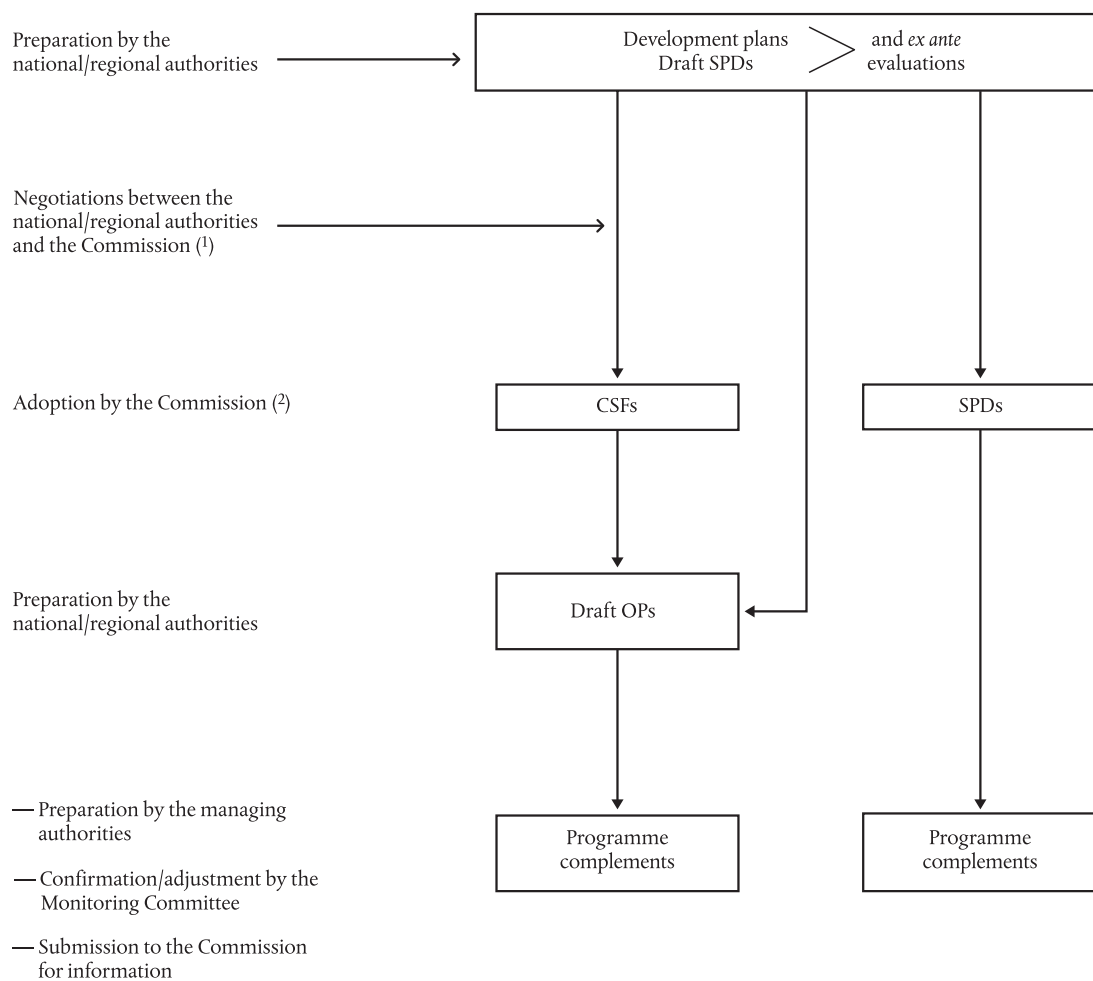
This report was adopted by the Court of Auditors in Luxembourg at its meeting of 8 May 2003.

For the Court of Auditors
Juan Manuel FABRA VALLÉS
President

⁽¹⁾ See Special Report No 15/98, paragraphs 4.14 to 4.21; Special Report No 16/98, paragraphs 6.19 to 6.24 (OJ C 347, 16.11.1998); Annual Report concerning the financial year 1998, paragraphs 3.68 to 3.84 (OJ C 349, 3.12.1999).

ANNEX 1

PROGRAMMING PROCESS



⁽¹⁾ Having checked that the plan or the draft SPD is acceptable, the Commission draws up a negotiating brief based on its appraisal of the plan or draft SPD. The responsible Member of the Commission informs the person responsible at national or regional level of the main points of the brief.

⁽²⁾ Adoption by the Commission after consulting the committees provided for in Regulation (EC) No 1260/1999.

ANNEX 2

EVALUATION OF THE MACROECONOMIC IMPACT OF THE SFs

1. The evaluation of macroeconomic impact for the large Objective 1 plans was based on economic models.
2. The evaluation of the macroeconomic impact of the SFs and the models used is expected to produce results which can be used for the following:
 - (a) to estimate the extent to which the plan and, subsequently, the CSF further the general objectives of economic and social cohesion and, in particular, the main variables (GDP of the region/Member State concerned, employment, global productivity of factors or productivity of labour and/or capital, and competitiveness);
 - (b) to demonstrate the contribution to growth made by the various instruments (investment in infrastructure, investment in human resources and productive investment) while also highlighting the mode of interaction of SF assistance within the framework of these instruments ⁽¹⁾;
 - (c) to identify demand-side effects as well as supply-side effects (longer-term effects on productivity and prices/income), the improvement of supply-side factors being one of the main aims of SF assistance;
 - (d) to differentiate between regions within the framework of the impacts at a Member State level, and to demonstrate the reality and sustainability of convergence within that Member State and, also, relative to the EU averages;
 - (e) to identify impacts on key factors of sustainable development, such as control of public debt and the balance of payments, income distribution and respect for the environment;
 - (f) to simulate scenarios for the economic development of a region, given a set of hypotheses (without programme, with alternative programmes), in order to provide estimations of programme impact.
3. The models applied included Hermes (in Ireland), Input-Output (Portugal), Moisees (Spain) and KEPE (Greece). Hainaut (B) was the only region for which a macroeconomic model (HELM ⁽²⁾) was specifically designed. Generally speaking, these models provide estimations of the effects of the SF on GDP growth, private consumption, gross fixed capital formation, employment, unemployment and the balance of payments. Some also look into supply-side effects.
4. The following Commission models, too, were applied to the plans and CSFs of the Member States receiving Cohesion Fund aid:
 - (a) the econometric model Hermin is built around three types of relationship (supply-side aspect, demand-side aspects and the relationship between prices and wages) and takes account of the particular characteristics of each Member State, combining the effects at national level. The model starts from the hypothesis that economies do not make full use of their productive capacity and that as a consequence the multiplier and accelerator effects associated with increased investment cause production and employment to expand. Its results appear to be satisfactory as regards demand-side effects. It also considers longer-term supply-side effects, including effects on productivity and wages. It takes account of external factors from the SFs in particular, as well as the impact on sustainable development aspects such as the public deficit and the balance of payments;

⁽¹⁾ For example, expenditure on infrastructure as a complement to private capital may increase the return on private capital and act as an accelerator in terms of productivity and convergence.

⁽²⁾ HELM: Hainaut Economic Lead-in Model. The model was described in Special Report No 15/98 on the assessment of Structural Funds intervention (OJ C 347, 16.11.1998, p. 33).

- (b) in a multinational framework, the QUEST II model is concerned with the transmission of economic policy effects at the national and international levels. This model is used to quantify scenarios in various fields (monetary policy, budgetary policy, analysis of the economic repercussions of changes in the international arena such as movements in exchange rates, currency interest rates, oil prices and other world prices). It is a neo-classical framework the key equations of which are rooted in certain hypotheses: that consumers, enterprises and workers will in time maximise utility and profit, and that the economy does not operate at full capacity because of imperfect competition on the market in goods and services and because of the search for employment combined with the wage-bargaining mechanism on the labour market. Where the SFs are concerned, although the QUEST model does not distinguish between the Funds' sectoral and regional aspects, it does consider demand-side effects, especially in relation to unemployment (where they derive from the wage-bargaining mechanism and imperfect competition), supply-side effects (particularly through the relationships between wages, inflation and exports or concerning supply-side externalities produced by investment in infrastructure and human resources) and the effect on public debt and the trade balance as important aspects of sustainable development.

5. As well as being applied to the plans and CSFs of the countries benefitting from cohesion measures, the Hermin model was also adapted to eastern Germany. In that context, as the existing statistical data were unreliable or incomplete, it made use of greatly simplified or extremely approximate information (e.g. the parameters used for Greece, Ireland or Portugal), on the assumption that the situations are broadly comparable. Similarly, it took account, without explanation, of the income and price elasticities of demand used for Ireland. In view of this degree of amalgamation, the results of the Hermin model for eastern Germany should be viewed very cautiously and, indeed, with considerable reservation.

6. Anomalies observed in the application of the Hermin and QUEST II models did not give rise either to genuine questions or to a review of the structure of the CSF and assistance or of the corresponding fund allocations. The same is true where these models have produced relatively divergent results concerning the effects on price levels, GDP, employment (Greece) or when the effects they revealed were fairly weak (Spain). In the case of the Italian Objective 1 plan, the conclusions of the analysis performed with the aid of the model showed, amongst other things, that an increase in public investment in the south of Italy would have limited impact on growth and an insignificant effect on employment because of substitution effects between the public and private sectors ⁽¹⁾. In addition, there was no evidence of convergence between the North and the South. These observations, the plausibility of which was verified, had no real effect on the Italian CSF that was adopted.

⁽¹⁾ Otherwise known as 'crowding-out'.

COMMISSION'S REPLY**SUMMARY**

III. (a) The Commission followed the Regulation, which takes account of the fact that the regions whose development is lagging behind require long-term assistance.

(b) In view of the varying situations of the regions undergoing socioeconomic changes, the Regulation allowed half the population covered to be in areas proposed which met objective and justified qualitative criteria based on national statistics. The other 50 % had to be industrial or rural areas meeting Community criteria. The Commission applied the Regulation.

(c) The Member States made use of the freedom which the Regulation allowed them. However, the two maps correspond to a greater extent than before.

IV. The Commission agrees with the Court about the progress achieved in these fields, the cumbersome nature of the procedures laid down by the Regulation and the resulting problems in complying with deadlines. It will take this experience into consideration in its thinking about the next programming period. It believes that a judgement should be made on the advantages of the system of programme complements on the basis of the experience of the whole period, and not just the start.

V. The Commission's working documents contain guidance to the Member States on evaluation, but do not aim to cover every specific situation. The *ex ante* evaluation was the sole responsibility of the Member States. It was their role to draw up terms of reference and select evaluators. Detailed information on methodologies is available in the MEANS collection ⁽¹⁾. The evaluators had to develop methodologies appropriate to the situation of the Member State. The Commission believes that the majority of *ex ante* evaluations were constructively critical. Exploring the likely impact of alternative strategies represented good practice and was done in some cases. Detailed information on national and regional policies was not always readily available. The added value of the *ex ante* evaluation was to enhance the coherence of the programmes and to improve the quantification of objectives.

VI. The selection of indicators for the performance reserve was not left solely to the Member States. There are three types of indicator, relating to management, finance and effectiveness. Although Member States could choose, management and finance indicators are in most cases those proposed by the Commission. Effectiveness indicators must vary by programme and Member State since they are output and result indicators from the programmes. The Commission is monitoring the situation closely.

VII. The Commission considers that the Member States have made and are continuing to make substantial progress in all these areas. It is carrying out preventive audits covering the various aspects of the new systems and in spring 2003 will publish a report on its findings as far as the ERDF is concerned.

VIII. The Commission regards the rules as sufficiently precise and complete since the aim is to regulate as little as possible at Community level and leave the provisions on other than this common core to the Member States. It will provide clarifications wherever doubts exist.

⁽¹⁾ The six-volume MEANS (Means for Evaluating Actions of a Structural Nature) Collection (European Commission, 1999) on evaluating socioeconomic programmes was the outcome of a four-year programme on evaluation methodologies which was funded by the Commission and was drawn up by independent experts in evaluation.

IX. The Commission has encouraged the establishment of relevant selection criteria and insists that they are applied systematically. It considers that progress has been made compared with the previous period although naturally there are differences in performance between the Member States in this field and the Commission is continuing to seek improvements. It is well aware of the crucial importance of project selection if assistance is to have an impact.

X. The Commission agrees with the Court and is taking action simultaneously on the two fields of quality and sound financial management.

- (a) The problem to which the Court refers is currently being considered as part of the preparation of the future of the Structural Funds.
- (b) The current regulations already set out these responsibilities to a considerable degree, although further progress in the field of shared management would be desirable.
- (c) The Commission intends to follow the path advocated by the Court and welcomed the discussions with the Member States on this point at a conference on the future of the Structural Funds held on 3 and 4 March 2003.
- (d) The Commission endeavours to stress effectiveness rather than absorption but considers that sound financial management should allow both objectives to be attained.

IDENTIFICATION OF ELIGIBLE REGIONS

8. Regulation (EC) No 2223/96 on the European system of accounts (ESA 95) did not require the Member States to make available data using ESA 95 until April 1999. Regional GDP data based on this new system were published for the first time only in January 2000.

Publication of regional GDP data takes more than two years: the national statistical institutes have to collect and process the data and Eurostat has to make the checks required to validate them.

9. There is no 'mechanism for making adjustments on the basis of more recent data' for Objective 1 because the regions whose development is lagging behind require long-term assistance if they are to catch up. The Objective 2 areas, the list of which may be reviewed at mid-term, suffer from short-term handicaps relating to socioeconomic changes to which answers may be found in a shorter period. In any case, unexpected restructuring in a particular sector may justify the adjustment of the map of eligible areas.

10. The Commission agrees with the Court that changes to the administrative division of regions on the basis of 'gentlemen's agreements' with the national statistical institutes is unsatisfactory. That is why it proposed a draft Regulation of the Council and of the European Parliament laying down the arrangements for defining the NUTS. Adoption of this regulation is expected in May 2003.

11. The fragmentation of designated areas results from the fact that each Member State was free to propose the most seriously affected areas for eligibility under Objective 2; however, under Article 4(3), these could be smaller than NUTS level III. In these circumstances, it is true that some Member States preferred to maximise territorial coverage by proposing small areas.

In its second report on economic and social cohesion, the Commission noted the fragmentary nature of the areas designated.

13-14. In the 1989 to 1993 and 1994 to 1999 programming periods, Objective 2 and Objective 5(b), which was included in Objective 2 for the 2000 — 2006 programming period, covered only two types of area: those undergoing industrial conversion and rural areas. From 1 January 2000, new types of areas were included, for which harmonised data at Community level are not available at the appropriate level: these are the urban areas, the areas dependent on fisheries and the additional specific areas (Article 4(9)).

The eligibility of areas in these three categories could be determined only on the basis of national statistics. In 2000 to 2006 these three categories account for 24 % of the total eligible population. Their inclusion in Objective 2 goes a very long way to explaining the smaller share taken by the areas meeting the Community criteria.

The Commission required the Member States to make proposals on the list of eligible areas using standard tables which had been sent to the national authorities in June 1999. These tables required

in particular that, in the case of areas submitted under national criteria, the indicator used should be provided not only for the area in question but also at the level of the NUTS III region, the NUTS II region or the Member State. The purpose was twofold:

- to ensure that the situation in the area selected within these regions was more serious than the regional or national average,
- and, as far as possible, to compare the value of the indicator with the Eurostat data available at the NUTS levels III, II and I.

16. In its Communication to the Member States in March 1998, the Commission suggested that there should be a high level of consistency between State aids for regional purposes and the Structural Funds: as a rule, no area should be included in the new Objective 2 if the Member State did not undertake to place it on the list of assisted areas sent to the Commission under Article 92(3)(c).

The Council reduced the level of consistency required by simply stating in recital 16 to the general Regulation on the Structural Funds that the Objective 2 areas should correspond to a large extent to the assisted areas.

Accordingly, the Member States have retained a certain freedom in their proposals of areas eligible under Objective 2, while the Commission alone can decide on the areas assisted using national aid. This meant that complete consistency could no longer be guaranteed. However, the geographical correspondence between the maps for Objectives 1 and 2 and the map of regional aid has improved slightly compared with 1994 to 1999 in all Member States except Belgium and the United Kingdom.

Nor should it be forgotten that, because of the limited coverage of the areas assisted under Article 87(3)(c), the economic gaps between these areas and other non-assisted areas are often only slight and that the non-assisted areas can enjoy aid for small firms and the full range of development instruments which do not entail State aids.

OBSERVATIONS ON THE PROGRAMMING OF OBJECTIVE 1 ASSISTANCE

17. In its Communication of 5 July 2001 on the results of the programming of the Structural Funds in 2000 to 2006 (Objective 1), the Commission identified the strengths and weaknesses of the new rules on programming.

In any case, the results of the programming process in 2000 to 2006 can be judged only on the basis of the period as a whole.

19. The Commission agrees with the Court that the deadlines in the Regulation were unrealistic — they were even shorter than those for 1994 to 1999.

20. Programming was complicated by the extra requirements intended to ensure that assistance complied with the rules and to improve its quality. Hence the Commission insisted, as a precondition for the approval of programmes, on the establishment of the lists and procedures required by the Natura 2000 directives. It also had included in each programme a list of the State aid schemes to be applied and information on the measures taken to avoid cumulation. In addition to these regulatory requirements, it sought better quality programming, for example by making greater use of the results of the *ex ante* evaluation, taking account of the Commission's horizontal priorities (employment, sustainable development, innovation and the information society and equal opportunities) and, in the case of the ESF, the European Employment Strategy, with particular attention given to defining monitoring indicators accompanied by quantified objectives and fixing criteria for the allocation of the performance reserve. The Commission also paid special attention to the reliability of the structures created to manage assistance.

It is true that the large number and complexity of the subjects to be negotiated created a considerable workload for all the partners, including the Commission, despite the efforts it made to reduce this.

21. The programming process was divided into stages, some of which were new, to comply with the new division of responsibilities between the Commission and the Member States required by the rules. The Commission will consider how the procedure can be simplified in the forthcoming period.

22 and 23. In October 2001 the Commission clarified the division of responsibilities concerning the programming complement ⁽¹⁾.

24. When it adopted the guidelines on State aids for regional purposes, the Commission, in its letter of 24 February 1998, proposed that all the Member States should send it their draft regional aid maps (regions proposed and aid intensity to be applied) by 31 March 1999 so that they could come into force from 1 January 2000. Despite delays by certain Member States (in particular, four notifications reached the Commission in December 1999

⁽¹⁾ Note to the Committee on the Development and Conversion of Regions, No CDCR/01/0113/00.

and three others only during 2000), the Commission was able to approve the maps for Denmark, Greece, Ireland and Finland and parts of the maps for Germany and Portugal concerning the regions eligible under Article 87(3)(a) of the Treaty before the end of 1999. The process of adopting the regional aid maps was completed in September 2000 when the Commission approved the maps for Belgium and the part of the map for Italy dealing with the regions eligible under Article 87(3)(c).

All the decisions concerning the adoption of the lists of areas eligible under Objective 2 were taken before the end of February 2000 except in the case of Italy, where this was done in July 2000. In some cases the procedure was prolonged for the following reasons:

- the late submission of proposals;
- problems of acceptability (e.g. failure to respect the population ceiling laid down by the Commission, failure to respect the clause stating that areas meeting the so-called 'Community' criteria had to account for at least 50 % of the total eligible population, lack of statistical indicators demonstrating the eligibility of the areas proposed).

Finally, each Member State required two decisions, a decision in principle before the Committees were consulted and a final decision.

26. For the period 2000 to 2006 the Commission published working papers to guide Member States and evaluators in meeting the requirements of Regulation (EC) No 1260/1999 as regards evaluation ⁽¹⁾.

The working papers complemented the methodological guidance provided in the MEANS series and were addressed to the European evaluation community which already had considerable expertise in techniques and methods. They could not deal with every specific situation that could arise. Their objective was to recommend an overall approach and identify the key components. Professional evaluators bring their experience to bear in developing methodologies specific to the task at hand, which can become good practice. The good practices in *ex ante* evaluation highlighted by the Court were developed within national contexts. Such good practice in evaluation is developing continuously, which is why the MEANS collection is currently being updated to disseminate good practice developed during the process of the *ex ante* evaluation for the 2000 to 2006 programme period. The new version will be available in the middle of 2003.

⁽¹⁾ http://europa.eu.int/comm/regional_policy. These papers were on *ex ante* evaluation (Working Paper No 2); Indicators for monitoring and evaluation (Working Paper No 3); Implementation of the performance reserve (Working Paper No 4); and Mid-term evaluation (Working Paper No 8).

- (a) Different methods exist for analysing needs as the basis for determining priorities and drawing up hierarchies of objectives. The purpose of this part of the *ex ante* evaluation was to elicit the judgement of the evaluator on the proposals of the Member State. Working Paper No 2 proposed the SWOT analysis ⁽²⁾ as an appropriate approach and recommended that the *ex ante* evaluation should attempt to link the needs to the priorities and the financial allocations (page 18). The MEANS collection provides details on SWOT analysis and other tools (e.g., concept mapping, multi-criteria analysis, Delphi surveys, etc.) which can be used (Volume 3). Evaluators needed to identify the appropriate tools for this task, depending on the context and the information available.
- (b) Working Paper No 2 emphasises the importance of the *ex ante* evaluation examining the quantification of objectives, particularly their reliability. Where the Commission had concerns about methods used, these were raised with the Member State in the negotiations.
- (c) Alternatives were considered in a number of programmes and the Commission will consider how to disseminate and encourage such practices in the future.
- (d) The benefits of the practice supported by the Court's proposal would need to be weighed against the administrative cost and the impact on the length of the programmes and the programming process.
- (e) The Court's proposal is based on the approach taken by the evaluator for the Irish CSF. The principles applied represented good practice. They were applied first in the mid-term evaluation of the Irish CSF in 1996 and the results were published and disseminated. However, all Member States had responsibility for drawing up their own terms of reference for their *ex ante* evaluations and selecting the evaluators. Avoiding dead-weight and displacement effects is implicit in the approach to the quantification of objectives put forward by the Commission. Deadweight and displacement are considered in estimating net results and impacts from gross results and impacts (e.g. gross jobs to net jobs). The added value of support, multiplier effects and the durability of results are also core evaluation issues. All these effects tend to receive greater emphasis in mid-term and *ex post* evaluation rather than at the *ex ante* stage. The effects are difficult to estimate in advance and are rather the result of effective or ineffective implementation; in the case of displacement it should be noted that occasionally it is positively supported by the Funds in the interests of targeting disadvantaged areas or groups.

⁽²⁾ Analysis of strengths, weaknesses, opportunities and threats.

(f) The number of development priorities has been kept small deliberately, to avoid there being too many priorities. It is the responsibility of the Member States to identify relevant priorities in addition to the global priorities listed by the Commission. Furthermore, it is also the responsibility of the Member States to propose approaches to regional development, such as those cited by the Court, or others which may be more relevant to the national or regional contexts.

27. In the context of greater decentralisation to the Member States of responsibility for programming, evaluation and monitoring, the weaknesses the Court identifies are rather areas where the Member States and evaluators should design and develop approaches suitable to national or regional circumstances.

The Commission drew up the working papers after discussion with evaluation experts in the Member States. These agreed that they formed a useful and high quality support to the evaluation effort, which in the case of *ex ante* evaluation is a national responsibility.

The conclusion of the Commission's communication of 5 July 2001 on the results of the programming of Structural Funds for 2000 to 2006 was that the quality of the strategies adopted in the programme documents for the current programme period has improved. The *ex ante* evaluation made an important contribution in this respect — particularly in developing the SWOT analysis approach and in the quantification of objectives. At the Informal Council of regional policy ministers in Namur in July 2001 the Member States agreed with this conclusion.

The Commission nevertheless believes that Member States can further improve the *ex ante* evaluation process. While all the Member States satisfied the requirements of the regulation, there were variations in performance. Some organised particularly effective *ex ante* evaluations, drawing on their history and practice in evaluation; others were less open to the process, but even in these cases progress was evident.

29. The Commission believes that the majority of *ex ante* evaluations were constructively critical. The analysis of alternative strategies is good practice and was undertaken by two Member States, but it was not a requirement. The Commission agrees that in some cases the *ex ante* evaluation acted to justify strategies chosen by the Member States, but even in these cases the *ex ante* evaluation enhanced the coherence of programming and the quantification of objectives.

30. The recommended role for the evaluator was outlined in Working Paper No 2, which stressed the interactive role between the planners and the experts involved. While all *ex ante* evaluations added value, in a minority of cases the Commission was not satisfied with the quality or it desired additional inputs and therefore contracted its own experts to give an alternative view and an additional input to the programming process.

32. Working Paper No 2 asked for the *ex ante* evaluation to demonstrate the sound foundation of the strategy and the proposed financial allocations (p. 18). Practice in this regard varied widely across Member States and regions and particular practices are not well established. The example cited by the Court represents good practice, which may be adopted by other Member States in the future.

33. Many of the programming documents followed the structured hierarchy of objectives set out in the Commission's Working Papers Nos 2 and 3. Where there were weaknesses, the *ex ante* evaluation in some cases contributed to improve the internal coherence of the strategy, particularly the relationship between objectives and actions. However, the Commission believes there is still room for further improvement, especially in enhancing the coherence of measures in the programme complements with the overall objectives of the programmes.

34. This was good practice but was not always followed because it was uncertain whether the possible benefits outweighed the administrative costs.

35. It is not always possible to quantify objectives precisely. The Commission believes that significant improvements have taken place since the last programming period, but there is still scope for further improvement, including with regard to the verifiability of quantification methods. An approach based on the principles justifying public-sector intervention was carried through in the cases of Ireland and Belgium. Member States had responsibility for programming and for developing their strategies and this approach was not adopted by other Member States who were drawing up their programmes at the same time.

36. The Commission believes that good progress has been made in the *ex ante* evaluation and programming process. It would refer to its replies to the Court's observations at point 27.

38. In Working Paper No 2, the Commission indicated the key components needed for macroeconomic modelling. Different principles of economic intervention exist in different Member States depending on the political systems in operation and these lead to different models. However, the Commission has undertaken some additional modelling work which is comparable (the Hermin model, developed by the ESRI in Ireland). The results were published in the Second Cohesion Report ⁽¹⁾. The Commission supports the development of macroeconomic models in different countries and regions and, indeed, the availability of more than one model allows for analysis of the differences and a greater understanding of the levers for economic development in the country or region.

39. The Regulation requires an evaluation of impact in terms of anticipated results. There was no requirement at the time for it to evaluate the impact of alternative strategies. In any case, the Commission believes that macroeconomic modelling provides just one further input into the process of decision making. All macroeconomic models provide estimates and they have limitations. They are one important tool among several.

40 and 41. The Commission has recently initiated a study to develop regional macroeconomic models. The work is experimental at this stage but may lead to the availability of better information at regional level.

43. The Commission would refer to its replies to the observations of the Court at point 27.

44. The Commission agrees that further improvements can be made in the quantification of objectives.

(a) The Commission encourages continuous development of targets during the programming cycle. In some cases further work has been done after the approval of programmes. Nevertheless, the examples cited by the Court are not sufficiently representative of the general situation. Where further work has been done, the mid-term evaluation to be completed by December 2003 can verify this work.

(b) There can be difficulties in identifying and quantifying indicators for Structural Fund assistance. These difficulties and limitations were recognised in Working Paper No 3 and evaluation experts and those responsible for developing programmes are well aware of these challenges. In fact, indicator systems are a mix of top-down and bottom-up indicators. The difficulty for any system of indicators is forging the causal link between the two approaches.

45. Under the general Regulation on the Structural Funds, the purpose of the financing plan is to determine the financial resources provided by each source of finance on an annual basis formally determining the Community appropriations to be committed in each year of the period 2000 to 2006 pursuant to Article 31(2) of Regulation (EC) No 1260/1999.

The rules also provide other specific instruments, such as the annual report on implementation, to monitor and evaluate the progress of assistance.

46 to 49. The Commission would refer to its replies to the Court's observations, particularly points 27 and 36.

47. (a) National policies, including non-co-financed parts of development plans, formed the context of the negotiations on the CSFs referred to and influenced the results, even if only indirectly.

(b) See reply to point 26(e).

48. If the Commission did not prevail in all the suggestions it put forward and if not all issues of development impact could be resolved, this is part of the nature of negotiations, which have to reach a mutually acceptable conclusion within a short time frame.

49. The Commission considers that progress has been made in programming the Structural Funds to ensure their implementation in accordance with a well-established development strategy, and that the quest for effectiveness was not neglected in favour of the use of funds. Calculating the resources required to achieve the objectives set is not always easy without reference to the consumption of appropriations by earlier measures of the same type.

52. There are three sets of indicators for the performance reserve: effectiveness, management and financial indicators. All Member States in fact use the same set of management and financial indicators, in some cases with adaptations. Effectiveness indicators are directly related to the content of the programme as they are a subset of the programme's output and result indicators as proposed by the Member State. Allocation of the performance reserve within programmes is provided for in the Regulation (Article 44(2)), where Member States asserted that the institutional context is such that transfers of funding across regions are not possible. This was not the original proposal of the Commission but was the result of agreement by the Council and the European Parliament.

⁽¹⁾ Second report on economic and social cohesion, adopted by the European Commission on 31 January 2001.

53. The Commission has agreed with the Italian and Portuguese authorities that national reserves will not be used to compensate for the performance reserve.

OBSERVATIONS CONCERNING THE MANAGEMENT, PAYMENT, MONITORING AND CONTROL SYSTEMS

55. Regulation (EC) No 438/2001 was finalised in December 2000 after eight months of negotiations in the Structural Fund committees culminating in a unanimous vote of approval in the CDCR. Although the Regulation appeared a little too late for its provisions to be reflected in all programme documents, Member States were able to decide early in 2001 how they were going to implement the new requirements. If not all the systems were in place and fully operating by the end of 2001, this was largely due to the scale of the changes required and the intense work still being done on the 1994 to 1999 programmes. Regulation (EC) No 438/2001 lays down detailed provisions on the requirements of Regulation (EC) No 1260/1999, for example those on paying authorities, the organisation of managing authorities and intermediate bodies, and project monitoring (*vérification de service fait*) to ensure delivery of the goods and services part-financed, the eligibility of expenditure declared and compliance with legislation (Article 4 of Regulation (EC) No 438/2001).

56. Regulations (EC) Nos 1260/1999 and 438/2001 required new legislation in many Member States, for example Spain ⁽¹⁾, Portugal ⁽²⁾ and France ⁽³⁾. The Greek legislation referred to by the Court was followed by many detailed circulars to implement Regulation (EC) No 438/2001.

57. In some of its own audits too, the Commission has found that paying authorities were not yet operating properly, often because of understaffing or lack of established checking procedures (see its replies to the Court's observations at the points of its 2001 report referred to). In such cases it has asked for the deficiencies to be rectified. Article 9 of Regulation (EC) No 438/2001 requires paying authorities to check a number of matters. The Commission's audits have found that certain areas of checking are now well implemented, while others need to be improved. In this connection the Commission refers to its answer at point 67. The Commission shares the Court's concern about the generally late start of audit work for the new period. It has continually emphasised the urgency of launching this work without delay and impressed on Member States the importance of internal controls

by the managing authorities. The Commission will be reporting to the European Parliament the results of its survey of the new management and control systems in Member States.

58. The problems of interpretation to which the Court refers were also found by the Commission in its extensive audit of the application of Regulation (EC) No 2064/97 in preparation for the closure of 1994 to 1999 programmes. As a result of this work, they have now largely been overcome. To further clarify the requirements the Commission is re-issuing updated Audit Manuals, which will include a new guidance note on sample checks. With regard to the system descriptions submitted under Article 5 of Regulation (EC) No 438/2001, most of these documents adequately described the extremely varied systems that had been set up. Nevertheless, further information was frequently necessary because of the sheer variety of the arrangements, the lack of details in the original descriptions, also observed by the Court, and the desire of the Commission to check the systems carefully before giving an opinion under Article 6 of Regulation (EC) No 438/2001. The assurance afforded by these desk reviews is naturally less than that obtained from on-the-spot systems audits, which can verify that the systems described are indeed in place and operational.

59. From the start the SFC base provided two methods of exchanging information:

1. real-time connection to the SFC base through a Web-type application for entry and consultation;
2. exchange of information through structured files (flat files).

The first solution, which is well suited to those Member States which do not wish to develop an electronic interface with the Commission, or were in a particular hurry, was available from June 2000 and required only a PC and a modem to be usable.

The second solution, which entailed the development by the Member States of an interface meeting the Commission's specifications (which were available early in 2000) was specially suited to Member States which had a local information system and expected to make many exchanges with the Commission.

The two solutions were, and still are, compatible with each other.

The Commission has always actively supported the information technology services of the Member States which wish to install electronic exchange using this interface. The difficulties encountered by some Member States in implementing the interface will have to be looked at on a case-by-case basis.

⁽¹⁾ Royal Decree No 1330/2000 of 7 July 2000.

⁽²⁾ Decree-Law 54-A/2000 of 7 April 2000.

⁽³⁾ Amended circular of the Prime Minister of 15 July 2002.

60. Almost all programme authorities in Member States are introducing powerful databases to fulfil the stringent requirements of the regulations. Teething troubles are not surprising. The Commission has given the Member States guidance on its requirements and the technical specifications to ensure that the databases are efficient and secure and can supply the information the Commission needs for various purposes.

61. SFC is now recognised as the main 'reference' database for the Structural Funds, with local interfaces with SINCOM, but the Commission is still using a variety of other databases, especially for non-financial data such as information on monitoring indicators. SFC should gradually take over more and more of these functions, but meanwhile up-to-date monitoring information on programmes is available from a variety of sources. Financial calculations, such as those of expenditure declared for the purposes of applying the 'n + 2' rule, are now generally done on SFC. Also, SFC provides tools for verifying the application of the 18-month rule for the decommitment of unused parts of the advance under Article 32(2) of Regulation (EC) No 1260/1999 and for checking the consistency of co-financing rates. For the ESF the Commission has made use of SFC compulsory under Article 7 of Regulation (EC) No 1784/1999.

62. It was not possible to adapt SFC to hold data on 1994 to 1999 programmes. The risk of duplication of funding is reduced by the requirement for programme authorities to distinguish clearly projects or phases of projects financed under different programmes and programme periods. Article 9(2)(b)(ii) of Regulation (EC) No 438/2001 reinforces these safeguards.

63. The punctuality of Member States in submitting annual reports has improved compared with previous programming periods thanks to the pressure exerted by the Commission and the link to payments (Article 32(3) of Regulation (EC) No 1260/1999). The reports are now also generally of higher and more uniform quality thanks to the new model. The Commission regularly requires Member States to supplement reports that do not contain all the required information. Pending payments are withheld until the report is satisfactory.

64. The regulatory framework for 2000 to 2006 and in particular Regulation (EC) No 438/2001, introduced more detailed requirements than in the previous programming period for the organisation of the management, payment, monitoring and control functions within Member States. Nevertheless, the regulations allow Member States to keep their national systems for managing the Structural Funds (see Articles 8 and 34 of Regulation (EC) No 1260/1999 and recital 10 of Regulation (EC) No 438/2001).

Problems are inevitable when adapting the systems to conform to organisational principles, such as separation of functions and independence, and ensure reliable procedures.

65. Most systems involve a greater or lesser degree of delegation of tasks to intermediate bodies. With proper service agreements, audit trails and reporting lines, such systems can operate satisfactorily. In its own system audits and desk reviews the Commission consistently emphasises the safeguards that are required.

66. Article 9(n) of Regulation (EC) No 1260/1999 allows the managing and paying authorities to be the same body, and Article 9(o) states that it is up to the Member State to determine the modalities of the relationship between the managing and the paying authority. It is possible to maintain a proper separation of functions even where the three functions of managing and paying authority and independent audit are assigned to different parts of the same ministry. It agrees with the Court that the assignment of the functions to one unit under common management as originally in French prefectures could pose a risk and in such cases has asked for changes. In France the functions are now separated into different units. For ESF the Commission found a case of conflict of interest in Ireland where a hierarchical superior combined certain responsibilities. The steps necessary to obtain a clear separation of duties and to avoid such situations in future have been taken.

67. Whenever it finds it necessary, the Commission impresses on Member States the vital responsibilities of the paying authority and the need for it to have established checking procedures and to ensure that all bodies reporting expenditure to it themselves have and apply such procedures. The Commission intends to issue a guidance note on the role and work of paying authorities in view of their key function for sound financial management.

68. The Commission's approach in adopting Regulation (EC) No 1685/2000 was to leave out those rules previously in the eligibility datasheets which were redundant or unnecessary, to learn from the experience of applying the datasheets by being less restrictive where this was justified, and to present rules retained more clearly and concisely in the form of a regulation. One new rule (leasing) was also added to meet a clear need. The rule concerning final beneficiaries was incorporated into Article 9 of Regulation (EC) No 1260/1999 itself.

70. 'Final beneficiary' is defined in virtually the same terms as before in Article 9(l) of Regulation (EC) No 1260/1999 and its responsibilities, in particular the recording of expenditure and retention of supporting documents, are set out in Article 1.2 of the Annex to Regulation (EC) No 1685/2000 and in Annex I to Regulation (EC) No 438/2001. The concept can still give rise to difficulties and the Commission issued further guidance in September 2001.

71. The legislator has, in the view of the Commission correctly, removed the time limit for commitments on the ground. The purpose of the time limit was to spur implementation and ensure orderly closure. This purpose is now served by the rule on automatic decommitment in year 'n+ 2'. All that is now required is for the eligible expenditure to be incurred between the starting date of the assistance and 31 December 2008. This is easy to manage and check. Alternative financing continues to be possible as far as the source of payments to final beneficiaries is concerned. The Commission wrote to the French authorities to this effect early in 2001. The new regulations separate cash flow management (entirely the responsibility of the Member State) from declarations of expenditure.

72. Under the State aid rules, operating costs and replenishment of capital are allowed only in precisely defined circumstances. Sheet 17 was therefore considered superfluous, especially as its wording created a degree of uncertainty as to the eligibility of many venture capital operations (new rule 8). However, this area was further clarified by the Commission's communication on State aid and risk capital published in 2001.

The sheet on repayable aid has been replaced by rule 8, which also covers loan funds. Rule 8 regulates the reuse of returns, giving effect to Article 28 of Regulation (EC) No 1260/1999, which stipulates that assistance repaid to the managing authority or to another public authority shall be reallocated to the same purpose, and to Article 30, which requires that operations stay in place for five years. After an EU-funded measure is closed, the Member State remains responsible for monitoring. This monitoring can be audited during three years following closure.

73. The Regulation states that national rules are applicable except when the Commission establishes a common eligibility rule. Hence a larger margin of discretion is left to implementing bodies and final beneficiaries. The purpose of the eligibility rules is not to harmonise all national practices.

74. The purpose is to reimburse costs that are eligible for the co-financed project and actually paid. The requirement for actual expenditure is laid down both in Article 32 of the basic Regulation, rule 1 of Regulation (EC) No 1685/2000, and in Regulation (EC) No 438/2001. The Commission clarified the question in a

guidance note to the Member States in September 2001. Rule 1 also lays down conditions for the eligibility of certain imputed costs, including pro rata allocation (properly documented) and depreciation (but not purchase and depreciation at the same time). Where there are doubts, the Commission, as usual, provides the clarifications required.

75. For certain types of projects a high rate of overheads in eligible expenditure is justified. Apart from the conditions laid down in point 1.7 of rule 1 ⁽¹⁾, national rules are applicable.

76. The tax treatment of depreciation is subject to national rules.

77. The Commission recognises the difficulty posed by the VAT included in projects. The relevant eligibility rule tries to ensure that VAT is part of the eligible cost only in those cases where the final beneficiary or recipient must bear this cost. With regard to building purchase, use of these buildings to house administrative services may be justified in certain cases and the Commission considered that it was no longer necessary to regulate this in detail.

78. In July 2002 the Regional Policy Directorate-General presented an indicative guidance note on revenue-generating infrastructure projects to the Committee for the Development and Conversion of Regions.

79. The rule on the location of projects was required to clarify a number of open questions and has been further clarified for ESF projects. With respect to privatisation and abandonment of projects, it is clear that the Commission cannot establish rules on every possible case in advance.

80. See reply at point 68. The intention was to provide basic and relatively simple rules on matters that required common treatment at EU level. The Member States apply these rules in their specific national context, especially as regards tax and accounting treatment (see the fifth recital of Regulation (EC) No 1685/2000).

81. From the outset the Commission made it clear (in the *vade mecum*) that any financial table should contain only eligible costs. Thus if a Member State wishes to be reimbursed on the basis of public cost, private costs should not appear in the table. The approach was admittedly not followed with sufficient rigour, as in some cases it was considered appropriate to indicate the leverage effect through the financing table. These situations are

⁽¹⁾ Overheads are eligible expenditure provided they are based on real costs which relate to the implementation of the operation part-financed by the Structural Funds and are allocated pro rata to the operation, according to a duly justified fair and equitable method.

now being corrected. It should now be clear to Member States that there are two bases for the Structural Fund contribution: total eligible costs or total eligible public expenditure. The base is determined at the level of each measure and stated in the programming complement, in accordance with Article 18(3)(c) of Regulation (EC) No 1260/1999.

84-85. The Commission recognises that the selection criteria vary throughout the EU. In part this is justified because of the specific situation in the regions, in others improvement is possible. In the Commission's view, it is better to leave the responsibility where it presently is, i.e. the Monitoring Committee, and gradually improve the situation through the exchange of experience.

CONCLUSIONS AND RECOMMENDATIONS

87. The Commission would refer to its replies to the Court's observations at points 9 to 16. The decisions on the designation of Structural Fund areas were taken in accordance with the Regulation. For Objective 2 the Regulation allowed Member States considerable leeway, including as regards the selection of assisted areas qualifying for national aid.

88. The Commission would refer to its replies to the points concerned. It accepts that the time limits were unrealistic given the procedures laid down and the number of matters requiring negotiation. The quality of programme documents has generally improved and the Commission is working to secure further improvement.

89. All Member States carried out *ex ante* evaluations, which led to a greater coherence of strategies and greater knowledge of the basis of the choices made and significantly improved quantification of objectives. In those Member States where the *ex ante* evaluation examined alternative strategies, the intention was to use this evaluation as part of their national planning process. The Commission's working paper did not provide information on all appropriate practices and methods. For detailed methodological advice, Member States and evaluators were referred to the MEANS handbooks. In addition, evaluators were supposed to be experts in evaluation methodologies. The use of macroeconomic modelling is just one input to the process of deciding on priorities and financial allocations. Systems of indicators can always be improved, although the Commission believes very significant progress has been made in this regard. The mid-term evaluation will verify that progress.

90. Although advances have been made in programming the use of Structural Fund monies in order to achieve development goals, there is room for improvement. Input-output analysis is a guide but outcomes are determined by many external and longer-

term factors. The Commission has encouraged the more scientific approach now applied and will continue to move in this direction. The Member States, however, bear the main responsibility for programming.

91. The Commission considers that progress has been made in the programming of the Structural Funds to ensure their implementation in accordance with a clearly laid down development strategy and that the quest for effectiveness has not been neglected in favour of the consumption of funds. Calculating the resources required to achieve the objectives set is not always easy without reference to the consumption of appropriations by earlier measures of the same type.

92. A considerable amount of information on development needs and national policies was available to programmers for the 2000 to 2006 period, thanks in part to the work of *ex ante* evaluators. The Commission considers that progress was made in basing programming on development strategy rather than absorption of funds.

93. The management and financial indicators for the performance reserve are in most cases those recommended by the Commission in Working Paper No 4. The Commission will examine Member State's proposals with a view to correcting any inconsistencies.

94. While it has taken Member States time to implement the new provisions, the impression the Commission has gained from its audit work is that the systems set up by Member States are beginning to operate satisfactorily. It will present a report giving its assessment of the new management and control systems to the European Parliament in spring 2003.

95. The Commission believes that the division of responsibility for the eligibility rules in 2000 to 2006 programmes has simplified implementation of the programmes. It attempts to clarify questions whenever necessary.

96. This is an area in which performance has improved vastly in recent years and is continuing to improve.

97. In fact the objective of simplification has not always been achieved and the programming process has sometimes had effects opposite to those originally desired. The Commission is making considerable efforts to simplify the rules and practices for both present and future programmes.

98. The Commission will take account of the Court's observations in the programming of the Structural Funds after 2006.

99. This question forms part of the consideration currently taking place on the rules for the period after 2006.

100. The programme complement system will have an impact throughout the period of implementation and the Commission will make a judgement on it at a later stage. The points raised by the Court as regards the mid-term evaluation will be considered in this context.

101. The Commission would refer to its replies at points 68 and 80. On eligibility the regulations lay down certain rules that need to be applied in the same way throughout the EU and leave the remainder to national legislation. At the beginning of the current programming period, some attempts by the Commission to further specify eligibility questions led to increased complexity or rules that were not appropriate for many specific situations.

102. As described in detail in the replies given above, specific action has been or is being taken on most of the measures recommended by the Court.
