

Official Journal

of the European Communities

ISSN 0378-6986

C 401

Volume 41

22 December 1998

English edition

Information and Notices

Notice No

Contents

Page

I *Information*

Court of Auditors

98/C 401/01

Opinion No 10/98 of the European Court of Auditors on certain proposals for regulations within the Agenda 2000 framework

General introduction	1
Common agricultural policy	3
Structural Funds	23
Pre-accession	31
Guarantee Fund for external actions	44

I

(Information)

COURT OF AUDITORS

OPINION No 10/98

of the European Court of Auditors on certain proposals for regulations within the Agenda 2000 framework

(98/C 401/01)

GENERAL INTRODUCTION TO THE COURT'S OPINION ON THE PROPOSALS FOR REGULATIONS WITHIN THE AGENDA 2000 FRAMEWORK

On 18 March 1998 the Commission submitted a number of proposals for new legislation within the Agenda 2000 framework. The proposals can be grouped as follows:

- eight proposals for regulations concerning the reform of the common agricultural policy (COM(1998) 158 final), with an evaluation of their financial implications. Four of the proposals relate to the common market organisations for cereals, beef and veal and milk and milk products. Two others are concerned with systems of direct support for producers, either for certain arable crops or to establish common rules for these systems. Finally, there are two proposals concerning support for rural development and the financing of the common agricultural policy,
- four proposals for regulations concerning the Structural Funds (COM(1998) 131 final). One of these is concerned with the general rules applicable to the Funds and the three others relate to the European Regional Development Fund (ERDF), the Social Fund and fisheries respectively,
- three proposals for regulations concerning pre-accession. One of the proposals aims to establish a pre-accession structural instrument (COM(1998) 138 final) and another relates to pre-accession aid for agriculture and rural development (COM(1998) 153 final). A third proposal for a regulation (COM(1998) 150 final, amended by COM(1998) 551 final of 30 September 1998) concerns the coordination of pre-accession aid,
- a proposal for a regulation amending Council Regulation (EC, Euratom) No 2728/94 establishing a Guarantee Fund for external actions.

In view of the significant financial implications of these proposals, the Council asked the Court of Auditors on 29 May 1998 to inform it of any observations which the Court wished to make on these financial aspects.

The Court's work has focused on the four main areas covered by the proposals in question, namely continuing the reform of the common agricultural policy, improving structural policies, preparing for enlargement through pre-accession instruments and the reform of the Guarantee Fund for external actions.

This opinion deals with each of these four areas in turn.

The opinion was adopted by the Court of Auditors in Luxembourg at the meeting of 29 October 1998.

For the Court of Auditors

Bernhard FRIEDMANN

President

COMMON AGRICULTURAL POLICY

TABLE OF CONTENTS

	<i>Paragraph(s)</i>	<i>Page</i>
INTRODUCTION	1 — 3	4
GENERAL FINANCIAL ASPECTS	4 — 31	4
Development of agricultural expenditure	4 — 11	4
Use of budgetary margin of flexibility	12 — 20	5
The granting of budgetary subsidies	21 — 31	7
ARABLE CROPS	32 — 44	8
Outline of the reform	32 — 33	8
Intervention price and world market price for cereals	34 — 38	8
Technical criteria for area aid payments	39 — 44	9
BEEF AND VEAL, MILK AND MILK PRODUCTS	45 — 60	10
Outline of the reform	45 — 46	10
Basic options	47 — 51	10
Technical criteria for beef and veal aid	52 — 58	10
Specific aspects relating to milk products	59 — 60	11
FINANCIAL MANAGEMENT OF EAGGF-GUARANTEE	61 — 80	12
Budgetary and financial management	61 — 68	12
Extended scope of the EAGGF-Guarantee	69 — 80	13
CONCLUSION	81 — 90	14
Tables 1–4		16
Diagrams 1–3		20

INTRODUCTION

1. In the explanatory memorandum to its Agenda 2000 legislative proposals concerning the reform of the common agricultural policy (CAP) ⁽¹⁾, the Commission presents an analysis of the agricultural situation in the European Union (EU) and outlines the strategic guidelines it has chosen. The aims of the proposed reform can be summarised as follows:

- (a) to ensure the competitiveness of European agriculture, in an open and expanding world market;
- (b) to correct certain negative aspects of the CAP, such as the inadequate geographical and social distribution of Community subsidies and the development of harmful farming practices;
- (c) to preserve the diversity and the specific character of European agriculture.

2. To achieve these objectives, the Commission has made the following proposals:

- (a) the continued competitiveness of EU agricultural produce should be ensured by sufficiently large price cuts, which should themselves be offset by an increase in direct aid payments;
- (b) the CAP should be partly decentralised by allocating national envelopes to the Member States for the granting and modulation of direct aid. Certain common conditions should be respected, such as the exercise of the occupation of farmer and the setting of a ceiling on aid per recipient;
- (c) actions in favour of rural development and safeguarding the environment should be strengthened;
- (d) in addition, there are other proposals relating to specific topics, such as the simplification of regulations and an increase of 2 % in milk quotas.

3. These guidelines are embodied in several draft Community regulations dealing either with three market organisations — arable crops, milk and milk products, beef and veal — or with certain horizontal topics, such as the financing of the CAP.

⁽¹⁾ COM(1998) 158 final of 18.3.1998.

GENERAL FINANCIAL ASPECTS

*Development of agricultural expenditure***Marked influence of the World Trade Organisation (WTO) Agreements**

4. The lowering of guaranteed prices is fully in line with the GATT Agreements of 1994, now overtaken by the WTO. With regard to arable crops and beef and veal, the global production support measures (GPSM), i.e. guaranteed prices, have already dropped by at least 28 % compared with the level they had reached in the period 1986-88. The Agenda 2000 reform aims to introduce a further drop in intervention prices for the three main common market products. The generalised guaranteed prices reduction should make it possible, not only to reduce recourse to intervention, but also to decrease the level of export refunds.

5. Direct aid granted to producers would increase. These payments, as they are linked to areas and fixed yields or linked to livestock subject to a fixed number of units, are classified under the so-called blue box. They are thus exempt from the commitments to reduce the GPSM under the present GATT Agreements. However, with the end of the 'peace clause' ⁽²⁾ in 2003 and given that the 1996 United States of America Farm Act has abolished deficiency payments, it is likely that the content of the blue box will be renegotiated during the next WTO round beginning in 1999.

Continuity between Agenda 2000 and the 1992 reform

6. The Agenda 2000 reform confirms the trend started by the 1992 reform in favour of direct compensatory payments, as opposed to the traditional price support system. *Diagram 1* and *Table 1* show a spectacular increase in direct aid, a shift from intervention measures and a clear fall in the level of export refunds from 1994, after the first reform. The main common market organisations benefiting from this increase in direct aid are arable crops and beef and veal. The arable crops part would decrease after 2003. *Table 2* shows the distribution of aid by sector, taking account of the 1992

⁽²⁾ The 'peace clause' defines those provisions of the Uruguay Round Agreement that are exempt from challenge through the WTO Agreement dispute settlement procedure.

MacSharry reform and the consequences of the reform proposed in Agenda 2000. *Table 3* illustrates 1997 EAGGF-Guarantee expenditure, by sector and Member State.

7. According to the Commission, structural expenditure financed by the EAGGF Guarantee Section should increase significantly from 2000, due to the new rural development measures and to the transfer of existing structural measures to the Guarantee Section budget lines. This expenditure should be subject to a ceiling; financial limits would be allocated to each Member State.

8. It is postulated by the Commission that the reform should have full effect as from 2003 after which total expenditure would tend to stabilise. On average over the period 2004-2006, direct aid would represent 72,3 % of expenditure and structural measures 9,6 %. At the same time, the traditional market intervention measures would represent no more than 3,7 % and export refunds 5,4 % of expenditure.

9. It is a common assumption that EU consumers should benefit from the guaranteed price reductions. However, the effect of reduction in raw material costs on consumer prices is limited. Increases in processing costs, marketing costs and, particularly, commercial margins can easily absorb most of the agricultural price reductions. There is little evidence that consumers have benefited from the 1992 reform. This is an issue of fundamental importance which requires particular consideration.

The effects of decentralisation

10. Decentralisation is based on the principle of subsidiarity. This principle emphasises particular national characteristics and it implies, in the Community context, a certain diminution of the role of the Commission. It is now proposed that a part of the dairy cow premium should be granted to stock breeders according to national criteria. Direct aid would be adapted by Member States in the event of the non-observance of eco-environmental conditions or according to criteria relating to employment. The announced requirement for respecting a minimum Community framework remains largely undefined, as the draft regulations contain only a few provisions which relate to the requirement to exercise the occupation of farmer and the introduction of a degressive aid system.

11. The effects of the proposed decentralisation can only be evaluated in the light of experience, with particular reference to the geographical and social distribution of public subsidies, the avoidance of the distortion of competition and the safeguarding of the environment. According to the 1992 Edinburgh Summit conclusions, the Commission remains responsible for budgetary implementation and control. However, the proposed decentralisation could create difficulties in determining the exact expenditure eligible for Community financing.

Use of the budgetary margin of flexibility

Inclusion of structural and accession expenditure within the agricultural guideline

12. The evaluation by the Commission of the overall financial impact of its proposals is mainly based on end-1997 OECD and IMF macroeconomic forecasts. A very comfortable margin of manoeuvre in relation to the agricultural guideline emerges which enables the Commission, not only to envisage with confidence the accession of six new Member States ⁽³⁾, but also to encompass the financing of structural expenditure under the EAGGF Guarantee section which, up to now, has been covered under subsection B2 of the general budget. In reality, this margin is based on rather optimistic assumptions.

13. By updating macroeconomic data, to take account of the South-East Asian crisis and a reduced growth potential in the Commonwealth of Independent States (CIS) and the central and east European countries (CEEC), the agricultural guideline could appear less accommodating by as much as some ECU 1 400 million in 2006 ⁽⁴⁾, according to the Court's calculations.

14. The Commission should have presented alternative options, based on various hypotheses, for the evaluation of the cost of the existing CAP. Using less optimistic assumptions, such as those mentioned above, the annual cost could be some ECU 1 000 million higher, according to the Court's estimates ⁽⁴⁾.

15. Furthermore, the cost of integrating six new Member States into the EU has been calculated by the

⁽³⁾ Hungary, Poland, Czech Republic, Slovenia, Estonia, Cyprus.

⁽⁴⁾ See information and amounts mentioned in *Table 4*. Assumptions are based on the information available at the time of the Commission's proposals, March 1998, and take into account the CIS/CEEC reduced growth potential and the South-East Asian crisis.

Commission on the basis of financing only the intervention measures and not the direct aid. This implies that a special regime would be applicable to the six new Member States during a transitional period after accession, whereby no direct aid would be paid to their farmers. Since that transitional regime is not yet defined, the alternative costing of a full-rate payment of direct aid should have been stated by the Commission. On this basis there would be an additional budgetary expenditure of ECU 3 300 million on average each year, between 2002 and 2006, according to the Court's calculations based on the financial data in the relevant accession documents ⁽⁵⁾.

16. As *Diagram 2* shows, with these revised amounts, the agricultural guideline would be exceeded between 2002 and 2005. Apart from the basic question of a transitional regime for the six new Member States, this forecast could be affected by the fact that the amount of structural expenditure financed by the EAGGF Guarantee Section can be varied at the discretion of the Commission and the budgetary authority, unlike agricultural market expenditure which is determined exclusively by the applicable Council regulation.

17. *Diagram 2* does not take into account the Commission's report, 'Financing the European Union', on the operation of the own resources system of 7 October 1998 ⁽⁶⁾, in which the option of transferring 25 % of direct aid payments to national budgets is mentioned. The effect of such a transfer would be to decrease the EAGGF-Guarantee appropriations in the EU budget.

18. The desirability of integrating certain structural measures into the EAGGF-Guarantee, as proposed by the Commission, remains an open question. In the context of the present EU agricultural and structural policies, it would not facilitate the coordination and cohesion of Structural Fund actions. It would also modify the terms of the Interinstitutional Agreement because the financial perspective is, for heading 1 (Agricultural guideline),

compulsory expenditure, while it is non-compulsory for heading 2 (Structural actions). However, if a move towards a global rural policy is decided upon, it would be wiser to put all the related managerial instruments together within the same budgetary framework, in which case the budgetary and financial rules would need to be clearly defined.

Possible new measures to promote agricultural competitiveness

19. It would be desirable to seek new means of promoting the competitiveness of European agriculture in the context of Agenda 2000. Thus far, the main instrument proposed for this purpose (apart from certain measures in the second pillar) is the reduction of guaranteed prices. While this is an essential part of any move to increase competitiveness, it is not the only possible instrument. Other measures could have been proposed, taking account of the requirements of and the demand on world markets. These measures should be considered in the framework of gradually replacing a part of the direct aid scheme so that no net additional cost is incurred. A possible example would be promotional programmes aimed at facilitating access to external markets especially in cases where protectionist measures are to be overcome ⁽⁷⁾. Specific export credit guarantees could have been foreseen under Council Directive 98/29/EC of 7 May 1998 on the harmonisation of the main provisions concerning export credit insurance for transactions with medium- and long-term cover ⁽⁸⁾.

20. A major challenge to modern agriculture is to guarantee agricultural produce which is safe and of a high quality. Innovation to take account of consumer tastes should also be developed. Steps have already been taken in that direction through specific regulations concerning, for instance, standards of public health and the protection of origin-based trade names. Agenda 2000, however, contains no new proposals for the coordination of this legislation or for the improvement of the quality, safety, presentation and flavour of products ⁽⁹⁾. Any

⁽⁵⁾ Opinion of the Commission on Cyprus' request, 30.6.1993, COM(93) 303.

Opinion of the Commission on the Czech Republic's request, 15.7.1997, COM(97) 2009.

Opinion of the Commission on Estonia's request, 15.7.1997, COM(97) 2006.

Opinion of the Commission on Hungary's request, 15.7.1997, COM(97) 2001.

Opinion of the Commission on Poland's request, 15.7.1997, COM(97) 2002.

Opinion of the Commission on Slovenia's request, 15.7.1997, COM(97) 2010.

⁽⁶⁾ Financing the European Union — Commission report on the operation of the own resources system, 7 October 1998.

⁽⁷⁾ In the United States of America (USA), the 1996 Fair Act on the reform of agriculture introduced interesting innovations of this kind (i.e. the market access programme which costs some USD 90 million for 1996-2002).

⁽⁸⁾ OJ L 148, 19.5.1998, p. 22.

⁽⁹⁾ In the USA, the marketing organisation programme aims to stabilise the market and to improve the quality and packaging of products.

expenditure arising under such measures would be considered part of the 'green box' subsidies, i.e. aid not distorting competition and production decisions. They would not, therefore, cause difficulties during the next WTO negotiations.

The granting of budgetary subsidies

Direct aid distribution

21. Direct aid is granted with little distinction being made between the size of the holdings. For instance, the same rate per hectare applies for an arable crop area of less than 5 hectares as for an area of above 100 hectares. As a consequence, the distribution of subsidies to the beneficiaries largely reflects the distribution of eligible areas, i.e. the highest amounts are paid to the few largest holdings, as shown in *Diagram 3*.

22. According to the provisions of Article 39 of the Treaty, one of the objectives of the common agricultural policy is 'to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture'. This does not mean that public aid should unduly inflate the profits which can be gained from normal commercial operations. The Court is of the opinion that the indiscriminate granting of subsidies to agricultural operations which would be fairly profitable without subsidy cannot be justified.

23. As the Agenda 2000 explanatory memorandum explicitly states, present CAP support is 'distributed somewhat unequally and is concentrated on (regions and) producers who are not among the most disadvantaged'. This implies that one of the aims of the 1992 reform, i.e. providing an equitable income to farmers, has not been met. Agenda 2000 contains no proposal to correct the unequal distribution of support to farmers, except the reduction above a certain threshold of the total amount of payments annually granted to a farmer under the support schemes.

Aid ceiling and reduced payments

24. The Agenda 2000 proposal for reducing direct aid payments aims at 'avoid[ing] the excessive transfer of public funds to individual farmers'. It consists of introducing a threshold of ECU 100 000 above which the total amount annually paid to a farmer is reduced by 20 %, between ECU 100 000 and ECU 200 000, and by

25 % above ECU 200 000. The Commission considers that it can thus save about ECU 400 million per annum.

25. This reduced payment system would produce insignificant budgetary savings and would not eliminate situations that are difficult to justify, i.e. large amounts would still be paid to individual beneficiaries, who are already relatively well off. Indeed the Commission threshold of ECU 100 000 a year or ECU 8 330 per month would not prevent very high individual payments. In any event, the beneficiaries could react against the reduction of payments by splitting the biggest holdings into independent smaller entities.

26. Had the Commission chosen a more severe option like, for example, a real ceiling of ECU 100 000 (no payment above this threshold) along with a reduction of 50 % on the aid between ECU 50 000 and ECU 100 000 per year, the additional annual budgetary savings, according to the Court's estimates, would be ECU 2,3 million at least in 2005 (see *Diagram 3*). In practice, the above thresholds would heavily penalise some holdings in former East Germany which are not yet fully adapted to free competition. Specific exceptions may, therefore, be necessary for a limited period of time.

27. The Commission should reconsider its capping proposal. For example, lower thresholds and more progressive capping would achieve greater budgetary savings and a distribution of Community aid more focused on those in need and better adapted to real CAP priorities. Complementary national grants, WTO compatible, could be authorised, if necessary. Indeed, if the Commission does not give this matter broader consideration, there is a very real danger that EU monies would be distributed to holdings expressly organised to maximise the take from public subsidies.

28. The Commission's recent report on the operation of the own resources system⁽¹⁰⁾ discusses the option of sharing the cost of direct aid assistance between the EU (75 %) and the Member States (25 %). The conditions attached to direct aid payments would continue to be an integral part of the CAP, according to the Commission. However, the aim of this option is to correct the budgetary imbalances between Member States. It has

⁽¹⁰⁾ Financing the European Union — Commission report on the operation of the own resources system, 7 October 1998.

nothing to do with the CAP *per se*. Such a move would bring about neither any improvement in the distribution of aid to farmers nor any decrease in the overall cost of the CAP.

29. Moreover, given that all Member State governments would be legally obliged to include the corresponding appropriations in their national budgets, this option could have serious financial and economic implications, particularly given the constraints for participation in economic and monetary union (EMU). The Commission should therefore examine the general economic and social consequences of this option.

Administrative burden relating to small payments

30. The administrative formalities necessary to obtain Community aid are often protracted and tedious relative to the amounts involved. This is particularly true for small producers who are not very familiar with the completion of administrative documents. In addition to the administrative procedures, there is the added burden of the necessary controls, both at national and Community levels. A possible solution would consist of paying a fixed global amount to the small farmer instead of several small payments relating to the various types of aid. With such a system, producers would only have to complete one claim form and they would only get one single payment per year. The objective would be to simplify the management of paying agencies and reduce costly controls.

31. Conditions, such as having established social security and tax status, farming being the applicant's principal activity and the obligation not to exceed a maximum size of holding, should be met before an applicant would benefit from such a fixed payment. The Commission should examine this possibility in detail bearing in mind the need to avoid the fragmentation of holdings.

ARABLE CROPS

Outline of the reform

32. The main objectives of the ongoing reform in the arable crops sector are to reinforce the internal and external competitiveness of cereals, to remove the specific aid for oilseeds and to simplify the regulations. The competitiveness objective is considered to be obtained by a 20 % cut in the intervention price. This would have the consequence that EU surpluses could be exported without

refunds and thus without quantity constraints under the present WTO Agreement. The removal of the specific payment for oilseed may allow the Community to escape the WTO's complicated rules. The simplification of the regulations would facilitate the controls.

33. The proposed reform can be considered satisfactory on several points. However, the assumptions used by the Commission for the cereals sector concerning world market trends, price evolution and the US dollar/euro parity are debatable. Furthermore, certain anomalies identified in the 1992 reform, like the unreliable statistics on which base areas and regionalisation plans were based and the uncertainty regarding the areas under arable crops in 1991, remain uncorrected.

Intervention price and world market price for cereals

34. With the current intervention price level, almost all cereal exports require subsidy. By reducing the intervention price from EUR 119,19 /tonne to EUR 95,35 /tonne from the year 2000 onwards, the Commission estimates that EU wheat could be exported without export refunds.

35. For coarse grains ⁽¹¹⁾, the Commission believes that the internal average price will remain higher than the world market price. Exports will, therefore, require refunds. The upper limit of 14,4 million tonnes for subsidised exports fixed in the WTO Agreement will then apply. As a result, intervention stocks could reach a level of 19,5 million tonnes in 2005, according to the Commission.

36. In these circumstances the reform would have positive effects only on wheat exports. The Commission's calculations are based on the hypothesis that during the period 2000-2006, the world price of wheat would be approximately USD 140 to 150 /tonne and the monetary parity would remain at EUR 0,87 for USD 1, both together enabling the EU to export 15 million tonnes of wheat more per year. The hypothesis concerning the price of wheat assumes that demand will increase, due mainly to sustained growth in the Asian countries. The Commission considers these to be an important outlet for EU cereals in the future ⁽¹²⁾.

⁽¹¹⁾ Rye, barley, oats, maize, triticale and other cereals.

⁽¹²⁾ CAP 2000 — Long-term prospects: grain, milk and meat markets, DG 6 working document, April 1997.

37. Having regard to past fluctuations in the price of cereals on the world market and US dollar exchange rate variations, the validity of these hypotheses is open to question. The current economic crisis in the Asian countries and in Russia, associated with the potential increase in production in North America, Australia and Argentina (mainly through improvements in cereals varieties), may well put downward pressure on prices. Furthermore, the increased EU quantities offered on the world market (which currently absorbs some 100 million tonnes for all exports) may further depress world prices.

38. On the basis of more pessimistic assumptions than those used by the Commission, there is a risk that the intervention price would still be too high to enable even wheat to be exported without refunds⁽¹³⁾. If this happens, it would put the whole reform at risk. Indeed, if export subsidies had to be paid, the quantities exported would then be limited and any remaining surpluses would have to be sold into intervention. Thereafter, set-aside would have to be reintroduced to limit production. The budget would have to bear the cost of a hybrid system which combines direct income support via area aid with price support via intervention and export refunds. Direct income support would be increased in the Commission's proposals in order to partly offset the reduction of the intervention price; other expenditure would increase if markets were weaker than assumed by the Commission and intervention stocks would increase again. The Commission should re-examine its estimates of future expenditure, taking into account these other possible outcomes.

Technical criteria for area aid payments

Base area and regionalisation plans

39. The base areas and the regionalisation plans will still be calculated on the basis of the statistical data used for the 1992 reform. Accordingly, except for the suppression of the specific maize base area and yield, the Commission does not take the opportunity to solve the problems described by the Court in its 1996 annual report⁽¹⁴⁾.

⁽¹³⁾ Beginning September 1998 the world price for wheat is as low as ECU 90 /tonne, i.e. some 5 % below the proposed new intervention price.

⁽¹⁴⁾ OJ C 348, 18.11.1997.

40. Concerning base areas, the unreliability of national statistics⁽¹⁵⁾ permits an inequitable situation to continue whereby certain Member States or regions, with too small a base area, need a permanent or temporary increase to avoid overshootings. Others with too high a base area have a safety margin to enable them to avoid any reduction of payments.

41. For the regionalisation plans, Member States have the option of continuing their current regionalisation plan by suppressing the specific yields for maize. However, in this regard, the Court's previous observations linked to the unreliable statistics⁽¹⁵⁾ and the inaccuracy of the calculated average yields⁽¹⁶⁾ still apply.

Yield stabiliser, land eligible for area aid payments, durum wheat

42. The current provisions concerning the yield stabiliser⁽¹⁷⁾ are unchanged so that it will remain overestimated in some Member States⁽¹⁸⁾. As historical yields will correspond less and less to reality, there is no justification for maintaining a specific increased yield for irrigation.

43. Aid requests can only be made for land which, at 31 December 1991, was not used for permanent pasture, permanent crops, forests or for non-agricultural purposes. Compliance with this criterion cannot be satisfactorily checked. It should therefore be changed, for example, by using land-use data for the last three years.

44. The durum wheat scheme was last modified in 1997 and integrated in the Agenda 2000 proposals without any change. In the Court's opinion⁽¹⁹⁾, the high level of specific aid for durum wheat has no real justification.

⁽¹⁵⁾ See paragraph 3.29 of the Court's annual report concerning the financial year 1996 (OJ C 348, 18.11.1997).

⁽¹⁶⁾ See paragraph 3.22 and Table 3.3 of the Court's annual report concerning the financial year 1996 (OJ C 348, 18.11.1997).

⁽¹⁷⁾ The stabiliser envisages the adjustment of the compensatory payments in the following year if the actual average yield exceeds the stabiliser, calculated as an average yield resulting from the regionalisation plan applied in 1993. This mechanism was introduced so that Member States which adopted complicated regionalisation plans would not receive more compensatory aid than Member States which adopted simpler regionalisation plans.

⁽¹⁸⁾ See paragraphs 3.24 to 3.28 of the Court's annual report concerning the financial year 1996 (OJ C 348, 18.11.1997).

⁽¹⁹⁾ See Chapter 2, Title 2 of the Court's annual report concerning the financial year 1997 (OJ C 349, 17.11.1998).

BEEF AND VEAL, MILK AND MILK PRODUCTS*Outline of the reform*

45. In the beef and veal sectors, the Commission proposes a 30 % reduction in the intervention price over three years and its substitution, in the long term, by a basic price of ECU 1 950 /tonne with reference to which an aid for private storage may be granted. In addition, existing premiums would be increased and a further aid system directly managed by the Member States would be introduced within a specified limit for each Member State.

46. With regard to milk products, the Commission proposes a reduction of 15 % in intervention prices in four steps. A direct aid for milk producers would be introduced. It consists of a common basic amount and of an additional level of assistance variable at national level. An increase of 2 % is proposed for the total milk reference quantity (milk quotas) in the Community.

*Basic options**Beef and veal: the maintenance of overproduction*

47. The Community market for beef and veal is characterised by a production cycle of approximately 6 years and by overproduction which has now existed for more than 15 years due to a permanent fall in demand. It is not very likely that a price reduction will reverse the constant decline of consumption, with the exception of the short-term recovery after the BSE crisis. In addition, there is no automatic relationship between intervention and market prices. The Commission proposal to maintain the ceilings for special premiums and to establish national ceilings for the suckler cow premiums is probably not sufficient to bring about a long-term balance between supply and demand. According to the Court's estimation ⁽²⁰⁾, surpluses, whose disposal would result in increased budgetary expenditure, could build up to 0,9 million tonnes in 2005.

48. Furthermore, as about two thirds of beef and veal come from the dairy herd, the 2 % increase in milk quotas would induce an increase in the production of beef and veal. This was not evaluated by the

Commission, nor were the effects of suppressing the calf-processing premium. It is likely, therefore, that the increase in milk quotas will lead to an increase in meat surpluses and, in particular, to a surplus of calves for slaughter.

Maintaining the milk quota system and increase in milk quotas

49. The increase of 2 % in milk quotas would be absorbed, according to the Commission, by an increase in domestic consumption and in exports due to the price reduction. Even if demand elasticity of this kind were possible to contemplate, it should nevertheless be recognised that we are witnessing a structural change in food consumption habits, the practical effect of which is a permanent reduction in overall EU demand for milk products, as well as for beef and veal. At present, the Community output of milk and of milk products is still in surplus and the rate of self-sufficiency, while varying from one product to another, is over 100 %. Therefore, the proposed increase in quotas could lead to a surplus of up to 10 million tonnes of milk ⁽²⁰⁾ in 2005.

50. Considering the present cost of the intervention measures for the disposal of skimmed milk powder and butter, the quotas increase proposal would bring about additional budgetary expenditure. Following the 1993 revision of the milk quota regime it has been possible, despite the still high level of the quotas, to attain a certain stabilisation of the surplus. The budgetary cost of eliminating this surplus has been falling since then. It would be more prudent to continue this policy rather than go in the opposite direction. If particular consideration were to be given to young farmers and mountain farms, it should be done within existing national quotas.

51. More generally, the Court recalls the economic disadvantages of the quota system mentioned in its Special Report No 4/93 ⁽²¹⁾. As the scheme is foreseen for a further six years, the Commission should review the economic justification for the continuation of the milk quota system and examine the consequences of its abolition for European agriculture and for the Community budget.

*Technical criteria for beef and veal aid***Special premium and suckler cow premium**

52. Farmers having a milk quota up to 120 000 kg are entitled to suckler cow premiums for their cows in excess

⁽²⁰⁾ Without taking into account the balance between production and consumption in the envisaged six new Member States.

⁽²¹⁾ OJ C 12, 15.1.1994.

of those required for the production of their milk quota. It would be appropriate to make the regulations more precise so that suckler cow premiums can only be paid for the number of cows in excess, i.e. after subtracting, from the total number of cows kept on the holding, the number of cows required for the production of the milk quota. This should apply even if, after such calculation, the producer cannot benefit from the total of his premium rights (the so-called individual ceiling of suckler cow premiums).

Density factor and payments for extensification

53. According to Article 10(2) of the Regulation proposed by the Commission, the compliance with the stocking density limit, which aims at discouraging intensive production, will be verified by taking into account only the animals for which a premium is claimed, not the total number of animals on the holding. As a consequence, intensive production will continue to qualify for aid. For example, a stock breeder fattening several hundreds of male bovine animals and wishing to take advantage of the full annual ceiling of 90 special premiums for animals of the same age bracket, will have to justify, at the proposed density factor of 2 livestock units per hectare (LU/ha) ⁽²²⁾, only 27 hectares of fodder area.

54. In response to the Court's comments on this subject ⁽²³⁾, the Commission stated that its proposal for the 1992 reform had already envisaged the calculation of the density factor on the basis of all animals on the holding but that the Council eventually retained the criterion of the animals eligible for premiums, due to the absence of a valid identification system.

55. Since then, an integrated administrative and control system (IACS) has been put in place throughout the Community which includes identification and registration of all bovine animals. Moreover, the Commission proposes the criterion of the total number of animals actually kept on a holding for the calculation of a stricter

density factor qualifying for the additional extensification payment. There is no valid reason, therefore, not to use the total number of animals on the holding for the calculation of the basic density factor.

56. The exemption from the stocking density limit applicable to producers whose premium demands do not exceed 15 LU should be eliminated as it allows the granting of premiums for up to 25 male bovine animals even to large intensive stock breeders lacking any fodder area. The special condition for the additional extensification payment, that 'animals are actually grazed on pasture land during the growing season' ⁽²⁴⁾, should be understood as qualifying animals being put out to pasture and not only fed with fresh grass in a stable.

Additional payments from global amounts assigned to Member States

57. According to Article 14(2) of the proposed draft Regulation, the granting of the payments per capita is subordinated to 'specific stocking density requirements to be established by Member States'. It should be made clear that these requirements shall not counteract the effects of the density factor to be used for the calculation of premiums. For example, these additional payments should not, in any circumstances, be used to supplement the income of intensive farmers.

58. A specific additional payment is proposed for heifers within a ceiling fixed for the lifetime of the animal. Within certain limits heifers may also qualify for the additional suckler cow payments. It should be clearly established that the same heifer cannot be eligible for both additional payments during its life.

Specific aspects relating to milk products

59. The rate of aid for skimmed milk powder should be granted only above a certain minimum of protein content. The rate of aid for powder used for animal feedingstuffs should be determined by tender ⁽²⁵⁾ and should also be the reference for fixing the level of aid for skimmed milk. Aid for skimmed milk transformed into

⁽²²⁾ For calculations concerning the granting of certain aids, heads of cattle must be converted into 'livestock units' (LU). A conversion table is annexed to the proposed Regulation: a male bovine animal from 6 to 24 months of age corresponds to 0,6 LU. Therefore 90 male bovine animals correspond to 54 LU.

⁽²³⁾ See paragraph 4.42 of the Court's annual report concerning the financial year 1996 (OJ C 348, 18.11.1996).

⁽²⁴⁾ Article 11(1), second indent, of the proposed Regulation, COM(1998) 158 final — 98/0109 (CNS), p. 57.

⁽²⁵⁾ See paragraphs 6.63-6.66 of the Court's annual report concerning the financial year 1988 (OJ C 132, 12.12.1989).

casein and caseinates should be determined in relation to the difference between the Community price and the world price of skimmed milk ⁽²⁶⁾.

60. The proposed additional milk quotas would be allocated to producers situated in mountain areas (Article 4(4)). The Commission should also consider allocating additional quotas to farmers who practice transhumance, i.e. having facilities in the plains, for the winter period, and in the mountains for summer.

FINANCIAL MANAGEMENT OF EAGGF-GUARANTEE

Budgetary and financial management

Clearance of accounts procedures

61. The proposal COM(1998) 158 final — 98/0112 (CNS) designed to replace Council Regulation (EEC) No 729/70 of 21 April 1971 on the financing of the CAP ⁽²⁷⁾, does not change the existing clearance of accounts procedures for which implementing rules have been laid down in Commission Regulation (EC) No 1663/95 of 7 July 1995 ⁽²⁸⁾.

62. The Court has already commented ⁽²⁹⁾ on the application of the existing clearance of accounts procedures, and in particular with regard to the number of paying agencies that should be kept to the necessary minimum and the independence of the certifying bodies. The Court will continue its examination of the implementation of these procedures. In the context of the Agenda 2000 proposals it wishes to make the following comments on the role of the certifying bodies.

63. In the new clearance of accounts procedure, the certifying bodies, designated by the Member States, are required to state whether they have 'gained reasonable assurance that the accounts transmitted to the Commission are true, complete and accurate, and that the internal control procedures have operated satisfactorily'. This essential role is specified in Article 3 of Commission Regulation (EC) No 1663/95 which states that the certificate 'shall cover compliance of payments

with Community rules only as regards the capability of the paying agencies' administrative structures to ensure that such compliance has been checked before a payment is made'.

64. Court audits have revealed that, generally, the certifying bodies have interpreted this text in a restricted way. In identifying the systems of control within the paying agencies, they limit their work to confirming to the authorities which govern them, the existence of controls designed to ensure conformity of the payments, without carrying out sufficient tests of compliance to confirm that such controls functioned effectively for the whole of the financial period. In checking the validity of individual transactions, they do not carry out sufficient work at the level of the beneficiary to confirm the legality and regularity of payments made. In the Court's opinion, certification should not be limited to the reliability of the accounts but should also cover the legality and regularity of expenditure in accordance with generally accepted audit standards.

Lack of consistency between financial years

65. A great diversity exists in the financial provisions of the agricultural regulations with regard to the date of entitlements to Community aid, the time delays for payment of aid, the periods of acceptance of the claims and the charging to the budget. In practice, the detailed budgetary classification does not make it possible to record the data necessary for strict and consistent budget management. Furthermore, the EAGGF financial year, which ends on 15 October, does not fit in with the general financial year ending 31 December.

66. The result is that the expenditure charged to the various revenue and expenditure accounts is heterogeneous and, therefore, it does not enable a proper comparison of one financial year with another. The Commission should have resolved this question through Agenda 2000.

Financial regulations

67. The Commission's proposal COM(1998) 158 final — 98/0112 (CNS) refers only to Article 43 of the Treaty, and not to Article 209, contrary to the previous Council Regulation (EEC) No 729/70. This is in contrast to the special title of the financial regulation for the EAGGF which refers to the framework instituted by current Regulation (EEC) No 729/70. In addition, the Court

⁽²⁶⁾ See paragraph 4.54 of the Court's annual report concerning the financial year 1993 (OJ C 327, 24.11.1994).

⁽²⁷⁾ OJ L 94, 28.4.1970, p. 13.

⁽²⁸⁾ OJ L 158, 8.7.1995, p. 6.

⁽²⁹⁾ Special report No 21/98 on accreditation and certification procedure as applied to the 1996 clearance of accounts for EAGGF-Guarantee expenditure (OJ C 389, 14.12.1998).

draws attention to the fact that its consultation, obligatory under Article 209, becomes optional under the Commission's proposal.

68. Overall, the Commission's proposals do not adequately take account of the Court's Opinion No 4/97⁽³⁰⁾ where it highlighted the disparities and the lack of consistency which are found in the financial provisions contained in the various regulations governing agriculture, as well as the need to move towards accruals accounting.

Extended scope of the EAGGF-Guarantee

69. The proposed regulation stipulates that, henceforth, the Guarantee Section of the EAGGF will also cover expenditure relating to rural development actions, structural measures in the fisheries sector, veterinary and plant health actions and, also, the information actions of the common agricultural policy.

Rural development

70. At present the 'accompanying measures'⁽³¹⁾ are financed under the Guarantee Section of the EAGGF and, in principle, the same administrative rules (IACS) and control rules (clearance procedures) apply as those for CMO expenditure. However, unlike expenditure under the CMO schemes, the accompanying measures are approved by the Commission on the basis of programmes presented by the Member States and discussed prior to their approval by the 'STAR' Committee (a committee of Member States and Commission representatives dealing with structural expenditure).

71. The programme commitments last for at least five years⁽³²⁾. Indeed, accompanying measures are basically guidance expenditure for which the budget

normally foresees differentiated appropriations. However, as EAGGF-Guarantee appropriations are non-differentiated, neither the budget nor the income and expenditure accounts take into consideration five-year commitments and the subsequent payments.

72. In the light of the proposed integration of more structural expenditure into the EAGGF Guarantee Section, it is essential that the management of the budget is adapted to ensure that financial commitments of the Community are completely and correctly recorded and that budgetary ceilings are fully respected.

73. With regard to the rural development actions, Article 5 of the proposal stipulates that the advances granted by the Commission for the implementation of the programmes concerned will be regarded as expenditure carried out the first of the month following the granting decision. This involves genuine advances the payment of which occurs at the beginning of the programme, even before any expenditure has been carried out.

74. In its annual report on the 1997 financial year⁽³³⁾ the Court reiterates the need to reflect in the annual accounts the extent to which the Commission's budgetary payments from the Structural Funds, which are for the most part advances or payments on account, have actually been absorbed by expenditure at the level of the final beneficiary. This might be done by recording unspent advances as assets in the balance sheet, and by providing in the notes to the accounts a statement of changes in financial position showing the opening balance of advances at 1 January, movements through the income and expenditure account during the year and the closing balance of advances at 31 December.

75. The Court recommends that the Commission lays down, in its implementing provisions, the precise conditions for granting and clearing the aforementioned advances, in particular so that their operation and follow-up are compatible with the EAGGF clearance system, which is based on the control of expenditure actually carried out.

Structural measures in the fisheries sector

76. With regard to the structural measures for the fisheries sector, the Court notes that, as from 1 January

⁽³⁰⁾ OJ L 144, 13.5.1997.

⁽³¹⁾ Council Regulation (EEC) No 2078/92 of 30 June 1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of countryside (OJ L 215, 30.7.1992, p. 85). Council Regulation (EEC) No 2079/92 of 30 June 1992 instituting a Community aid scheme for early retirement from farming (OJ L 215, 30.7.1992, p. 91). Council Regulation (EEC) No 2080/92 instituting a Community aid scheme for forestry measures in agriculture (OJ L 215, 30.7.1992, p. 96).

⁽³²⁾ As set out in Article 3 of Council Regulation (EEC) No 2078/92, and Article 3 of Council Regulation (EEC) No 2080/92.

⁽³³⁾ See paragraph 8.24 of the Court's annual report concerning the financial year 1997 (OJ C 349, 17.11.1998).

2000, expenditure which does not exceed ECU 500 million of payment appropriations annually will henceforth be covered by two different management systems: the Financial Instrument for Fisheries Guidance (FIFG) and/or EAGGF-Guarantee.

77. The coexistence of these two systems in certain regions will prove complicated. The administrative burden will be increased, sometimes forcing the responsible national administrations to juggle between two regulations for the same type of structural measure.

78. Considering the relatively small amounts involved, the Court recommends that the Council reevaluate the effectiveness of the new approach.

Veterinary and plant health measures

79. It is proposed that the EAGGF-Guarantee cover the Community contribution towards specific veterinary measures. This represents a radical change. The financing system, up to now, has been quite distinct from the Guarantee system and traditionally it has been subject to more intensive control. A distinct unit within the Commission (DG VI/G.2) has until now carried out checks on such expenditure, for example, that related to the current outbreak of classical swine fever (CSF) in Spain, Germany, Belgium and the Netherlands.

80. There are two levels of Community contribution: 70 % for so-called market support and 50 % for veterinary measures. The Court has observed⁽³⁴⁾ that there is a lack of clarity about the classification of measures by the Commission and by the Member States. Whilst the current proposal makes clear that all expenditure will be regarded as Guarantee, the Court believes the Commission should take this opportunity to state in specific terms the Community's share of the financing of such expenditure.

CONCLUSION

81. The legislative proposals relating to Agenda 2000 aim to correct some of the perceived problems associated with the CAP as it now stands. The Court welcomes the

Commission initiative in this direction, notably in so far as it concerns the competitiveness of EU agriculture, but it considers that the proposed reform will not lead to any significant change in the development of CAP expenditure following the MacSharry reform. The Court is also concerned that the means proposed to meet the various specific objectives contain few innovations and are not sufficiently wide-ranging.

82. In the arable crops market, the evolution of the world market price for wheat is a key factor. There is a risk that it may fall below the proposed intervention price in the medium term. In such a situation, as the use of export refunds is limited under the WTO Agreements, surpluses would have to be sold into intervention and set-aside would have to be reintroduced. In this pessimistic scenario the budgetary cost would be high, involving both the direct aid and the price guarantee systems and thereby putting the whole reform at risk (see paragraphs 32-44).

83. The Commission's assumption that demand for beef and milk products will increase, is too optimistic. It is very probable that the decline in consumption will continue, even if consumer prices are slightly reduced. Any measure which could lead to increased production should be avoided and financial forecasts should take into account the cost of disposing of surpluses. The quota system should be reviewed by the Commission (see paragraphs 45-60).

84. The Commission proposals barely touch upon problematic issues such as the environment, the effect of the CAP on consumers and decentralisation. The traditional CAP contains many incentives for increasing and intensifying production and this can have harmful effects on the environment. A clear example is the intensive agro-industry. The rural development measures in this context are limited. Consumer interests have not been central to Agenda 2000 and they seem likely to gain little from price reductions. Decentralisation could make fair competition throughout the EU difficult to guarantee, as a part of direct aid would vary according to national criteria (see paragraphs 9, 10, 11, 53-56).

85. So far as financial and budgetary management is concerned, the new clearance procedure has turned out to be too limited, since the certifying agencies confine themselves, in the majority of cases, to verifying the existence of systems of internal control in paying agencies without examining the legality and regularity of underlying expenditure (see paragraphs 61-68).

⁽³⁴⁾ See paragraph 3.28 of the Court's annual report concerning the financial year 1995 (OJ C 340, 12.11.1996).

86. The inclusion in the Guarantee Section of expenditure relating to rural development and accompanying measures means that multiannual commitments relating to differentiated appropriations must be recorded and traced. The accounting system must therefore identify the utilisation of advance payments, and record the relevant balances in the consolidated accounts of the EU (see paragraphs 70-75).

87. The Agenda 2000 reform confirms the trend, started by the 1992 reform, towards direct aid, which becomes the main instrument of the CAP. Direct aid is at present granted to farmers, at the full rate, with little consideration being taken of the size of the holdings. As a consequence CAP support is unevenly distributed with some 40% of the payments being made to 4 % of the producers, which are the biggest. The Commission proposals to reduce payments to individual beneficiaries by 20 % or 25 % above ECU 100 000 a year would make little difference to this situation and would produce only small budgetary savings. In order to be more effective, a general progressive capping of subsidies should also be considered. There should be no interference between the own resources system and EAGGF-Guarantee expenditure (see paragraphs 6-8, 21-23 and 28-29).

88. Even if the move towards subjecting European agriculture to market forces is confirmed, subsidies are still granted indiscriminately to every holding regardless of the profitability. Competitive farmers should be encouraged to become self-sufficient, with aid being more directed towards assisting them in their

search for and exploitation of new market outlets. Up to now, these objectives have not been coherently addressed at European level (see paragraphs 24-29).

89. The Commission proposals continue to support European agriculture at a high budgetary cost with direct aid representing almost three quarters of the EAGGF-Guarantee expenditure, while one could have expected a decrease in CAP expenditure. With less optimistic macroeconomic hypotheses and higher costs for the existing CAP than those foreseen in the Agenda 2000 proposals, the agricultural guideline would be exceeded after 2002 if direct aid is paid at the full rate to the new six Member States and if additional structural measures were financed under the EAGGF-Guarantee (see paragraphs 12-18).

90. In conclusion, the Commission should seek methods of implementing the basic objectives of public action in a more cost-effective way. Community support should be limited, for instance, to helping disadvantaged farmers, ensuring the preservation of the environment, organising research in public health and product safety and developing external markets. These are all areas where the market mechanisms do little to meet present public needs or to improve EU competitiveness. In this whole area of agriculture the CAP is not the only EU policy concerned. It is only one (even if it is the main one) instrument of what should be a global multi-functional strategy for rural development covering, *inter alia*, agriculture, employment, the environment, fair competition and world trade considerations.

Table 1

EAGGF-Guarantee: Expenditure committed by nature (1988-2006)

(million ECU)

Year	Export refunds	Direct payments ⁽¹⁾	Structural measures ⁽²⁾	Second category and other first category intervention	Enlargement (pre-accession aid, CAP market measures and rural development and accompanying measures)	Other expenditure	Total
1988	9 686,1	10 256,2	637,2	5 481,6	0,0	375,1	26 436,2
1989	9 708,0	11 389,1	974,3	3 455,6	0,0	349,0	25 876,0
1990	7 722,0	12 731,4	712,2	4 334,1	0,0	974,8	26 474,5
1991	10 079,6	15 034,5	1 102,7	5 065,3	0,0	1 107,2	32 389,3
1992	9 472,3	15 471,1	1 264,6	5 205,7	0,0	857,5	32 271,2
1993	10 159,2	15 522,0	1 434,0	7 074,2	0,0	558,8	34 748,2
1994	8 300,8	21 707,2	877,5	2 037,1	0,0	489,3	33 411,9
1995	7 802,2	24 453,6	1 765,7	818,5	0,0	(337,3)	34 502,7
1996	5 705,0	29 541,4	2 752,7	1 512,8	0,0	(404,2)	39 107,7
1997	5 884,0	30 111,4	2 760,4	1 645,0	0,0	274,3	40 675,1
1998	5 336,0	29 716,0	2 442,0	1 908,5	0,0	834,4	40 236,9
1999	5 004,0	30 143,0	2 689,0	1 742,0	0,0	862,0	40 440,0
2000	4 957,9	29 842,2	4 832,5	1 421,2	530,0	1 066,2	42 650,0
2001	3 796,2	33 946,5	4 877,4	1 649,1	540,0	920,9	45 730,0
2002	3 406,4	35 766,3	4 917,1	1 998,4	2 250,0	896,9	49 235,0
2003	3 015,8	37 605,5	4 957,1	2 044,8	2 760,0	876,9	51 260,0
2004	2 859,7	38 057,7	4 997,1	1 918,7	3 270,0	866,9	51 970,0
2005	2 865,6	38 040,1	5 036,8	1 884,6	3 890,0	862,9	52 580,0
2006	2 816,6	38 032,1	5 076,8	1 961,6	4 500,0	862,9	53 250,0

NB: ⁽¹⁾ Direct payments are those payments linked to a production and directly paid to the producer or to a producers' organisation and less frequently to processors. Processing and consumption aid is also included.

⁽²⁾ Guidance premiums, accompanying measures and new structural measures (from 2000 onwards).

Sources: 1988-1997: Annual reports of the Court of Auditors.

1998-1999: Figures based on the general budget 1998 and on the preliminary draft budget 1999.
Allocation by nature done by the Court.

2000-2006: Figures based on the Agenda 2000. Allocation by nature done by the Court.

Table 2

EAGGF-Guarantee: Development of agricultural spending 1989-2005 (as % of total EAGGF)

(%)

Heading	1989	1993	1997	2001	2005
Arable crops	25,6	30,7	43,1	44,4	41,5
Sugar	8,1	6,3	4,0	4,1	3,8
Olive oil	6,0	7,1	5,4	5,4	5,0
Dried fodder and dried vegetables	0,9	1,5	0,9	0,9	0,8
Fibre plants and silk worms	2,5	2,5	2,2	2,0	1,8
Fruit and vegetables	4,2	4,8	3,9	4,5	4,1
Wine products	4,7	4,4	2,5	1,9	1,7
Tobacco	4,7	3,4	2,5	2,4	2,2
Other plant products	0,8	0,8	0,7	1,0	0,9
Total Title 1	57,4	61,5	65,2	66,4	61,9
Milk and milk products	20,4	15,1	7,7	7,4	9,7
Beef/veal	10,0	11,5	16,3	13,3	17,0
Sheep meat and goat meat	6,0	5,2	3,5	4,5	4,2
Pig meat	1,1	0,6	1,2	0,1	0,1
Eggs and poultry	1,0	0,8	0,2	0,0	0,0
Other animal products	0,0	0,4	0,2	0,3	0,2
Fisheries	- 0,1	0,1	0,1	0,2	0,2
Total Title 2	38,4	33,7	29,2	25,7	31,4
Non-Annex II	2,3	2,1	1,4	0,8	0,6
MCAs and agrimonetary aid	1,5	0,4			
Food aid	0,5	0,5	0,0	0,8	0,6
Interest financing	0,2	0,3	0,0		
Distribution to deprived persons	0,5	0,4	0,5		
Measures to combat fraud		0,2	0,1	0,1	0,1
Clearance of accounts	- 0,8	- 1,1	- 2,1		
Rural development		1,3			
Actions of promotion		0,0	0,1	0,2	0,2
Other measures			0,5		
Total Title 3	4,2	4,1	0,5	1,9	1,6
Income aid		0,1	0,0		
Accompanying measures		0,6	5,1	6,5	6,0
Total EAGGF	100,0	100,0	100,0	100,0	100,0

Source: 1989: Commission accounts.

1993, 1997: Financial report concerning EAGGF Guarantee Section — 1997 financial year — COM(1998) 552 final.

2001, 2005: Agenda 2000; % calculated by the Court of Auditors.

Table 3

EAGGF-Guarantee: Expenditure 1997, by sector and country

(million ECU)

	B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK	CE	Total	%
Arable Crops	183	682	3 563	459	1 652	5 236	124	2 160	10	229	374	211	249	475	1 809	0	17 414	43,1
Sugar	209	71	260	6	81	612	10	84	0	58	21	3	16	28	149	0	1 608	4,0
Olive oil	0	0	0	607	550	9	0	971	0	0	-1	55	0	0	1	4	2 196	5,4
Dried fodder and vegetable	0	15	21	4	178	86	0	43	0	13	0	1	0	0	6	0	367	0,9
Fibre plants and silk worms	9	0	4	606	227	38	0	0	0	4	1	0	0	0	19	0	907	2,2
Fruit and vegetables	7	0	3	408	429	240	0	415	0	4	0	56	0	0	6	0	1 569	3,9
Wine	0	0	1	20	308	225	0	441	0	1	2	31	0	0	1	0	1 030	2,5
Tobacco	3	0	27	349	122	81	0	395	0	0	1	18	0	0	0	3	998	2,5
Other plant products	4	23	20	32	61	31	0	72	0	11	-3	15	1	0	8	0	274	0,7
Milk and milk products	259	217	400	-2	-30	850	297	-110	0	696	16	6	85	47	370	0	3 101	7,7
Beef/veal	213	137	987	46	438	1 232	1 195	317	8	248	146	89	46	83	1 398	0	6 581	16,3
Sheep and goat meat	1	1	32	186	358	142	106	121	0	12	4	47	2	3	411	0	1 425	3,5
Pig meat	20	25	17	1	43	7	0	5	0	357	2	1	1	0	0	0	479	1,2
Eggs and poultry	2	9	2	0	1	55	0	1	0	9	0	1	0	0	0	0	79	0,2
Other animal products	0	0	0	7	69	8	0	0	0	0	0	10	0	0	0	0	94	0,2
Fisheries	0	3	0	0	11	10	1	0	0	0	0	4	0	1	3	0	34	0,1
Non-Annex II products	43	34	116	6	22	53	46	27	0	97	17	2	18	13	74	0	566	1,4
Food aid	5	1	1	0	1	1	0	4	0	0	0	0	0	0	1	0	15	0,0
Interest financing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0,0
Clearance of accounts	-10	0	-38	-98	-196	-61	-23	-394	0	-6	1	-9	0	0	-33	0	-868	-2,1
Accompanying measures	6	10	286	65	209	233	187	418	4	14	264	86	148	83	53	0	2 065	5,1

Source: 27th financial report concerning EAGGF Guarantee Section — 1997 financial year — COM(1998) 552 final.
 % calculated by the Court of Auditors.

Table 4

Evolution of the agricultural guideline and agricultural expenditure between 2000 and 2006

Commission Agenda 2000 hypothesis

(million ECU)

Year	Agricultural guideline (EU 21)	New veterinary and structural measures	Enlargement (*)	Present CAP	Total EU 21
2000	46 940	2 045	530	40 075	42 650
2001	48 750	2 090	540	43 100	45 730
2002	50 940	2 130	2 250	44 855	49 235
2003	52 990	2 170	2 760	46 330	51 260
2004	55 120	2 210	3 270	46 490	51 970
2005	57 350	2 250	3 890	46 440	52 580
2006	59 680	2 290	4 500	46 460	53 250

(*) Pre-accession aid, CAP market measures and rural development and accompanying measures.

Source: AGENDA 2000, reform hypothesis, COM(1998) 158 final.

Revised Agenda 2000 hypothesis

(million ECU)

Year	Agricultural guideline ⁽¹⁾ (EU 21)	New veterinary and structural measures ⁽²⁾	Enlargement ⁽³⁾	Present CAP ⁽⁴⁾	Total (EU 21)
2000	46 681	2 045	530	40 655	43 230
2001	48 340	2 090	540	44 090	46 720
2002	50 370	2 130	5 550	45 975	53 655
2003	52 240	2 170	6 110	47 430	55 710
2004	54 190	2 210	6 640	47 750	56 600
2005	56 210	2 250	7 150	47 750	57 150
2006	58 310	2 290	7 670	47 770	57 730

Notes: ⁽¹⁾ Hypotheses adopted by the Court:

- *growth*: 2,4 % per year from 1998 to 2000 inclusive, 2 % per year in 2001 and 2,095 % from 2002 to 2006 to allow for the accession of six new Member States after that date. In the case of the latter, only the estimated increase in the volume of their GNP (estimate 3,8 % per year) was taken into account by weighting the weight by their contribution to Community GNP formation,
- *deflator*: 2,1 % per year.

The estimates of growth and erosion due to inflation are in accordance with the low OECD estimates which, in view of the economic situation, will very probably be realised. THE IMF has also predicted growth of around 2 % over this period.

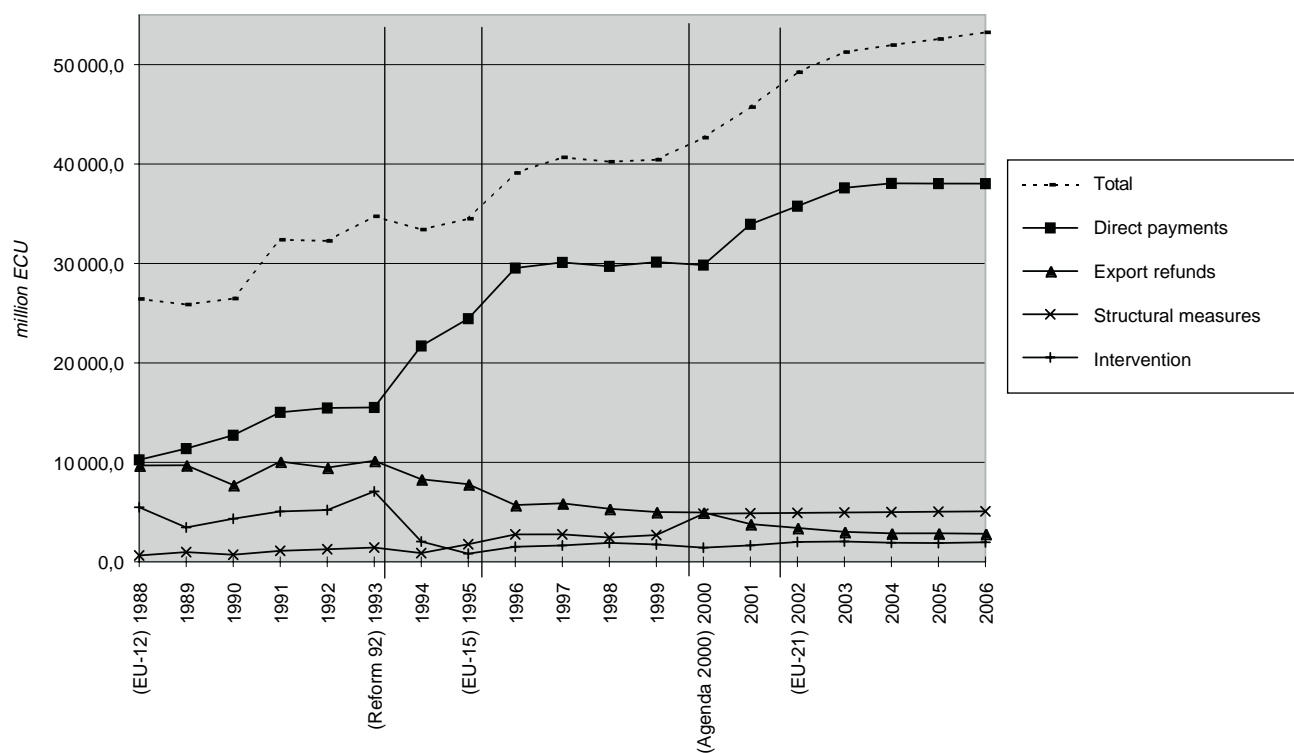
⁽²⁾ According to Commission figures.⁽³⁾ Concerns pre-accession aid, CAP market measures and rural development and accompanying measures. Expenditure relating to CAP market measures is estimated on the basis of the data published in the Commission opinions on the accession applications from the six applicant countries (COM(93) 303, COM(97) 2001, COM(97) 2002, COM(97) 2006, COM(97) 2009, COM(97) 2010).⁽⁴⁾ Differences relative to Commission figures are due to the following:

- *arable crops*: a lower world-market price for cereals results in increased expenditure on export refunds and/or for depreciation of stocks estimated at between ECU 420 million and ECU 580 million per year,
- *milk and milk products*: reduced increase in demand results in disposal costs for these products estimated at between ECU 40 million and ECU 230 million per year,
- *beef and veal*: reduced increase in demand results in additional storage costs for these products estimated at between ECU 120 million and ECU 310 million ECU per year,
- *sheepmeat and goatmeat*: reduction in the internal price of this product results in additional direct payments estimated at ECU 350 million per year.

Source: Court estimations.

Diagram 1

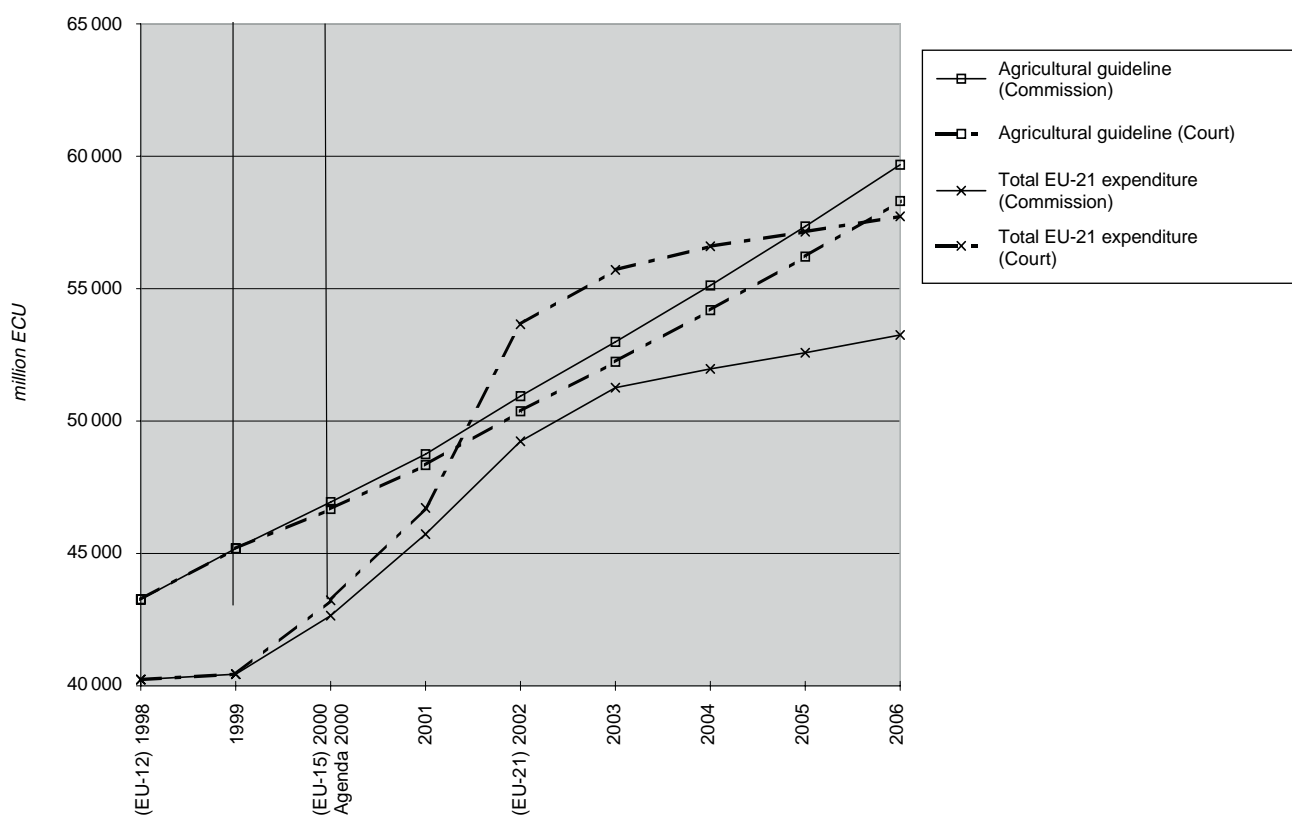
Evolution of EAGGF expenditure by nature (1988-2006)



Source: See Table 1.

Diagram 2

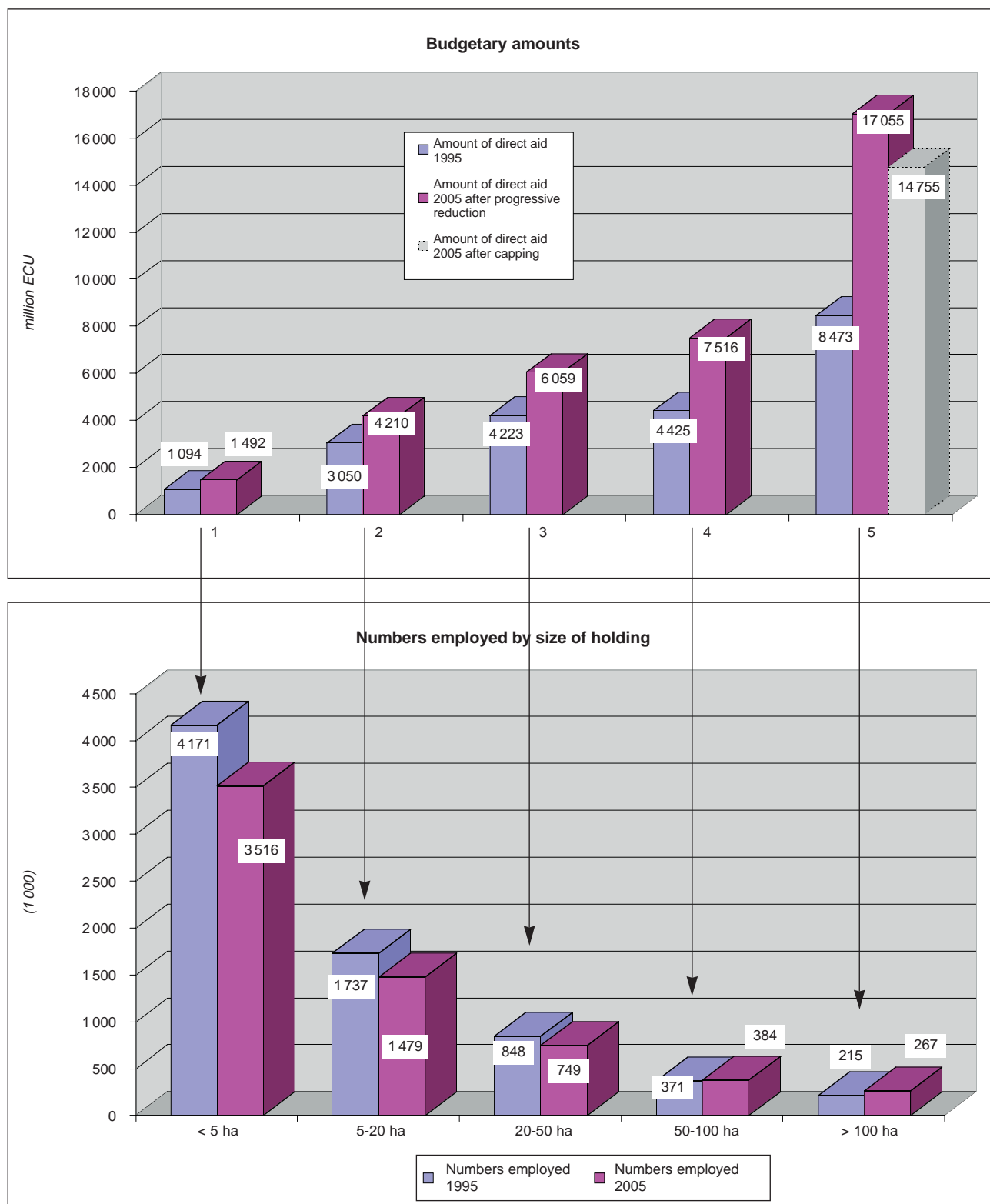
Comparison of agricultural guideline and total EU-21 expenditure



Source: See Table 4.

Diagram 3

Distribution of direct aid by size of beneficiary holding — Financial effect of capping



Sources: — Budgetary amounts estimated by the Court. The differences from Table 1, column 3e (ECU 3 200 million for 1995 and ECU 1 700 million for 2005) represent processing and consumption aid not included in the chart,
 — numbers employed: Eurostat for 1995; estimated by the Court on the basis of earlier trends for 2005.

STRUCTURAL FUNDS

CONTENTS

	<i>Paragraph(s)</i>	<i>Page</i>
1. INTRODUCTION	1.1 — 1.12	24
2. THE ALLOCATION OF RESOURCES	2.1 — 2.8	24
3. DISTINGUISHING BETWEEN COMMUNITY AND NATIONAL RESPONSIBILITIES	3.1 — 3.7	25
4. THE PROGRAMMING PROCEDURE	4.1 — 4.7	26
5. THE COMMUNITY COMMITMENT AND PAYMENT PROCEDURE ..	5.1 — 5.7	27
6. COMMUNITY CONTROLS	6.1 — 6.9	28
7. CONFORMITY WITH COMMUNITY POLICIES	7.1 — 7.4	29
8. THE CONSISTENCY OF THE LEGISLATIVE FRAMEWORK	8.1 — 8.5	29
9. CONCLUSION	9.1 — 9.6	30

1. INTRODUCTION

1.1. This opinion concerns the four proposals for new regulations in respect of structural expenditure (the subject of COM(1998) 131 final) and the related sections of the proposal on support for rural development (COM(1998) 175 final). The opinion examines, in particular, the proposal for a regulation laying down general provisions on the Structural Funds, which sets out the general rules to be applied as regards the operation of the structural instruments.

1.2. Since 1988 the basis for the design and management of the Funds has been to put into effect the principles of the reform. These principles concern the concentration of measures, the coordination of instruments, the partnership between the managing bodies and the additionality of the aid. In addition, the assistance is usually granted by co-financing multiannual programmes, approved by the Commission, whereby the Commission carries out monitoring and evaluation while the management of the projects is the responsibility of the next level: the national or regional authorities.

1.3. Considerable efforts have been made in the course of the last decade to provide a growing volume of aid and, in a more general manner, to set up a management and control system based on the principles of the reform. The amendment of the regulations, in 1993, also made various adaptations possible.

1.4. The Court's annual and special reports have shown that, alongside the many positive features, certain important aspects of the system should be further improved. The new regulations proposed by the Commission are providing positive solutions to the main problems identified by the Court.

1.5. The concentration of aid has run up against many difficulties and the tendency observed is towards granting financing in one form or another to an increasing number of geographical areas.

1.6. Coordination between the Funds must be enhanced at both Commission and Member State level. Too many different approaches and administrative methods continue to be applied by the management departments concerned, and further progress must be made in respect of the complementarity of the financial instruments.

1.7. The preparation and implementation of the programmes, the work of the monitoring committees and the reporting system have given rise to administrative procedures which are tending to become unwieldy. However, the Community approach has still had little influence on the project selection procedures and criteria. Although there has been an effort towards formal

harmonisation of documents, the role of programming is perceived in very different ways.

1.8. Successive reports by the Court, both annual and special, have underlined the difficulties encountered during the audits of co-financed investments and measures. Detailed knowledge of individual projects is becoming increasingly rare, while overall evaluation of the measures and assessment of their overall impact continue to run into considerable obstacles, particularly at the methodological level.

1.9. Improving the transparency and effectiveness of the measures is thus essential, in order to make sure that development is generated and that it is optimum and sustainable.

1.10. In this respect, the Commission's proposals, by seeking a general effort of concentration, a simplified decentralised form of operation, greater efficiency (including diversifying the types of aid) and improved controls, aim to overcome some of the shortcomings discovered and to correct the weaknesses which have appeared during the preceding and current programming periods.

1.11. It is, nevertheless, important to ensure that the improvements thus proposed are sufficiently precise for them to be applied in a clear and verifiable way and to represent a satisfactory balance between the administrative work involved and their expected impact on the transparency and effectiveness of the measures.

1.12. Particular emphasis is being laid on these concerns in view of the fact that, basically, the system of implementation and control of the Structural Funds is still marred by two anomalies. Whereas the structural policy is defined by the priority objectives that are set for the instruments as a whole, management is by Fund and is characterised by variations in structure and procedures from one Fund to another. The Community's financial contribution, on the other hand, is based on programmes and not on projects, in that it is allocated to the various areas of intervention; nevertheless, management and control of that contribution are carried out by reference to projects and it is to the projects that the declarations of expenditure relate.

2. THE ALLOCATION OF RESOURCES

2.1. Article 7 of the proposal for a general Regulation stipulates that the Commission, following transparent procedures, shall make indicative breakdowns by Member State of 90 % of the commitment

appropriations available for the programming. It does not mention a time period or breakdown by region.

2.2. To date, the breakdown of resources has often been the result of a relatively long and complex process based on certain objective criteria, but the application of them is subject to derogations which make it difficult to apply the principle of concentration properly and to take full account of the specific regional problems, as the Court noted in the 1990, 1991 and 1995 annual reports ⁽¹⁾. It is also important to ensure that Community structural aid is effectively harmonised with the forms of aid that are permitted under Community competition policy, especially from the viewpoint of eligible areas.

2.3. Steps should also be taken to ensure that aid does, in fact, contribute to the balanced development of all the regions concerned, and the least prosperous parts of the beneficiary areas in particular.

2.4. Moreover, the process of resource allocation should not contain too many imponderables as far as the financial resources from which the various measures can benefit are concerned. Designing and drawing up a programme depends, to a large extent, on knowledge of the overall budget that can be devoted to it. An indicative breakdown of resources of the type proposed by the Commission is the precondition for good definition of the obligations and responsibilities of the various authorities concerned. It should therefore be as precise and timely as possible and be accompanied by clear conditions governing the use of the resources.

2.5. Article 43 of the proposal for a general Regulation provides for a performance reserve, equal to 10 % of total commitment appropriations, which is to be allocated at mid-term 'on the basis of compliance with additionality and the level of performance in implementing operational programmes or single programming documents in each Member State'. Performance is to be assessed on the basis of a limited number of monitoring indicators which reflect efficiency, management and financial implementation and measure the mid-term results in relation to the initial specific targets.

2.6. It is indeed desirable to have mechanisms for promoting the most efficient measures. Precise conditions for implementing this provision are necessary to prevent

undesirable effects. At mid-term additionality can only be estimated since this is a concept which is applied globally to the whole of the programming period. Moreover, the monitoring indicators available at mid-term might only reflect the level of utilisation of the appropriations and the speed at which the funds are absorbed.

2.7. Speedy utilisation of Community finance is often achieved by transferring into programmes investments which are already in progress, a practice which in fact reduces the 'added value' of a programme to a transfer of resources.

2.8. The monitoring indicators intended for the assessment of performance should therefore allow verification of not only the rate at which the Funds are utilised but also, more importantly, the impact this utilisation has had in relation to the targets set and, in particular, on the increase in the volume of investment in the region or on the improvement and speeding-up of project implementation.

3. DISTINGUISHING BETWEEN COMMUNITY AND NATIONAL RESPONSIBILITIES

3.1. In line with the principles which, since 1988, have formed the basis of the working of the Structural Funds, the aim of the Commission's proposals is to organise the breakdown of responsibilities better by further concentrating the Commission's institutional role on programming strategy, compliance with Community policies, monitoring and control of implementation and evaluation of results. The implementation of the measures is the responsibility of the national, regional and local authorities with the help of the economic and social partners concerned.

3.2. The distinction between the two orders of responsibility is relevant but would profit by being clearer. Numerous provisions are to be applied 'in close concertation', 'in cooperation' or 'by joint organisation' (see Articles 4(4), 8(4), 14(3), 33(1) and 41(2) of the proposal for a general Regulation). Further details should be added in order to avoid difficulties over competences and prevent a certain dilution of obligations, as well as creating the conditions for effective partnership.

3.3. The proposal for the general Regulation also provides for 'managing authorities' and 'paying authorities' to be designated by the Member State or region concerned. To avoid the creation of parallel functions and special routes for Community finances, these must be authorities (and the proposal does not

⁽¹⁾ 'Region' means the levels of NUTS II or NUTS III, as defined in the nomenclature of territorial units for statistical purposes, or any other eligible area.

specify this) which, within the national or regional legal framework, perform similar management and payment tasks for all the measures corresponding to those financed by the Community. By providing a clear breakdown of responsibilities this might help to lighten management.

3.4. Similarly, Article 37(1)(f), of the general Regulation provides that when the final accounts for a measure are prepared, a declaration drawn up by a person or department 'having a function independent' of the managing authority is to be submitted to the Commission. The functions of that person or department should also be independent of the paying authority. One of the purposes of the declaration is, in fact, to give an opinion on the authenticity of the documents and operations falling within the competence of the paying authority, such as the application for payment of the balance or the legality and regularity of the operations covered by the final certificate of expenditure.

3.5. However, some of the responsibilities assigned appear theoretical. According to Article 31 of the proposal for a general Regulation, the paying authority is to ensure that the final beneficiaries receive payment of the Funds' contribution to which they are entitled as quickly as possible and in full. The same authorities also certify that these payments are reimbursement for expenses actually paid. In order to avoid the risk that the certificates drawn up are merely pro forma, the paying authority must have the necessary powers to provide such services.

3.6. The provisions currently in force, as well as the proposed provisions, are mainly aimed at situations where there is some national (or similar) public co-financing, with the inherent procedures of such situations. Such provisions are inappropriate in cases where Community aid takes the form of participation in private financing with no other public co-financing. Special rules should be provided for the latter cases.

3.7. Clarification of the national and Community responsibilities for the operation of the Structural Funds does not affect the Commission's general responsibility for implementing the budget as stated in Article 205 of the Treaty.

4. THE PROGRAMMING PROCEDURE

4.1. The new provisions proposed in respect of programming aim to simplify the management procedures and define tasks and responsibilities more precisely.

Nevertheless, these provisions should be scrutinised carefully to ensure that both these results are achieved.

4.2. The necessity, stipulated in Article 17 of the general Regulation, of adopting, for all assistance, an operational programme, a programming supplement and an agreement between the partners contributing to the financing, should be tackled in a way that does not perceptibly complicate management, does not prolong the period of preparation and does not detract from the consistency of the whole.

4.3. This consistency would be better served by a single programming document concentrating on the operational features, approved by the various authorities involved and clearly defining roles and responsibilities. This does not preclude the possibility that the Member State might present a part of the document by way of information without it being the object of a Commission decision.

4.4. It is important that the programme sets out the financing plan, the measures to be carried out, the authorities responsible for this and the source of the funds. In this respect, it should be noted that a multiannual programme also implies the availability of multiannual financing from the various partners. The programme must set out clearly the selection criteria and procedures for each type of operation to be financed, in order to ensure that the procedures are transparent and the operations consistent with Community policies and objectives.

4.5. Multiple voluminous and discursive documents risk provoking a drift towards bureaucratic routine without truly conveying the concrete and operational aspects of the actions planned.

4.6. In the light of the new proposals, the launch of a programming period remains a complex process. After approval of the new regulations:

- (a) the Commission must draw up a list of eligible regions and areas (Articles 3(2) and 4(4));
- (b) the Commission must draw up indicative breakdowns by Member State and Objective (Article 7(3));
- (c) the Commission must draw up and publish guidelines in the *Official Journal of the European Communities*, presenting the Community priorities for each Objective. The Member States and the Commission must take account of these at the various stages of programming (Article 9(4));

- (d) the Member States must draw up development plans in respect of the Objectives and submit them to the various authorities and bodies in the partnership (Article 14(1));
- (e) the partners must express their opinions (Article 14(1));
- (f) an *ex ante* evaluation must be carried out (Article 40);
- (g) the plans must be submitted to the Commission, not later than three months after the establishment of the lists of eligible areas, unless there are alternative arrangements with the Member State concerned (Article 14(1));
- (h) the Commission must appraise the plans (Article 14(2));
- (i) an *ex ante* verification of additionality must be carried out (Article 10(3)(a));
- (j) on the basis of the plans the Commission must draw up the CSFs and SPDs and reach a decision on the Funds' contribution, not later than six months after receipt of the plans (Article 14(3));
- (k) the Commission must examine the proposed operational programmes submitted by the Member States and decide on the Funds' contribution (Article 14(3));
- (l) the managing authority, after taking note of the monitoring committee's opinion, must adopt the programming supplement information within the three months following the financing decision (Article 14(5));
- (m) an agreement between all the participants must be drawn up (Article 17(3));
- (n) the programming supplement documents and this agreement must be forwarded to the Commission (Article 14(5)).

4.7. The procedures under discussion are virtually meaningless unless the documents can be subjected to serious discussion and examination at every stage. This will probably result in an overrun of the total time of more than a year that is theoretically allowed. To expedite the examination of applications and the implementation of programmes, a provision under the third subparagraph of Article 14(3) of the general Regulation allows the simultaneous submission of programmes and plans. This raises the question of the real benefit of these various stages, which can therefore be dispensed with.

5. THE COMMUNITY COMMITMENT AND PAYMENT PROCEDURE

5.1. The new provisions aim to restructure the system of Community commitments and payments which is

currently in force. For assistance lasting two years or more the commitments would, as a general rule, be implemented by annual instalments and on a set date. For the payments, an advance of not more than 10 % of the aid granted for the measure would be placed at the disposal of the national or regional paying authority for the lifetime of the assistance and topped up as and when the Community contribution to the expenditure was paid.

5.2. The Court of Auditors has repeatedly underlined the shortcomings of the procedure of commitment by annual instalments. This procedure suffers from the drawback that the accounts do not show those parts of the obligations which, by approving the various programmes or other measures, the Community has entered into for the years following the years in which the annual instalments are committed. Furthermore, at present varying rules on the registration of commitments reduce the value of the commitment appropriations as a control device. Likewise, the Court has underlined on several occasions the dangers inherent in a system which entails the mixed entry, on the same account and with no reliable method of differentiation, of both disbursements effected by way of advances or other provisional payments and final payments.

5.3. These flaws and dangers are being highlighted once again, especially as the new provisions aim to extend the procedure to other structural instruments such as the pre-accession instrument. An increasingly large part of the Community accounts for commitments and payments will, in fact, be organised in an incomplete and insufficiently reliable manner.

5.4. In the Court's view, consistent rules must be laid down in order to define the budgetary commitments for all the obligations entered into and to ensure that they are fully recorded in the Community accounts. Budgetary payments made in the form of advances or payments on account, which would continue to be recorded as such under expenditure in the revenue and expenditure account, should also appear in the balance sheet until the Member State concerned has justified the use of the funds that it has received in response to its claims for reimbursement of payments made. The introduction of a procedure of this type would bring the Communities' accounting closer to normal accounting practice and make clear the extent to which budgetary payments to the Member States have not been absorbed by expenditure declarations. The proposal for creating a system of a single initial advance payment for Structural Fund programmes, followed by further payments to reimburse the expenditure incurred by a Member State,

would facilitate such a presentation in the financial statements.

5.5. Article 30 of the proposal for a general Regulation on the Structural Funds provides that the Commission is to cancel automatically any part of a commitment for which it has not received an acceptable payment application by the end of a certain length of time; the Community contribution is to be reduced accordingly.

5.6. This proposal would make it possible to limit the retention and accumulation among the commitments of sums for which there is no longer any justification. There is, nevertheless, a risk that a system of entirely automatic cancellations may not be appropriate in every case. It is important to ensure that measures which are intended to encourage the closure of commitments do not give rise to other problems during the implementation of programmes. In any case, what is important is not simply rapid disbursement, but disbursement under optimum conditions with maximum impact.

5.7. The commitment and payment rules are not detailed for measures which the EAGGF Guarantee Section would be called upon to finance in non-Objective 1 areas of the Community for rural development and structural measures in support of fisheries. This is a very important omission, as this Section of the EAGGF does not use differentiated appropriations. On this subject Article 5 of the proposed new Regulation in relation to the financing of the common agricultural policy is limited to providing for possible advance payments for the implementation of programmes within the framework of rural development measures, without further specification.

6. COMMUNITY CONTROLS

6.1. Under the terms of Articles 37 and 38 of the proposal for a general Regulation, financial controls on assistance are in the first instance the responsibility of the Member States. The Commission is responsible for the implementation of the budget and checks that management and control systems are in place in the Member States, function smoothly and guarantee efficient, regular use of Community funds.

6.2. To this end, various provisions (Articles 37 and 38 of the proposal for a general Regulation) require, in particular, a description by the Member States of their management and control systems and the forwarding of these descriptions to the Commission, declaration procedures, coordination of methodology, etc. Several initiatives along these lines have been adopted by the Commission in recent financial years, notably in the form

of Regulation (EC) No 2064/97⁽²⁾ concerning financial control and the use of forms in respect of the eligibility of expenditure⁽³⁾ and guidelines on financial corrections⁽⁴⁾. As experience of the procedure for clearance of agricultural guarantee expenditure has demonstrated, efficient application of these initiatives implies, however, that there is a clear legal base and a precise definition of the Commission's powers in this area, to prevent disputes on these two points, amongst other things. Better structuring of all the provisions is also desirable.

6.3. A substantial strengthening of Community controls is the indispensable corollary to a system in which project management rests with the national or regional authorities. These controls must make it possible to verify that the expenditure incurred really does correspond to the actual and necessary costs, that the procedures and conditions laid down are correctly applied, that the alternatives chosen really are the ones that allow the greatest impact in terms of structural development to be achieved and that Community objectives and policies are complied with.

6.4. However, it is important to make provision for Community controls to be tightened, and to specify in detail how that is to be achieved, by increasing the number of on-the-spot checks and, more especially, by placing an easily accessible, more accurate and comprehensive information system on the projects and other measures financed at the disposal of the Commission. Such a system and the more systematic knowledge it entails must lead to sample tests, and on-the-spot checks in particular, being better organised and better prepared, from the point of view of both the regularity of expenditure and the effectiveness of the results.

6.5. Like the regulations currently in force, the new proposals stipulate two basic documents for a knowledge and evaluation of the implementation of the programmes, i.e. the annual implementation report and the evaluation system laid down in Article 36 and Articles 39 to 42 respectively of the proposal for a general Regulation.

6.6. The experience of previous programme generations has shown that the value of the annual reports is very uneven. They often contain global descriptions which are of little help in ascertaining what the implementation of the measure entails. The information is generally not comparable from one programme to another, or even from one document to another for the same programme,

⁽²⁾ Commission Regulation (EC) No 2064/97 of 15 October 1997 (OJ L 290, 23.10.1997, p. 1).

⁽³⁾ OJ L 146, 5.6.1997, p. 31.

⁽⁴⁾ Commission document C(97)3151 final — II.

as they are drawn up at different dates or according to different methods. The annual implementation reports should present appropriate information on the measures carried out and on their impact; information which is, moreover, necessary for the allocation of the performance reserve.

6.7. In addition, numerous evaluation reports tend to be restricted to a description of the implementation rather than evaluating its effects. In this case they give priority to analysing the financial and physical aspects of the measures carried out, to the detriment of an assessment of the impact on development.

6.8. It is, therefore, important that the new provisions draw distinctions between the nature and range of, respectively, the annual implementation reports and the evaluation reports and that they define the appropriate methodologies to ensure this distinction is observed, to ensure the information required is included and to ensure its comparability. The responsibilities of Member States and the regions in managing programmes must include systematically providing the Commission with relevant information. To date, the reporting system has not been sufficiently well organised to do this.

6.9. Moreover, the final implementation report for a programme should allow links to be established with the programming for the next generation. When a measure is closed a significant proportion of the financed investment is current and still has to be completed, but there are no instructions for ensuring that this is done and that there are no overlaps.

7. CONFORMITY WITH COMMUNITY POLICIES

7.1. Article 11 of the proposal for a general Regulation states that the measures financed by the Community must conform to the provisions of the Treaty and the acts adopted pursuant to it and to Community policies. In particular, this means those concerning competition rules, especially those applying to State aid, public contract procedures, the protection and improvement of the environment and the removal of inequality and promotion of equality between men and women.

7.2. Such an article is fundamental in order to affirm that the Community measures are consistent. The financial contributions must go to the actions and measures which comply with and promote Community policies and which also contribute, to a high degree, to the objective of sustainable structural development.

7.3. However, similar provisions which appear in the regulations currently in force have often proved to be insufficiently effective in ensuring that the financed measures conform to Community policies. Strengthening them would therefore appear to be a matter of importance. In numerous cases of investments by public or quasi-public bodies the national public co-financing is supplied by the body itself and is not included in the budgetary flows which would allow the responsible national authorities to verify its conformity with Community policies.

7.4. Efforts to inform and sensitise are therefore necessary if the national and regional departments concerned are to be more aware of Community Directives and other standards. More precise provisions should, on the other hand, be provided so that all the financing that is the counterpart to Community funds is actually subjected to the scrutiny of the national authorities entrusted with verifying its conformity with Community policies.

8. THE CONSISTENCY OF THE LEGISLATIVE FRAMEWORK

8.1. For rural development the Commission proposes to amend the agricultural financial Regulation and to transfer from the Guidance Section to the Guarantee Section of the EAGGF the financing of support measures in areas other than Objective 1 areas. A problem then arises, as to whether the expenditure is to be classified as compulsory or non-compulsory, as the two sections of the EAGGF fall under different headings of the financial perspective. The funds thus transferred would, moreover, remain subject to the general programming principles which govern the Structural Funds, but to varying degrees, depending on whether the areas in question are Objective 2 areas or other areas.

8.2. Such provisions aim to strengthen the link between the common agricultural policy and measures in the areas mentioned. They are debatable, nevertheless, from the point of view of the coordination and cohesion of Structural Fund activities and, in particular, of strengthening the competitiveness of rural areas. The strengthening of this competitiveness, particularly in respect of saving and creating jobs, would be better served by a more integrated approach within the combined framework of Structural Funds action, with the benefits of the diversity of measures that these Funds involve.

8.3. Moreover, within the framework of a Community initiative programme, Article 20 of the proposed general

Regulation stipulates that each Fund will be able to finance not only the measures which it usually supports but also those which are normally financed by the other Funds. This Article states that 'the decision on the contribution of a Fund may amplify the scope of each Fund as defined in the regulations specific to each Fund, but without broadening it, to include all measures required to implement the Community initiative programme concerned'.

8.4. Such an amplification of the scope of a Fund is debatable in a system which is still governed by the coexistence of distinct sectoral funds and not by one single Structural Fund. At Community level there is a risk that the provisions in question may weaken the vital coordination between the financial instruments, since, in the context of a Community initiative, each will be able to act in place of the others. At the national level this could lead to a certain degree of confusion, with the departments concerned (agriculture and fisheries, economy and industry, labour and social affairs, etc.) running the risk of having different Directorates-General of the Commission as their interlocutors for the same type of measure.

8.5. With regard to the Community initiatives, it would also be necessary to determine more closely which of the provisions contained in Articles 12 to 18 of the proposed Regulation are also applicable to the Community initiative programmes, especially as far as the procedures for the drawing up and approval of the programmes are concerned.

9. CONCLUSION

9.1. Implementing the principles which provide the reference framework for management and control of the Structural Funds is a demanding and lengthy task. It calls for steady advances in procedures and progressive adjustments by the administrative agencies responsible for operating them.

9.2. The Commission's proposals have the merit of wanting to continue and extend the establishment of

these principles in the light of, amongst other things, the difficulties that have been experienced in applying them thus far. The proposals place the emphasis on the Community priorities, by seeking to bring about a better distribution of responsibilities, increased decentralisation and simplified management.

9.3. The distribution of resources, both at the initial stage and during implementation, must give priority to the effectiveness of the assistance and be combined with clear criteria for concentrating the aid. The provisions on programming could be simpler, in order to improve the cohesion of the overall procedure.

9.4. A system of initial payments topped up whenever expenses are reimbursed would be a good way of simplifying management. It should nevertheless be supplemented with specific provisions in order to secure better monitoring of commitments and determine more precisely the eligibility of measures and the terms of financial adjustments. These provisions should include suitable rules for preventing the unjustified accumulation of outstanding commitments. Lastly, the new regulations should seek to improve the accounting treatment of Structural Funds commitments and payments and thus improve their transparency.

9.5. Increased transparency and better organised controls are also necessary for clearer separation of responsibilities. For it to be achieved in a worthwhile way, such a division must be effected under conditions which will improve evaluation and provide better information about the aid provided by the Structural Funds from the viewpoints of impact and the conditions under which the aid is used.

9.6. Structural measures must comply with Community policies, especially as regards competition, public procurement procedures, the environment and equality between men and women. This will not be achieved unless the information and control mechanisms are reinforced.

PRE-ACCESSION

CONTENTS

	<i>Paragraph(s)</i>	<i>Page</i>
1. INTRODUCTION	1.1 — 1.2	32
2. THE STRUCTURE OF THE INSTRUMENTS	2.1 — 2.8	32
3. ALLOCATION OF RESOURCES	3.1 — 3.7	33
4. PROGRAMMING PROCEDURE	4.1 — 4.5	34
5. COMMUNITY COMMITMENT AND PAYMENT PROCEDURES	5.1 — 5.2	34
6. CONTROL OF OPERATIONS	6.1 — 6.5	35
7. CONCLUSION	7.1 — 7.3	35
ANNEXES		37
Annex 1 — Thematic comparison of the various pre-accession instruments		37
Annex 2 — Comparison of the structure of the proposals for regulations for pre-accession instruments		40
Annex 3 — Measures envisaged within the pre-accession framework		41

1. INTRODUCTION

1.1. In accordance with the conclusions of the Luxembourg European Council ⁽¹⁾, the European Union's pre-accession strategy ⁽²⁾ provides that the accession partnerships ⁽³⁾ provide a single framework for programming the priorities and financial resources for pre-accession aid.

1.2. With this in mind, the Council ⁽⁴⁾ called on the Commission to submit a proposal for a unified legislative framework for consistent implementation of the pre-accession instruments. In the first half of 1998 the Commission submitted proposals for legislation covering, in addition to the PHARE programme ⁽⁵⁾, an aid instrument for agriculture and rural development ⁽⁶⁾ (referred to as Sapard), a structural instrument for transport and the environment ⁽⁷⁾ (called 'ISPA') and a regulation coordinating the three instruments ⁽⁸⁾. The Commission informed the Council ⁽⁹⁾ that it was making separate legislative proposals for pre-accession so as to enable the applicant States to familiarise themselves with the Union's rules and procedures for management of the CAP and Structural Funds.

⁽¹⁾ July 1997.

⁽²⁾ Council Regulation (EC) No 622/98 of 20 March 1998 on assistance to the applicant States in the framework of the pre-accession strategy, and in particular on the establishment of accession partnerships (OJ L 85, 20.3.1998).

⁽³⁾ For the time being the accession partnerships are covered by 10 Council Decisions (one for each applicant country) on the principles, priorities, intermediate objectives and conditions of the partnerships, Council Decisions Nos 98/259/EC to 98/268/EC of 30 March 1998 (OJ L 121, 23.4.1998).

⁽⁴⁾ Report of the General Affairs Council of 10 December 1997 to the Council.

⁽⁵⁾ PHARE Council Regulation (EEC) No 3906/89 (OJ L 375, 23.12.1989, p. 11) as last amended by Council Regulation (EC) No 753/96 (OJ L 103, 26.4.1996, p. 5).

⁽⁶⁾ Proposal for a Council Regulation (EC) on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period, COM(98) 153 final (OJ C 150, 16.5.1998), (Sapard — Special accession programme for agriculture and rural development).

⁽⁷⁾ Proposal for a Council Regulation (EC) establishing an instrument for structural policies for pre-accession (ISPA), COM(1998) 138 final (OJ C 164, 29.5.1998, p. 5).

⁽⁸⁾ Proposal for a Council Regulation on coordinating aid to the applicant countries in the framework of the pre-accession strategy, COM(1998) 150 final, 18.3.1998, as amended by COM(1998) 551 final, 30.9.1998.

⁽⁹⁾ Point E(II)(a) of the second part of the Council report on the progress of the Agenda 2000 work (9000/98 add. 1, 10.6.1998).

2. THE STRUCTURE OF THE INSTRUMENTS

2.1. The proposed Regulation on the Sapard instrument is based on the regulations on rural development in the EU ⁽¹⁰⁾ which are the point at which the Community's structural and agricultural policies coincide. The duality in the objectives, which is apparent in the proposed title of the Regulation (agriculture and rural development), creates problems of financial sourcing (Sapard would be financed by EAGGF Guarantee Section) and budgetary orthodoxy (EAGGF Guarantee Section is classified as compulsory expenditure) in the context of the EU financial perspective (see paragraph 8.1 of the opinion on the reform of the Structural Funds), and makes the external aid mechanisms unnecessarily complicated.

2.2. As regards the structural (rural development) aspect, the proposed Sapard Regulation refers extensively ⁽¹¹⁾ to the general Regulation on the Structural Funds. The references are, however, imprecise and suspect. The scope of the references to other legislation is debatable. The proposed rural development Regulation makes specific provision on certain points, but at the same time and on the same subject matter refers to the general Regulation on the Structural Funds. This double usage gives rise to problems with interpretation. Fundamental mechanisms such as the definition of Objective areas or the decentralisation of management are part of the underlying structure of the Structural Funds regulations, but are ignored in the pre-accession proposal. More precise references should be provided as to which of the general Structural Funds provisions apply directly and which do not and, also as to the timetable and procedures for convergence.

2.3. As regards the agricultural policy, Article 1 of the proposed Regulation provides for the implementation of the *acquis communautaire* concerning the common agricultural policy and related policies and recital 7 reflects the intention that the instrument should follow the priorities of the reformed CAP. However the detailed parts of the Regulation and, in particular, Article 4, which concerns programming, deal only with rural development. In order to ensure that implementation is not affected by differing interpretations, and does not lose its effectiveness in consequence, the Regulation should specify the nature of the measures and the extent

⁽¹⁰⁾ The latter is covered by the general Regulation on the Structural Funds. However, since it constitutes the second pillar of the CAP, the Commission has included its presentation of the revisions on this aspect with the package on the CAP reform.

⁽¹¹⁾ Recitals 8 and 14 and Articles 4(5), 5(2) and (3) and 7(1) refer directly or indirectly to virtually the whole of the general Regulation on the Structural Funds.

of the resources that can be devoted to the adoption of the agricultural *acquis communautaire* in other fields or by resources other than rural development.

2.4. The explanatory memorandum to the proposed ISPA instrument states that the proposal broadly follows the approach adopted by the revised Cohesion Fund. The Cohesion Fund⁽¹²⁾ was instituted at the Lisbon and Edinburgh European Summits in 1992 and was intended to assist Spain, Greece, Portugal and Ireland along the way to convergence with a view to the third stage of EMU. The Cohesion Fund has remained on the margins of the Funds to which the principles and procedures of the general Structural Funds Regulation apply. It follows a more specific, project-based approach and the procedures which it introduced for programming, management and control of operations by beneficiary countries are different from those used by the Structural Funds.

2.5. Regardless of the respective merits and drawbacks of the two systems, the juxtaposition of the Sapard and ISPA instruments contributes nothing towards the aim of unification. The applicant countries, which are already faced with the enormous task of reforming their internal administration, are to be required to establish two other, different mechanisms for management and control of the operations co-financed by the EU (in addition to the arrangements that are specific to the PHARE programme). This is not a move towards simplification and rapid mastery of the new instruments.

2.6. Although the Council and the Commission have declared their intention of establishing a unified programming framework, seven of the 14 articles in the proposed coordinating Regulation (Articles 2, 3, 4, 5, 8 and Article 11(1)) reaffirm the specialisation of the various financial instruments and their independence as far as programming, decisions and implementation are concerned⁽¹³⁾. As most of the articles in the coordinating Regulation overlap with the provisions of the ISPA and Sapard Regulations, the scope of this Regulation, where coordination is concerned, is confined to providing that the PHARE committee is to present pre-accession guidelines for each country and to submit a report in respect of each country on all pre-accession assistance every two years. Articles 4 and 12 of the coordinating Regulation specify the field of PHARE action and look forward to decentralised management on the basis of the new PHARE guidelines and are, in fact, a revision of the PHARE Regulation rather than coordinating provisions.

2.7. *Annexes 1 and 2* show how the structure, classification, level of detail and wording of the various provisions differ unnecessarily in the various regulations, which were doubtless prepared by different departments without any effective coordination.

2.8. The partnership envisaged by the proposed regulations is one-sided:

- (a) the applicant countries (even those that are currently involved in accession negotiations) are excluded from the management and advisory committees, notably at the programming stage;
- (b) the procedures for monitoring the rural development programmes are to be 'jointly agreed' (Article 5(2)), but 'adopted' by the Commission (Article 9(2)).

3. ALLOCATION OF RESOURCES

3.1. The mainly quantitative criteria agreed by the Commission and the Member States for use in defining different Objective areas form an integral part of the legislative framework for the Structural Funds and are essential for the breakdown of aid by country and the financial and operational programming of measures in the various countries of the EU. The pre-accession legislative framework avoids this question. It is particularly important to specify the degree of integration with Community policies, because the Commission is now moving in the direction of increased decentralisation of programme management in favour of the applicant countries.

3.2. The procedures for breaking the aid down by country and the criteria for redistributing it mid-term are not very clear. As regards the agricultural instrument, the provisions in question are currently scattered throughout the Regulation and should be regrouped under a separate title in order to make them more comprehensible.

3.3. Article 11 of the proposed agricultural Regulation stipulates that the Commission will communicate its decision on the seven-year indicative allocation to each of the applicant countries within three months of the adoption of the Regulation. It will not, however, have consulted the rural development plans established by each of the applicant countries (which are to be submitted not more than six months after the entry into force of the Regulation). This being the first programming exercise in this field, the approach and timetable used by the Commission for evaluating needs and priorities remain obscure.

⁽¹²⁾ Instituted by Council Regulation (EC) No 1164/94 of 16 May 1994 (OJ L 130, 25.5.1994, p. 1).

⁽¹³⁾ See the Court's opinion on the reform of the Structural Funds within the framework of Agenda 2000, paragraph 1.12.

3.4. In the case of the environment, the priority areas of assistance, which constitute the grounds for establishing the ISPA instrument, are now known ⁽¹⁴⁾. They should be set out in the regulations, so as to ensure that the funds are used as intended.

3.5. To prevent an increase in the number of studies to the detriment of actual investment, the proportion to be devoted to the latter should be specified. Furthermore the regulations should provide a strict framework for possible derogations from the principle of co-financing measures (studies may be 100 % financed by the EU). In the accession partnership context, it is important to ensure that studies are undertaken on the Commission's initiative and funded 100 % by the EU only in duly substantiated cases.

3.6. The question of performance indicators has been ignored. Nevertheless the provisions of the ISPA instrument on taking performance into account (adjustment of the breakdown by country) go much further than Article 43 of the general Regulation on the Structural Funds (the allocation of a performance reserve at mid-term is limited to 10 %).

3.7. The absence of any mention of this principle of adjustment according to performance in the case of rural development is detrimental to the system's consistency and transparency from the applicant countries' point of view. A clear link should be established between performance indicators, biennial reports by the Commission, programme revisions (Article 4(6)), evaluation (Article 5(1)) and redistribution (Article 15). Likewise the evaluation timetable should be taken into account in establishing the duration and phasing of programmes.

4. PROGRAMMING PROCEDURE

4.1. In the Sapard proposal as it stands at present, the system provides for a two-fold initial consultation of the Member States for every rural development project ⁽¹⁵⁾. There is no means of taking action in relation to coordination, however, because coordinating activities and consistency studies are financed within the framework of the individual financial instruments. In particular, there is no mechanism for coordinating the implementing procedures which the Commission must adopt in relation to the various regulations. As for

coordination with the IFIs and other sponsors, this remains a pious hope, devoid of practical procedures or well-defined resources.

4.2. ISPA takes a project-based approach without any overview on the part of the beneficiaries, while the rural development Regulation follows a programme approach within the framework of the plans prepared by the applicant countries. Moreover the ECU 5 million threshold for ISPA measures has no practical significance, because the measures are imperfectly defined and it is therefore possible to assemble programmes of scattered projects with no logical or practical connection between them.

4.3. *Annex 3* provides details of the actions provided for under the three pre-accession instruments. The ISPA objectives do not mention the adoption of the *acquis communautaire* in the transport field ⁽¹⁶⁾, whereas that objective is specifically mentioned in relation to the environment and rural development. The coordinating regulation leaves open the possibility of overlaps between the various instruments as regards the adoption of the *acquis*. There are particularly obvious overlaps between the PHARE rural development integrated programmes and the new rural development instrument.

4.4. In the absence of more precise guidelines for the establishment of national rural development plans, and the appropriate geographical level in particular, there is a risk of inconsistency between the various rural development plans submitted by the applicant countries and the various Commission programmes.

4.5. Viewed from the angle of the present proposals, pre-accession aid would have to cope with the juxtaposition of four sets of programming arrangements ⁽¹⁷⁾, with the pre-accession measures being financed under three different headings of the financial perspective (common agricultural policy, structural measures, external action). This is a poor response to the declared wish for effectiveness and simplification.

5. COMMUNITY COMMITMENT AND PAYMENT PROCEDURES

5.1. Whereas commitment procedures have been laid down for ISPA ⁽¹⁸⁾, they have not been in the case of

⁽¹⁴⁾ Air and water quality and waste management, according to the explanatory memorandum to the proposed ISPA Regulation.

⁽¹⁵⁾ PHARE Committee and Management Committee on agricultural structures and rural development.

⁽¹⁶⁾ Directives on transport and road and rail transport, as well as civil aviation and merchant shipping.

⁽¹⁷⁾ PHARE, ISPA, Sapard, accession partnerships.

⁽¹⁸⁾ Article 8.

rural development. As far as payments are concerned, procedures still have to be specified for both instruments. For those of the measures that might need to be financed through EAGGF Guarantee Section, it should be noted that this section does not use differentiated appropriations. Moreover, neither of the instruments takes up the question of how advances are to be dealt with in the accounts and there is a significant risk that the advances will disappear from sight, because they are treated as final expenditure from the outset. The coordinating regulation does not provide for the conclusion with the applicant countries of a single financing memorandum to apply to all the instruments.

5.2. Financial assistance may be paid in the form of advances or as a function of the expenditure incurred ⁽¹⁹⁾. This wording is even more vague than that which appears in the third subparagraph of Article 31(1) of the general Regulation on the Structural Funds. According to that Article, expenditure is the payments effected by the final beneficiaries. Due to the definition of the latter ⁽²⁰⁾, there is a danger that an external auditor may be unable to make the link between the payments effected and the operations carried out on the ground and that the risk will not be diminished by appropriate internal control procedures, as the latter have not yet been defined.

6. CONTROL OF OPERATIONS

6.1. As regards the controls on implementation, the two instruments contain provisions which are not very homogeneous:

- (a) whereas there are no precise provisions on this subject in the case of rural development, the ISPA proposal places particular emphasis on the establishment of management and control systems in beneficiary countries ⁽²¹⁾ with a view to further decentralising the monitoring and management of measures to beneficiaries; this should be specified within the framework of the financing memorandum that is to be concluded;
- (b) the Commission presents an annual report in the case of ISPA, but a biennial report in the case of rural development ⁽²²⁾. In the case of ISPA, the content of the report is specified in the Annex to the Regulation, Parliament is to be asked for an opinion and the

Commission must report on the manner in which it has taken it into account. These practicalities are not provided for in the rural development Regulation.

6.2. A simple reference to the general Regulation for the Structural Funds in relation to evaluations of rural development measures ⁽²³⁾ is not sufficient in the pre-accession context. In fact no link is made between these evaluations and the follow-up of the conditions that are preliminaries to accession.

6.3. The question of the rules on the eligibility of expenditure is essential for the audit of expenditure, but has not been broached. The origin (EU or applicant country) of the rules of competition ⁽²⁴⁾ and of the provisions on the environment ⁽²⁵⁾ also needs to be specified, because the rural development programmes must comply with them.

6.4. The proposed ISPA and Sapard Regulations make no reference to the process of management decentralisation which was, however, broached by the Commission in the new guidelines for the PHARE programme ⁽²⁶⁾ and mentioned in Article 12 of the coordinating Regulation, which opens up the possibility of decentralising tendering and contracting procedures in particular. By doing this the Commission would carry out only *ex post facto* checks.

6.5. Despite the establishment of a partnership for the management of measures to support the pre-accession process there is no mention of the role that could be played by the audit bodies in the beneficiary States.

7. CONCLUSION

7.1. Having regard to the proposed arrangements, it seems that pre-accession aid should concentrate on five main aspects: development of administrative and institutional capacity, adoption of the *acquis communautaire* of regulations, rural development, transport infrastructure and the environment. The years 1998 and 1999 are to be used to prepare for the mobilisation of financial resources that will not be available until the year 2000. Due to the disproportion between the demand and the resources that are potentially available, the financing provided must be complementary to national or multilateral measures and

⁽¹⁹⁾ Article 7(1) for Sapard and Article 8(3) for ISPA.

⁽²⁰⁾ 'Organisations responsible for conducting the operations' or 'institutions deciding the granting of public aid' according to Article 4(2) of the rural development Regulation.

⁽²¹⁾ Article 9(1).

⁽²²⁾ Article 13 for Sapard and Article 12 for ISPA.

⁽²³⁾ Article 5.

⁽²⁴⁾ Article 4(2).

⁽²⁵⁾ Article 4(3).

⁽²⁶⁾ Information note on the new PHARE guidelines, COM(97) 112/8, March 1997.

produce a significant multiplier effect. The decision-making and programming processes represent a departure from Community practice in that beneficiaries are excluded from the management and advisory committees. On the other hand, the principle of gradually decentralising the monitoring of measures and the management of Community funds has been adopted.

7.2. The broad outlines of the pre-accession aid arrangements are virtually indiscernible in the proposed legislative framework, owing to the complexity and diffuseness of the latter. The implementing procedures in particular, however familiar they may be in essence, are left to the Commission's discretion with no mention of the guiding principles, and decentralisation procedures in particular.

7.3. The development of such a system shows that the Directorates-general at the Commission operate as a juxtaposition of compartmentalised departments that are mindful of their own prerogatives instead of acting as parts of a single institution. Thus, although the PHARE programme has been radically reworked, it has not been the subject of any proposal for amended legislation that would make it possible to integrate it with the new instruments when they enter into force. Similarly, the proposal that three different sections of the financial perspective should be invoked seems to be governed first and foremost by the clumsy organisational divisions between the Commission departments (DG I, DG VI, DG XVI) concerned with the pre-accession instruments. A single regulation would undoubtedly be the most effective way of fostering the desired unitary approach.

ANNEX I

Thematic comparison of the various pre-accession instruments

	COM(98) 551 final (Coordination)	Regulation (EEC) No 3906/89 and (EEC) No 2698/90 (PHARE)	COM(98) 153 final (Agriculture)	COM(98) 138 final (ISPA)
Definitions				
Measures	Not defined	Not defined	None	Article 2 - groups of projects or project schemes of a sufficient scale (\geq ECU 5 million) to have a significant impact
Project	Not defined	Not defined	None	None
Project stages	None	None	None	None
Measures financed				
Nature of measures	Articles 2, 3, 4 — Agricultural instrument: rural development; ISPA: environment and transport infrastructure; PHARE: priority, administrative and institutional capacity, and other investment (breakdown in Annex III)	Article 3(1) — Economic restructuring in the fields of agriculture, industry, investment, energy, training, environment, commerce and services	Article 2 — List of 15 fields of action. Other measures may be adopted, however, after the opinion of the rural development management committee has been obtained in accordance with Article 49 of the GRSF ⁽¹⁾ . (Breakdown in Annex III)	Article 2(2) — (a) environment; (b) transport infrastructure; (c) preliminary studies, information, publicity, impact, monitoring, evaluation, control, consistency and coordination with accession partnerships, management, implementation (breakdown in Annex III)
Forms of aid	None	Articles 4, 5 — Non-repayable aid. Possibility of co-financing (Member States, EIB, non-member countries, multilateral organisations, beneficiary countries)	Article 7 — Financing or co-financing. Payments of advances or payments against expenses paid. Following principles laid down in Articles 28 and 29 of GRSF	Article 6(1) — Non-repayable direct assistance, repayable assistance, interest-rate subsidy, guarantee fee subsidy, venture capital, any other form possible. Assistance repaid may be reapplied for the same purpose
Complementarity	None	None	Article 3 — The Community action complements corresponding national actions or contributes 'to these'	None

	COM(98) 551 final (Coordination)	Regulation (EEC) No 3906/89 and (EEC) No 2698/90 (PHARE)	COM(98) 153 final (Agriculture)	COM(98) 138 final (ISPA)
Financial participation by beneficiaries	Article 7 — Beneficiary states are systematically required to contribute to the financing of investments	No provision apart from possible co-financing	Articles 7(3), 8 — ≤ 75 % of total eligible public expenditure, but up to 100 % for TA. For revenue-generating investment: ≤ 50 %, plus EAGGF aid up to total EU ceiling of 75 %. AT total on Commission's initiative ≤ 2 % of annual appropriations	Article 6(2) — ≤ 85 % of public or equivalent expenditure, reduced to take account of co-financing, sustainable revenue, application of the polluter-pays principle. Up to 100 % for TA. Total TA on Commission's initiative ≤ 2 % ISPA total

Programming

Financial perspective	None	None	Article 1 — EAGGF Guarantee	ISPA — under Structural Funds heading
Duration of assistance	None	None	Articles 7, 15 — Pre-accession period. Upon accession to the EU countries lose entitlement. The Commission redistributes the available resources among the other beneficiaries	Article 3 — Period 2000 to 2006
Types of programme	None	Individual projects	Recital 8 — Multiannual programmes established in accordance with guidelines and principles of operational programmes under the Structural Funds	Article 7 — No programmes — measures are approved individually
Earmarking of resources	None	None	Article 7(2) — Indicative allocation by country on the basis of farming population, GDP in purchasing power, agricultural area, specific territorial situation	Article 4 — Indicative allocation by country based on population, GNP per capita in purchasing power parities, surface area. May be adjusted according to past performance and respective deficiencies
Preparation of decisions	Article 8(1) — Provisions laid down by regulation relating to financing instrument. Opinion of PHARE management committee. Articles 8 and 9	General guidelines and draft measures submitted to PHARE management committee for opinion	Article 4(1) — Rural development only. Beneficiary country submits plan to Commission which checks according to Article 4(2), evaluates for compliance with Regulation and approves after obtaining opinion of rural development management committee	Article 7 — Beneficiary country submits applications to Commission (no programme), formal check of content against Annexes I and II, thorough appraisal for compliance with Annex II criteria, decision after opinion of ISPA consultative committee

Compatibility and coordination	Articles 8, 9 — Commission coordinates taking into account opinion of PHARE management committee. Field of coordination: EU, EBRD, EIB, other IFIs	None	Article 6 — Measures must comply with accession partnerships, national programmes for adoption of <i>acquis</i> , Europe Agreements and provisions implementing them with regard to State aid	Article 5 — Measures must comply with Europe Agreements and provisions on State aids and EU policies. Commission is responsible for coordination with EIB and other IFI
Monitoring and evaluation				
Implementing procedures	Progressive decentralisation of management	None	Article 12 — Provisions to be adopted by the Commission after obtaining the opinion of the rural development committee and in accordance with the agricultural financial regulation. Broad references to GRSF	Article 9 — In accordance with the financing memorandum to be established with the beneficiary country
Indicators	None	None	Article 5 — Procedures and physical, environmental and financial indicators jointly agreed between the Commission and the beneficiary country beforehand	Article 11, Annex III — Procedures and physical and financial indicators agreed jointly between Commission and beneficiary country. Annual and final report by beneficiary and monitoring committee under agreements between Commission and beneficiaries Implementing procedures in Commission decisions
Beneficiary country's management and control systems	None	None	Article 9 — Limited to checks by Commission 'Without prejudice to checks carried out by beneficiary countries'	Article 9 — Beneficiaries required to establish management and control systems not later than 1 January 2002. Procedures in the financing memorandum concluded with the Commission
Reports by beneficiary	None	None	Article 5 — Annual report in accordance with Article 36 of GRSF	Annex III — Annual and final report for each measure
Reports by Commission	Report every two years by country	Annual report	Article 13 — Every two years	Article 12 — Annual report

(¹) GRSF = General Regulation on the Structural Funds.

ANNEX II

Comparison of the structure of the proposals for regulations for pre-accession instruments

COM(98) 138 final (ISPA)		COM(98) 153 final (Pre-accession rural development)	
Article 1	Definition and objective	Title 1	Objectives and types of measures
Article 2	Eligible measures	Article 1	Objectives
Article 3	Financial resources	Article 2	Measures
Article 4	Indicative allocation	Title 2	Assistance
Article 5	Compatibility with Community policies	Article 3	Complementarity and technical assistance
Article 6	Forms and rate of assistance	Article 4	Programming
Article 7	Appraisal and approval of measures	Article 5	<i>Ex ante</i> appraisal, monitoring and evaluation
Article 8	Commitments and payments	Article 6	Compatibility
Article 9	Management and control	Title 3	Financial provisions
Article 10	Use of the euro	Article 7	Resources
Article 11	Monitoring and <i>ex post</i> evaluation	Article 8	Rate of Community contribution
Article 12	Annual report	Article 9	Financial control
Article 13	Information and publicity	Article 10	Reduction, suspension and cancellation of aid
Article 14	Committee	Article 11	Allocation by country
Article 15	Final and transitional provisions	Title 4	Implementing rules
Article 16	Entry into force	Article 12	Implementing and financial rules to be adopted
Annex I	Content of applications	Title 5	Other provisions
Annex II	Appraisal of measures	Article 13	Reports
Annex III	Monitoring and <i>ex post</i> evaluation	Title 6	Final provisions
Annex IV	Annual report from the Commission	Article 14	Information and publicity
Example of financial statement		Article 15	Loss of entitlement
		Article 16	Entry into force

ANNEX III

Measures envisaged within the pre-accession framework

COM(98) 551 final (Coordination)

Measures covered by the agricultural instrument

Article 2	<p>Improving the structure of agricultural holdings, processing and marketing of agricultural and fisheries products</p> <p>Improving phytosanitary and veterinary inspection and the quality of foodstuffs</p> <p>Integrated rural development measures including infrastructure and agri-environment schemes</p>
-----------	--

Measures covered by ISPA

Article 3	<p>Investment projects in the following areas:</p> <p>(a) the environment, in order to comply with the requirements of the <i>acquis</i> and with the objectives of the Accession Partnerships</p> <p>(b) transport infrastructure designed to promote sustainable modes of transport, in particular:</p> <ul style="list-style-type: none"> — projects of common interest based on the criteria of European Parliament and Council Decision No 1692/96/EC — measures allowing beneficiaries to comply with the objectives of the accession partnerships — interconnection and interoperability of national networks and national networks with trans-European networks together with access to such networks
-----------	--

Measures covered by PHARE

Article 4	<p>Focusing on the main priorities for the adoption of the <i>acquis communautaire</i>:</p> <p>(a) building up the administrative and institutional capacities of the applicant States</p> <p>(b) investment except, as regards applicant States, the investments referred to in the two other pre-accession instruments</p> <p>However, investment in the fields of the environment or transport essential to the completion of integrated programmes for industrial reconstruction or regional and rural development may be financed</p>
-----------	--

COM(98) 153 final (Agriculture)

Article 2(1)	<p>15 areas:</p> <ul style="list-style-type: none"> — investments in agricultural holdings — improving the processing and marketing of agricultural and fishery products — improving the structures for quality, veterinary and plant-health controls — agricultural production methods designed to protect the environment and maintain the countryside — development and diversification of economic activities providing for multiple activities and alternative income — setting up farm relief and farm management services — setting up producer groups — renovation and development of villages and the protection and conservation of the rural heritage — land improvement and reparation — establishment and updating of land registers — improvement of vocational training — development and improvement of rural infrastructure — water resources management — forestry, including afforestation, investments in forest holdings owned by private forest owners and processing and marketing of forestry products — technical assistance for the measures, including studies to assist with the preparation and monitoring of the programme, information and publicity campaigns
Article 2(2)	<p>Other measures may be decided in accordance with the procedure laid down in Article 49 of the general Regulation on the Structural Funds</p>
Article 4(3)	<p>In their development plans applicant countries shall ensure that priority is given to measures in compliance with the provisions on protection of the environment which:</p> <ul style="list-style-type: none"> — improve market efficiency — improve quality and health standards — maintain jobs and create new employment opportunities in rural areas
Article 1(2)	<p>Community support shall comply with the conditions laid down in the framework of accession partnerships and relate to:</p> <ul style="list-style-type: none"> — solving priority and specific problems for the sustainable adaptation of the agricultural sector and rural areas in the applicant countries — contributing to the implementation of the <i>acquis communautaire</i> concerning the CAP and related policies

COM(98) 138 final (ISPA)

Article 1(2)	Assistance must contribute to the objectives laid down in the accession partnership and to corresponding national programmes for the improvement of the environment and of transport infrastructure networks
Article 2(2)(a) Article 2(2)(b)	<p>Measures enabling the beneficiary countries to comply with the requirements of Community environmental law and with the objectives of the accession partnerships</p> <p>Transport infrastructure measures (TIM) which promote sustainable mobility and in particular:</p> <ul style="list-style-type: none"> — those that constitute projects of common interest based on the criteria of Decision No 1692/96/EC — those which enable the beneficiary countries to comply with the objectives of the Accession Partnerships <p>includes inter-connection and interoperability of national networks as well as with the trans-European networks together with access to such networks</p>
Article 2(4)(a) Article 2(4)(b)	<p>Preliminary studies related to eligible measures, including those necessary for their implementation</p> <p>Technical support measures, including information and publicity actions, particularly:</p> <ul style="list-style-type: none"> — horizontal measures such as comparative studies to assess the impact of Community assistance — measures and studies which contribute to the appraisal, monitoring, evaluation or control of projects and to strengthening and ensuring the coordination and consistency of projects with the accession partnerships — measures and studies to ensure effective project management and implementation and to make any necessary adjustments

GUARANTEE FUND FOR EXTERNAL ACTIONS

CONTENTS

	<i>Paragraph(s)</i>	<i>Page</i>
1. FUNCTIONING OF THE FUND	1.1 — 1.4	45
2. APPRAISAL OF THE FUND'S ACTIVITY	2.1 — 2.3	45
3. PROPOSAL TO AMEND THE REGULATION GOVERNING THE FUND	3.1 — 3.3	45
4. OBSERVATIONS AND COMMENTS	4.1 — 4.5	46

THE COURT OF AUDITORS OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community and, in particular, Article 188C(4)(b) thereof,

Having regard to Council Regulation (EC, Euratom) No 2728/94 of 31 October 1994 establishing a Guarantee Fund for external actions,

Having regard to the comprehensive report on the functioning of the guarantee fund submitted by the Commission on 18 March 1998 (COM(1998) 168 final),

Having regard to the proposal for a Council Regulation (EC, Euratom) amending Regulation (EC, Euratom) No 2728/94 of 31 October 1994 establishing a Guarantee Fund for external actions (COM(1998) 168 final),

HAS ADOPTED THE FOLLOWING OPINION:

1. FUNCTIONING OF THE FUND

1.1. The Guarantee Fund for external actions, which was established on 31 October 1994 by Council Regulation (EC, Euratom) No 2728/94, is intended to reimburse the Community's creditors where a beneficiary defaults on a loan granted or guaranteed by the Community to or in a non-member State. The Fund, which takes effect where a beneficiary has still not repaid a loan three months after it has fallen due, takes over from the Community resources which have serviced the loan in the interim.

1.2. The Fund's resources are made up of payments from the guarantee reserve entered in the Communities' general budget (ECU 338 million for the 1998 budget), the financial proceeds of investments and amounts collected from debtors who have defaulted.

1.3. Under Articles 3 and 4 of the Regulation governing the Fund, the payments were equivalent to 14 % ⁽¹⁾ of the nominal value of each new operation financed until the Fund reached a target amount set at 10 % of the

total outstanding capital liabilities plus unpaid interest due for all the operations covered. Article 4 of the Regulation lays down that this rate of annual provisioning of the Fund must be reviewed when the target amount is reached and, in any event, no later than 31 December 1999.

1.4. Pursuant to Article 6 of the Regulation, the Commission entrusted the financial management of the Fund to the European Investment Bank (EIB) within the framework of an agreement signed by the Community and the EIB in November 1994.

2. APPRAISAL OF THE FUND'S ACTIVITY

2.1. Since it was created, the Fund has been drawn on only in the case of two operations concerning the Newly Independent States (NIS) of the former USSR and the countries of the former Yugoslavia. It has never been used for any of the six countries which have applied for membership of the Union.

2.2. The relationship between the Fund's available resources and the total value of loan and loan-guarantee operations for non-member States, plus unpaid interest due, has continued to increase from year to year and reached 10,8 % at the end of 1997 ⁽²⁾, thereby exceeding the 10 % rate set as the target amount. Since it was created, the Fund has never been used to cover an amount greater than 5 % of the total amount outstanding; at the end of 1997, total activated guarantees, less amounts collected, accounted for 3,96 % of the overall amount outstanding.

2.3. From 1994 to 1997, an average of 82 % of the annual allocation of the guarantee reserve was used to finance the Fund. Conversely, although revenue from financial investments has increased constantly, it is still relatively marginal (0,4 % of the guaranteed amount outstanding for 1997) and therefore does not constitute a genuine source of financial autonomy.

3. PROPOSAL TO AMEND THE REGULATION GOVERNING THE FUND

3.1. In view of the functioning of the Fund, the Commission proposes to revise certain provisions of Council Regulation (EC, Euratom) No 2728/94 of 31 October 1994. Thus, Article 3 would be changed to reduce the target amount of the Fund from 10 % to 8 % of the sum outstanding.

⁽¹⁾ Pursuant to Article 5 of the Regulation, the provisioning rate was increased to 15 % when the Fund's resources were less than 75 % of the target amount.

⁽²⁾ The Fund's net available resources totalled ECU 862 million at the end of 1997 for an outstanding total of ECU 7 960 million.

3.2. Furthermore, Article 4 would be amended so that payments from the Fund would not account for more than 6 % of the nominal amount of new operations underwritten and covered by the Fund. However, this rate could be increased to 7 % if, as a result of defaults, the Fund's resources fell below 75 % of the target amount.

3.3. Furthermore, it is proposed that Article 6 should be changed so that the financial management of the Fund is henceforth entrusted to the Commission rather than to the EIB as is currently the case.

4. OBSERVATIONS AND COMMENTS

4.1. According to the Commission's hypothesis, the total balance of defaults will remain at ECU 315 million for

the entire 1999-2006 period. However, this figure had already been reached on 31 December 1997. The hypothesis is therefore not very realistic in so far as the outstanding amount is due to increase from ECU 7 960 million at the end of 1997 to ECU 25 298 million at the end of 2006, with the ratio of defaults to outstanding amount standing at 1,25 % at the end of 2006 as against 3,96 % at the end of 1997. *Table 1* shows the differences between the current situation and the Commission's proposal.

4.2. Furthermore, the same conclusion would be reached if the new information contained in the Commission's proposal were applied retrospectively to the Fund's principal activity ⁽³⁾. This simulation shows that, alone, the Fund would have been incapable of covering defaults in 1995 and that it would achieve a rate of coverage of only 2,3 % at the end of 1997, a very long way from the target amount fixed at 8 % of the outstanding amount (see *Table 2*).

Table 1

Comparison of basic factors

	Present situation	Commission proposal
Guarantee reserve	ECU 329 million ⁽¹⁾	ECU 150 million
Rate of utilisation of reserve	82 % ⁽²⁾	87 % ⁽³⁾
Target amount	10 %	8 %
Normal provisioning rate	14 %	6 %
Accelerated provisioning rate	15 %	7 %
Annual capacity ⁽⁴⁾	ECU 2 350 million	ECU 2 500 million
Increase in outstanding amount	ECU 1 245 million ⁽⁵⁾	ECU 2 293 million
Global amount outstanding	ECU 7 960 million	ECU 25 298 million
Total default balance	ECU 315 million	ECU 315 million
Defaults/outstanding amount	3,96 %	1,25 %

⁽¹⁾ Amount entered in the 1997 budget.

⁽²⁾ Average for the 1994-1997 period.

⁽³⁾ Average for the 2002-2006 period.

⁽⁴⁾ Relationship between the guarantee reserve and the provisioning rate.

⁽⁵⁾ 1997.

⁽³⁾ Outstanding amount, defaults and repayments.

Table 2

Simulation of the movements and situation of the Guarantee Fund (million ECU) retrospectively applying the changes recommended by the Commission

Financial year	Payments ⁽¹⁾	Amounts drawn from Guarantee Fund ⁽²⁾	Late repayments	Total sum available from fund on 31.12 ⁽³⁾	Outstanding amount guarantees	Rate of cover (%)
1994	125,88	—	—	125,88	6 017	2,1
1995	85,95	(303,07)	35,63	(55,61)	5 882	(0,9)
1996	114,52	(52,54)	55,72	62,09	6 715	0,9
1997	132,55	(54,29)	45,03	185,38	7 960	2,3
Total	458,9	(409,90)	136,38			

⁽¹⁾ Amounts transferred to the Guarantee Fund with a provisioning rate set at 6 % and 7 % respectively.

⁽²⁾ The Guarantee Fund has been used since January 1995 to reimburse defaults.

⁽³⁾ Interest is not a basic factor and has therefore been ignored in this hypothesis.

Source: Commission.

4.3. Furthermore, the accession of the six applicant countries between 2002 and 2006 may lead to a proportion of the funds which were previously available for loans to these countries being allocated in future to other countries which present a higher rate of risk and which are correspondingly less solvent.

4.4. Consequently, the Court considers that, in view of past experience and of the accession of the new Member States, the proposed reduction of the target amount from

10 % to 8 % and, subsequently, the reduction in the provisioning rate from 14 % to 6 % would not totally shield the Fund from a liquidity problem in the future. The Court also considers that raising the provisioning rate to 7 % if, as a result of defaults, the Fund's resources fell below 75 % of the target amount could prove insufficient.

4.5. The Court has no remarks to make concerning the proposal that the Fund should be managed by the Commission.