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(pursuant to Article 287(4), second subparagraph, TFEU)

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GLOSSARY

Cohesion policy: European policy aiming at strengthening economic and social cohesion within the European Union by reducing the gap in the level of development between different regions.

Commission White Papers: Documents published by the European Commission containing proposals for European Union actions in a specific area.

Directorate-General (DG): A department of the European Commission. In this audit, the relevant DGs were the Regional Policy DG and the Mobility and Transport DG.

Managing authority: The body at national, regional or local level designated by the Member State that proposes the operational programme for adoption to the Commission and that is responsible for its subsequent management and implementation.

Monitoring committee: A committee which meets annually to assess the effectiveness and quality of implementation of the assistance provided. It is chaired by a representative of the Member State or the managing authority and a representative of the Commission participates in the works of the monitoring committee in an advisory capacity.

Major project: A project which comprises of an economically indivisible series of works fulfilling a precise technical function having clearly identified aims and whose total cost taken into account in determining the contribution of the funds exceeds 50 million euro. Major projects are co-financed by the ERDF and governed by the Structural Funds Regulation (EC) No 1260/1999.

Cohesion Fund project: Cohesion Fund projects may provide assistance for the environmental and transport infrastructure projects of common interest whereby the total cost may in principle not be less than 10 million euro co-financed by the Cohesion Fund and governed by the Cohesion Fund Regulation (EC) No 1164/1994.

Operational programme: The document prepared at central or regional level in a Member State and approved by the Commission which takes the form of a consistent set of priorities comprising multiannual measures.

Retrospective financing: The switching of projects initially proposed for implementation with EU co-funding with replacement projects. These are projects which have already been funded and sometimes already completed with national funds. These projects replace those originally included in the operational programme but which have been delayed or abandoned.

Seaport infrastructures: As defined in the working paper 'European Sea Port Policy' of the European Parliament of July 1993, infrastructures are civil works within the port area that allow the supply of services to ships and cargo such as berths, channels, yards, port road or rail networks.
In most countries, such infrastructures are usually financed through public investments.

Structural Funds and Cohesion Fund: The Union's principal policy instrument in support of the Treaty objectives of economic and social cohesion. Several funds are used as financial instruments to promote economic and social cohesion between the regions of the EU. This audit concerned in particular the following two funds:

(a) The European Regional Development Fund (ERDF): aimed at investing in infrastructure, creating or preserving jobs, sustaining local development initiatives and activities of small and medium-sized enterprises;

(b) The Cohesion Fund (CF): aimed at strengthening economic and social cohesion by financing environment and transport projects in Member States with a per capita GNP of less than 90 % of the EU average.

Trans-European networks for transport (TEN-T): A co-financed programme, directly managed by the Commission, aimed at developing key links and interconnections to eliminate existing mobility bottlenecks, to fill in missing sections and complete the main routes (especially their cross-border sections), cross natural barriers and improve interoperability on major routes. The main support from this programme goes to rail and road whereas support for maritime transport was limited to the Motorways of the Sea initiative and some annual projects.

EXECUTIVE SUMMARY

I.
Since 2000, the EU has made available around 6,2 billion euro through the Structural and Cohesion Funds to co-finance the construction of seaport infrastructures. The investments are managed by the regional authorities and the European Commission.

II.
The European Court of Auditors assessed whether the transport infrastructure projects in seaports were effective by examining the objectives and outputs of 27 projects assisted by the ERDF and the Cohesion Fund and the way in which Member States had managed this expenditure and the Commission had supervised the process.

III.
The Court found that:

— Only 11 out of the 27 projects were effective in supporting transport policy objectives. In addition, some constructions had not been completed, some were not in use and others will need considerable further investment before they can be put into effective use.

— None of the audited regions had a long-term port development plan in place and no needs assessment had been carried out. In addition, there was a lack of suitable projects for funding and retrospective financing was used to absorb the available funds.

— Administrative procedures in the Member States for such projects were long and burdensome, sometimes leading to delays and additional expenditure.

— Little consideration was given to the monitoring and supervision of project results, with the monitoring committees and the managing authorities focusing on the rate of spending. Indicators were designed mainly to monitor spending and construction. The results and impacts of the infrastructures were not monitored and empty ports and unused seaport infrastructures were found.

— The Commission assessments and decisions for major projects and Cohesion Fund projects did not lead to action to remedy project weaknesses observed during the audit. It was also found that Commission guidance on sound financial management in spending was lacking.

— There was little evidence that the Commission intervened in the monitoring committees to ensure effective spending for the major projects and Cohesion Fund projects audited to ensure the setting or using of result or impact indicators.

IV.
The Court recommends that, in order to address the various shortcomings noted, the Commission should:

— remind the Member States of their obligation to use EU funding in accordance with sound financial management and provide appropriate guidance where necessary;

— seek to ensure that in its decisions and supervision relating to seaport infrastructures, the Structural Funds are used effectively in support of the objectives set out in operational programmes;

— make cohesion policy aid for the coming period conditional upon the existence of a comprehensive long-term port development strategy (based on an assessment of needs) for all the ports of the relevant region;

— increase the focus on the effectiveness of projects through encouraging the use of result and impact indicators by the managing authorities, on-the-spot visits on effectiveness issues, and introduction of the principle that EU funding should be conditional upon results;

— carry-out *ex post* checks on the use and performance of co-financed infrastructures on a risk basis;

— strengthen the assessment procedure for major projects and Cohesion Fund projects to improve the detection of serious weaknesses and the taking of appropriate action to remedy them.

INTRODUCTION

SEAPORTS IN THE EUROPEAN ECONOMY

1. Seaports are organised areas and structures for boarding passengers and loading or unloading ships. In 2009, 404 million passengers passed through the more than 1 200 merchant ports along the 100 000 km of European coasts[1]. The volume of freight handled in ports in the 27 EU Member States was around 3,9 billion tonnes[2]. Approximately 214 000 people worked in the European water transport sector in the 2005/06 period, generating 22 billion euro of added value on a turnover of approximately 100 billion euro[3].

2. Maritime transport is the second most important mode of transport within the EU, with most freight still being moved by road (see ***Figure 1***).

3. Overall, the Commission forecasts that transport will continue to grow, that EU maritime transport will increase from 3,8 billion tonnes in 2006 to some 5,3 billion tonnes in 2018[4] and that road transport will continue to have the highest growth rate of all transport modes.

[1] *Source:* Eurostat data on number of passengers in maritime transport. See http://epp.eurostat.ec.europa.eu/portal/page/portal/transport/data/database

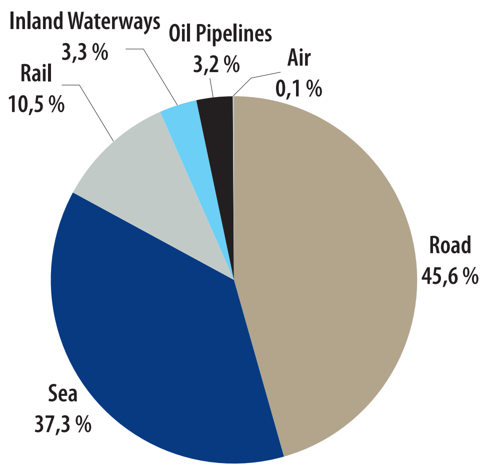
[2] *Source:* 'Energy, transport and environment indicators', Eurostat, February 2011.

[3] *Source:* 'European Business: Facts and Figures', Eurostat, October 2009.

[4] Paragraph 6 of 'Strategic goals and recommendations for the EU's maritime transport policy until 2018' (COM(2009) 8 final of 21 January 2009) .

FIGURE 1

OVERVIEW OF THE USE OF TRANSPORT MODES FOR INTRA-EU FREIGHT IN TONNES/KM



Source: 'Panorama of Transport', Eurostat, 2009.

EUROPEAN POLICIES AND SEAPORTS

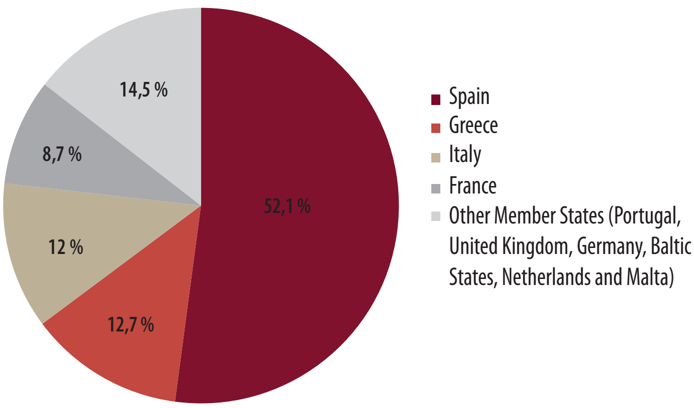
4. The 1992 Commission White Paper[5] identified multimodal terminals and interoperability as keys to increasing the sustainability of mobility in Europe and stressed the importance of investment in port infrastructure. In this context, it stated that there were ports in the Community which were lagging behind in terms of investment in new infrastructure and connecting links to inland networks. The Commission's 2001 White Paper[6] stressed the importance of shifting the balance between the various modes of transport and ports are crucial for this as they are the first 'modal node', connecting and transferring goods and passengers between maritime and land-based modes of transport. The European Council in 2001 considered that priority should be given to investments in rail, sea and inland waterways to encourage intermodal transport[7].

5. In the framework of the cohesion policy, the ERDF regulation provides for the possibility of investments in infrastructure 'contributing to the establishment and development of trans-European networks in the area of transport'[8]. In addition, the Cohesion Fund regulation allows assistance for 'transport infrastructure projects of common interest'[9].

6. Between 2000 and 2006, 2,8 billion euro from the Structural and Cohesion Funds was allocated to seaport infrastructures[10]. Four countries were allocated 85,5 % of the total amount to be spent (see ***Figure 2*** and ***Annex I*** for the details). A further 3,4 billion euro has been allocated for seaport investments during the 2007–13 financing period[11].

FIGURE 2

BREAKDOWN BY COUNTRY OF STRUCTURAL AND COHESION FUNDING FOR SEAPORT INFRASTRUCTURES FOR THE 2000–06 PERIOD



[5] Point V.1 of 'The future development of the common transport policy' (COM(1992) 494 final of 2 December 1992).

[6] 'European transport policy for 2010: time to decide' (COM(2001) 370 final of 12 September 2001).

[7] 'A European Union Strategy for Sustainable Development' (COM(2001) 264 final of 15 May 2001), Presidency Conclusions (Gothenburg Council, 15 and 16 June 2001), No SN 200/1/01 REV 1.

[8] Article 2(1)(b) of Regulation (EC) No 1783/1999 of the European Parliament and of the Council of 12 June 1999 on the European Regional Development Fund (OJ L 213, 13.8.1999, p. 1).

[9] Article 3(1) and the annex to Annex II of Council Regulation (EC) No 1164/94 of 16 May 1994 establishing a Cohesion Fund (OJ L 130, 25.5.1994, p. 1).

[10] Moreover, for the 2000–13 period, 275 million euro of EU money has been spent so far in seaport infrastructures through the directly managed trans-European network for transport (TEN-T) programme.

[11] The proportion of Structural and Cohesion Funds allocated under the 'Ports and Inland waterways' heading was in the region of 5 % for both the 2000–06 and the 2007–13 programming periods.

THE MANAGEMENT OF STRUCTURAL AND COHESION FUNDS INVESTMENTS IN SEAPORTS

7. Structural and Cohesion Funds expenditure is managed under the shared management mode whereby management responsibilities for the 2000–06 period were as follows:

(a) the Commission negotiated and approved the operational programmes proposed by the managing authorities designated by Member States or Cohesion Fund projects and allocated the financial resources accordingly;

(b) the Commission's approval was required for ERDF major projects and Cohesion Fund projects at individual project level;

(c) the Member State managing authorities were responsible for programme management and implementation;

(d) the Commission was involved in programme monitoring and supervision, alongside the managing authorities at the regional level. The Commission reimbursed the approved expenditure and bore overall responsibility for the proper use of funds.

8. Within the Commission, the responsibility for these transport investments was shared between the Directorate-General for Regional Policy (Regional Policy DG) and the Directorate-General for Mobility and Transport (Mobility and Transport DG). Whilst the Regional Policy DG is responsible for managing the ERDF and the Cohesion Fund, the Mobility and Transport DG is responsible for the EU transport policy proposals and their concrete implementation and follow-up.

AUDIT SCOPE AND APPROACH

9. The Court audited Structural and Cohesion Fund investments in transport infrastructure in seaports[12] to find out whether the projects co-financed during the 2000–06 period[13] were effective. It examined:

- the objectives and outputs of 27 projects assisted by the ERDF and the Cohesion Fund under the 'Transport infrastructures' heading;
- the way in which Member States had managed this expenditure and the Commission had supervised the process.

10. The audit was carried out in nine regions in the four Member States that were allocated the most funds. The number of regions audited per country followed its share of allocated funds, resulting in four regions in Spain (Andalucia, Asturias, Canaria and Galicia), two in Greece (the islands of the northern and the southern Aegean), two in Italy (Sicily and Puglia) and one in France (Upper Normandy) being selected. For each region, three projects were selected at random for an on-the-spot audit from amongst the transport infrastructure investments in seaports reported to the Commission.

11. The sample of 27 contained four major projects and three Cohesion Fund projects for which a decision of the Commission is required. As regards the nature of the projects, 13 were related to cargo and container infrastructure, nine to the improvement of passenger ports including four marinas, four to the financing of superstructures[14] and one was an urban redevelopment project. The total cost of the audited projects was 1,7 billion euro and the EU co-funding amounted to 726 million euro. A full list of the audited projects with a short description of their content and details of cost is provided in ***Annex II***.

12. The audit procedures employed included a documentary review, audit interviews, an analysis of project management systems and on-the-spot verification of project outputs, their utilisation and results. Meetings were also held with the European Commission, the managing authorities in each region, the central ministries of the four countries concerned, port authorities and other beneficiaries involved in the implementation of the financed projects. The on-the-spot missions were carried out from June to November 2010.

[12] In this field, the European Court of Auditors has already reported on the financing of transport infrastructures (see Special Report No 1/93 (OJ C 69, 11.3.1993, p. 1)). Moreover, in the field of regional aid, amongst others, Special Report No 1/95 (0J C 59, 8.3.1995, p. 1) assessed the cohesion financial instruments; Special Report No 7/2003 (OJ C 174, 23.7.2003, p. 1) examined the implementation of assistance programming for the period 2000–06 and Special Report No 1/2007 (OJ C 124, 5.6.2007, p. 1) assessed the implementation of the mid-term processes on the Structural Funds 2000–06.

[13] This period was chosen by the Court to be able to assess the results of completed seaport infrastructures.

[14] Superstructures are fixed assets (e.g. sheds, warehouses, office buildings) built on seaport infrastructures as well as fixed and mobile equipment (e.g. cranes) used in the port area.

OBSERVATIONS

APPROPRIATENESS OF OBJECTIVES

EIGHTEEN OF THE 27 AUDITED PROJECTS HAD CLEAR TRANSPORT POLICY OBJECTIVES

13. The objectives of seaport infrastructure projects can vary. The 1999 Structural Funds regulation spelled out the general principle that the operations of the funds were to be 'consistent with other Community policies and operations, in particular in the areas of … transport'[15].

14. The Court's audit assessed whether the objectives of the selected transport infrastructure projects were consistent with stated transport policy objectives and the objectives of the operational programmes under which they had been funded so as to ensure that EU spending had taken place for the purposes for which it had been approved.

15. The Court found (see ***Figure 3*** and ***Box 1***) that out of the 27 transport projects audited:

(a) eighteen projects were clearly directed at transport objectives;

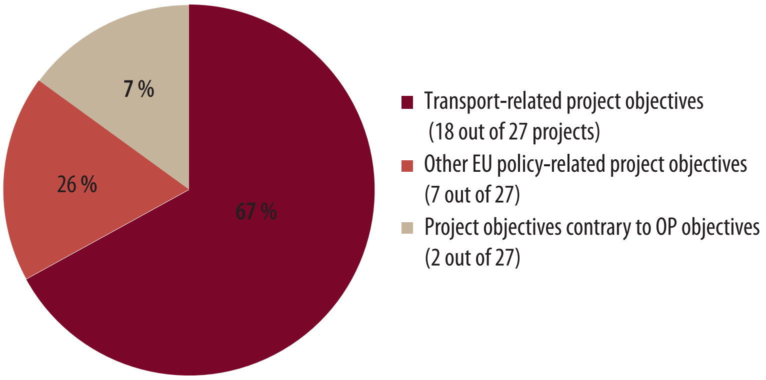
(b) seven projects did not have objectives that supported transport policy but had objectives in other areas supported by the Structural and Cohesion Funds (such as tourism or urban renewal);

(c) two projects had objectives that were not in line with either transport policy or the description in the operational programme under which they had been funded.

[15] Article 2(5) and Article 12 of Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds (OJ L 161, 26.6.1999, p. 1).

FIGURE 3

ASSESSMENT OF PROJECT OBJECTIVES VERSUS OPERATIONAL PROGRAMME (OP) OBJECTIVES



BOX 1

EXAMPLES OF OBJECTIVES FOUND

(a) Transport policy objectives were found for projects related to strengthening the capacity of the port to handle cargo and passengers, such as building of quays, moles, dykes and terminals, deepening access channels, dredging and excavation works. Other regional policy objectives were found, such as passenger port projects to improve the connection from the islands of the southern and northern Aegean regions to the Greek mainland so as to support the higher level objective of reducing insularity and combating demographic contraction and economic marginalisation.

(b) Projects that had objectives supporting policies other than transport were a redeveloped pedestrian area between the port and the city of Aviles (Asturias, Spain), a fish market building in the port area of A Coruña (Galicia, Spain), an extended quay for attracting bigger cruise ships in the port of Ermoupoli on the island of Syros (islands of the southern Aegean, Greece), a port police building in Cadiz (Andalucia, Spain) and three marinas: in Vieste, Puglia, in Ragusa, Sicily (Italy) and in Chipiona, Andalucia (Spain).

(c) Projects that had objectives that were not in line with the description in the operational programme under which they had been funded included the construction of a marina in Mytilini (islands of the northern Aegean, Greece) whereas the operational programme envisaged making investments to attract sources of income other than tourism and a Cohesion Fund project in Campamento (Andalucia, Spain) that had changed objectives to the building of a dry dock for special constructions, although such an objective was not in line with the guidelines for trans-European networks for transport (see paragraph 33).

EFFECTIVENESS OF PROJECTS

NOT ALL PROJECTS WERE IN USE AND SOME LARGE PROJECTS HAD NOT BEEN COMPLETED AS PLANNED

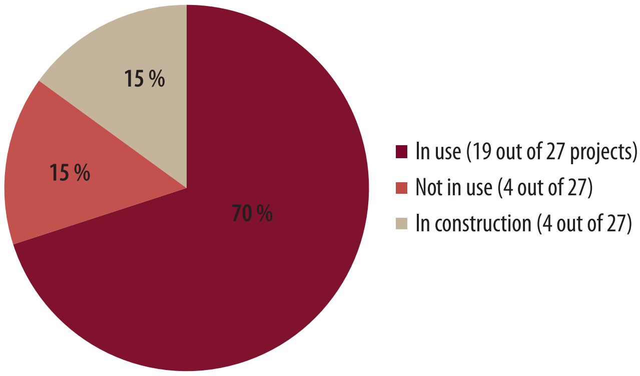
16. The audit also assessed whether the construction of the infrastructures had been finished on time and whether they were being used. The Court found that out of the 27 projects:

(a) 11 had been finished on time, 12 had experienced an average construction delay of 26 months and the remaining four, totalling 70,8 % of the amounts audited, had not been completed. The construction works were ongoing at the time of the audit due to delays and technical problems in Gijon (Asturias, Spain), Punta de Langosteira (Galicia, Spain) and Brindisi (Puglia, Italy) and the need for additional dredging and excavation works in Karlovasi (islands of the northern Aegean, Greece). Gijon, a project which received 248 million euro of co-financing, was reported to the Court as having been finished in January 2011. The Punta de Langosteira project, which received 258 million euro from the Cohesion Fund, had not been completed by mid-2011;

(b) the majority of the infrastructures were in use (see ***Figure 4***): of the 23 finished projects, 19 were in use by mid-2010. Three were not being used (the projects of Augusta, Italy, and Campamento and Arinaga, Spain) and one was only partly used (Bari, Italy). These four projects received 25,7 million euro of ERDF funding or 36,6 % of their total cost.

FIGURE 4

WERE THE PROJECTS IN USE?



BOX 2

EXAMPLES OF PROJECTS WHICH WERE NOT IN USE

1. Between 2001 and 2004, a project in Campamento provided for the reconversion of an obsolete port area into a container hub terminal to meet the growing demand for container transport and to create employment. Because the basin constructed was too small for the growing size of modern container vessels, the hinterland connections were poor and there were other container terminals nearby, it was decided during construction to change the project into a dry dock for special constructions. This dock was used once, to build a floating liquid natural gas terminal, and there are no prospects for future use (EU co-funding of 16,6 million euro).

Part of the dock built in Campamento

Part of the port constructions in Augusta (Sicily)

2. Between 2003 and 2006, the construction of the second phase of a commercial port was co-financed in Augusta (the first phase had started in 1980). The infrastructure was completed in 2006, but the port remains unused as neither the expected container nor the roll-on roll-off (ro-ro) traffic materialised (co-funding of 3,8 million euro). A third port extension phase is planned for the near future to complete work on the quays for a new container terminal and to connect to the rail network.

ONLY 11 OF THE 23 FINISHED PROJECTS WERE FOUND TO BE EFFECTIVE IN TERMS OF TRANSPORT POLICY OBJECTIVES

17. Projects were considered as being effective when they had achieved the objectives established at their inception, including the attainment of any targets set. In terms of effectiveness, the 23 finished transport infrastructure projects were judged as follows:

(a) 11 projects were considered to effectively support transport policy (18,1 % of the EU funds audited): 'Port 2000' in Le Havre, mobile cranes in Rouen, a bypass for trucks in Tremestrieri, two docks in San Juan de Nieva in Aviles, a mole in Myrinas, port extension works in Tinos, part of the interport extension in Bari, port expansion works in Thira, port constructions in Ferrol, and a breakwater and a refurbished terminal in the port of Las Palmas;

(b) four projects (5,6 % of the total) were not effective: three empty ports in Campamento, Arinaga and Augusta and a rail investment in Le Havre that did not result in the expected increased transport of containers by rail (see ***Box 4***);

(c) eight projects did not support transport policy objectives (5,6 % of the funding), i.e. four projects for the construction of marinas[16], an extended quay for attracting bigger cruise ships in Syros, a port police building in Cadiz, a fish market in A Coruña and a road renovation project in Aviles (although judged not to have effectively supported transport policy objectives, some of the visited projects did bring quantitative or qualitative benefits to their localities).

18. Moreover, a lot of the investments made suffer from either ineffective links to their hinterland ('Port 2000' in Le Havre) or missing links (Bari, Brindisi, Langosteira and Ferrol). Even though 'Port 2000', Bari and Ferrol were considered as being effective, these five projects, representing 47,7 % of the co-financed amounts audited, are likely to need significant further investments to become linked to their hinterlands and operate to their capacity.

[16] Ragusa, Vieste, Chipiona and Mytilini.

BOX 3

EXAMPLES OF EFFECTIVE PROJECTS AUDITED

Part of the Tremestrieri project
© Comune di Messina

1. In Tremestrieri, 10,5 million euro was used to co-fund the construction of two berths and a bypass road to shorten the distance and driving time from the motorway to the ships, for lorries going from Sicily to the Italian mainland. The number of lorries driving through Messina city centre was reduced by 98 % and the number of accidents involving heavy vehicles fell by 50 %. In addition to a reduction in the number of deaths caused by road accidents, there was a significant reduction in city-centre pollution.

2. The project 'Port 2000' at Le Havre consisted of the construction of four berthing places, dykes, quays and dredging works to widen and deepen the access channel, in addition to the development of land connections inside the port area and some environmental preservation works.The ERDF co-financing amounted to 38,1 million euro and following the project there have been increases in volumes of general cargo (by 117 % from 1999 to 2006) and in the number of containers attracted (by 162 % from 1999 to 2010) as well as an improved level of security at the new terminals, where there were fewer incidences of theft and a lower number of accidents reported.

Constructions and operations in the first phase of Port 2000
© L'Autorité portuaire du Havre

3. In the port of Aviles/San Juan de Nieva, two docks were built during 2002 to 2005 (EU co-funding of 6,5 million euro). The amount of cargo moved via this port has quadrupled since completion of the project (from 244 191 tonnes in 2001 to 1 366 911 tonnes in 2006).

Docks of the port of Aviles
© Autoridad Portuaria de Avilés

Situation during construction

Situation after construction

4. A project undertaken with 4,9 million euro co-funding from 2005 to 2009 on the island of Tinos, a famous place of pilgrimage in the region of the islands of the southern Aegean, increased the port's capacity for ships to berth, thereby reducing the potential for accidents. Moreover, port traffic has been kept outside the city centre, which has reduced traffic congestion and solved the problem of a lack of parking space for visitors.

The port area of Tinos

BOX 4

EXAMPLE OF AN INEFFECTIVE PROJECT

In Le Havre, a rail project that was co-financed with 8,4 million euro was implemented in 2007 and 2008. The objective was to modernise and upgrade part of the rail network so as to improve the organisation of the land transport of containers attracted by the new port.

For several reasons related to the project design, inefficient container handling at the terminals and construction delays leading to losses of contracts, this project failed to have the envisaged impact and road transport took up the increase in containers attracted by the new port.

Part of the rail project co-financed in Le Havre

MANAGEMENT OF THE PROJECTS AND PROGRAMMES

BUILDING OF INFRASTRUCTURES WITHOUT AN ASSESSMENT OF LONG-TERM PORT DEVELOPMENT NEEDS

19. Large-scale seaport infrastructure projects need adequate planning and their optimum performance can best be achieved if they have been planned within the framework of regional or area port development priorities. For this, managing authorities should have an overall conception of their long-term needs and development requirements set out in an appropriate port development plan. Such a plan should include an estimation of future passenger and cargo volumes, a review of inland access and any environmental issues, as well as an analysis of likely costs and benefits. In the context of the above, the audit assessed whether long-term strategic port development plans existed and were used by the regions for prioritising seaport infrastructure investments. The Court found that none of the regions audited had a long-term strategic port development plan to support investment decisions and only one of the nine regions audited (the Greek region of the islands of the southern Aegean) used studies assessing the needs of the various islands to support the long-term development of seaport infrastructures at the time when project decisions were made. ***Box 5*** explains the situation for all regions audited.

BOX 5

NONE OF THE REGIONS HAD A LONG-TERM STRATEGIC PORT DEVELOPMENT PLAN

In **Greece**, a law in force since January 2006 obliged the 12 major ports ('ports of international interest') to have long-term strategic port development plans. Prior to this, the region of the islands of the southern Aegean used studies to direct the funding towards concrete project needs for the various islands. In the other Greek region audited (the islands of the northern Aegean region), an interministerial committee examined port extension requests on a case-by-case basis.

In **Spain**, an intermediate body[17] assessed all proposed seaport infrastructure investments by way of examining the rolling business plans of the 'ports of national interest' and their 5-year development plans.

In **Italy**, there was neither a national nor a regional planning strategy for seaport investments at the beginning of the 2000–06 period. A general plan for transport and logistics was approved in December 2002 and this remains in place as no subsequent plan has been established. In 2003, a working group came together to synchronise investments at national and regional levels.

In **France**, decisions on co-funding port infrastructures were embedded in a decision of the Transport Minister. In 2010, the Schéma National Infrastructures de Transport was proposed in order to develop alternatives to road transport, linking investments to their impact on global warming, but this proposal had not yet been adopted at the time of the audit.

[17] Puertos del Estado, under the Ministry of Infrastructures.

LACK OF SUITABLE PROJECTS AND DELAYS IN COMPLETION

20. The audit also assessed how projects were selected and found that the procedures used varied in the regions audited. There were traditional calls for proposals (Greece), nationally decided selections (Spain), nationally debated but regionally decided projects (France) and purely regionally decided projects (Italy).

21. For best results, managing authorities should be able to choose from a number of projects competing for the same funding but in most cases due to a lack of suitable projects such competition for funding did not take place. The mere fact that a project had obtained the required permits[18] was often sufficient for it to be selected for funding.

22. In an earlier report[19], the Court recommended that the Commission should put emphasis on the effectiveness of the Structural Funds rather than on the maximum take-up of funding. However, a further consequence of the insufficiency of suitable projects and the delays for the ongoing ones was the use of retrospective financing (i.e. the reallocation of funds to replacement projects) to avoid the potential loss of EU funding.

[18] For the use of the land, environmental permits, archaeological authorisations, etc.

[19] Point X. (d) of Special Report No 7/2003.

BOX 6

RETROSPECTIVE FINANCING IN THE ITALIAN REGIONS AUDITED

In the Sicilian operational programme, for the measure concerned, 18 replacement transport projects (out of a total of 30) were added for a total value of nearly 50 million euro. For the entire operational programme, a total amount of nearly 2,8 billion euro, corresponding to one third of the entire value of the 'POR Sicilia 2000–06' (8,4 billion euro), was 'switched' in this way.

For Puglia, 89 replacement transport projects were added to reach a total of 109 projects in the measure. The total value of replacement projects was nearly 217 million euro, corresponding to 58 % of total expenditure for the measure (372 million euro). For Axis 6 (Networks), a total amount of 265 million euro, corresponding to 50 % of the total expenditure of the axis (525 million euro) was 'switched' in this way. For the entire operational programme, the total amount for replacement projects was nearly 1 200 million euro, corresponding to 23 % of the entire value of the operational programme (5 200 million euro).

23. To be retrospectively financed from Structural Funds' sources, these projects must fulfil the selection criteria established for initial applicant projects. However, two of the three replacement projects[20] audited in Italy did not successfully attain their objectives. The project in Augusta resulted in an empty port (see example 2, ***Box 2***) and in Bari the connection to the national rail network was not made, thereby making difficult the main project objective of creating a multimodal hub.

24. There were considerable delays in the construction approval process, often due to the number of authorisations and permits needed. For example, in the region of the islands of the northern Aegean (Greece), the origins of one of the projects audited went back to 1984, when archaeological permits were given for a port construction project that started in 2006; in Sicily (Italy), the procedure for one of the projects took from 1991 to 2008 and included 33 authorisations and concessions by environmental, state, regional and technical authorities and the Commission.

25. This sometimes resulted in additional expenditure being incurred to make the infrastructure operational again, such as in Vieste (Italy), where the construction of a marina, which started in 2000 with co-funding of 3,6 million euro, was so delayed that significant upgrading investments to adapt the utility infrastructure and design to current standards and user needs were required to make the port functional (estimated at 1,5 million euro).

THE MANAGING AUTHORITIES' SUPERVISION DID NOT FOCUS ON EFFECTIVENESS AND PROJECT MONITORING STOPPED ONCE THE CONSTRUCTION ENDED

26. Member States must take measures and cooperate with the Commission to ensure that EU funds are used in accordance with the principles of sound financial management[21]. To do so, managing authorities must monitor their programmes to ensure compatibility with EU policies, perform an annual review of the main outcomes of the previous year by way of their membership of monitoring committees and use appropriate indicators to follow-up programme and project progress. These monitoring committees should ensure the effectiveness and quality of the implementation of the assistance[22]. Moreover, the Commission needed to provide guidance on the putting-in-place of adequate management and control systems to ensure the sound financial management of Structural and Cohesion Funds.

[20] The projects in Bari (Puglia) and Tremestrieri and Augusta (Sicily).

[21] Article 8(4), Article 34(1) and Article 38(1) of Council Regulation (EC) No 1260/1999.

[22] See Article 35(3) of Council Regulation (EC) No 1260/1999.

27. Wherever possible, programme-level indicators must show quantified targets and physical implementation, results and, as soon as possible, impacts at the appropriate level (priority or measure)[23]. At project level, good indicators should allow an appropriate supervision of the progress of the works and related spending in addition to the achievement of results and impacts in terms of quantitative and qualitative improvements in the use of the infrastructure.

28. The Court found that:

(a) monitoring committee meetings were limited to a general strategy discussion focusing on the evolution of spending, rather than discussions on individual project results;

(b) managing authorities closely monitored the evolution of the spending and progress of the construction, but not the subsequent use made of the infrastructures, as this was not seen to be their responsibility. However, as the Commission considers this to be the responsibility of the national/regional authorities[24], nobody monitors the use and performance of these infrastructures once they have been funded and constructed, allowing unused or ineffective constructions to go unreported;

(c) indicators selected at programme level by managing authorities usually related to expected employment, especially during construction, and some very general outputs, such as '10 improved ports'. In some cases, the data reported were not based on the aggregation of data collected at project level, but on general regional statistical data, not linked to the funded projects;

(d) project-level indicators focused on outputs rather than results; they were often too generic to be relevant or merely consisted of physical measurement (e.g. the number of m^2 of 'improved port zone'). Moreover, these indicators were not followed during project implementation. Good indicator setting was rare in the sample but an example of good practice is described in ***Box 7***;

(e) no guidance on sound financial management had been provided to the managing authorities. Furthermore, the sound financial management aspects of the programmes and projects audited by the Court had not been included in the audit scope of the Regional Policy DG.

[23] See Article 36(2) of Council Regulation (EC) No 1260/1999.

[24] See the Commission reply on similar findings of unused co-financed infrastructures (reply to Box 7, second paragraph in Special Report No 9/2010 'Is EU structural measures spending on the supply of water for domestic consumption used to best effect?').

APPROVAL PROCEDURE FOR MAJOR PROJECTS SLOW

29. For ERDF major projects and Cohesion Fund projects, the Commission is required to agree the EU co-funding by adopting a specific Commission decision. For this purpose, the regulation provided a procedure as well as a time frame in which decisions had to be taken (within two months of the receipt of the request[25]). The audit sample included four major projects and three Cohesion Fund projects. The Court found that:

(a) the time period for the assessment of the applications was never adhered to (for the seven projects, it took an average of 19 months to adopt the initial decision and in two cases it took three years[26]);

(b) as regards the audited projects, no comments were made relating to ineffective or missing links to the hinterland for the projects of Bari and Ferrol, or that the project for a 'dry dock for special constructions' was not in line with the conditions for funding in Campamento (see paragraph 33).

30. Moreover, in earlier reports, the Court also recommended that the Commission should improve the assessment of potential and actual impact by setting appropriate quantified indicators before approving a project[27].

31. The indicators used for the supervision of the major projects and Cohesion Fund projects covered the output (the construction). They did not cover results and measurable targets for assessing the impact of the funding.

[25] Article 26 of Regulation (EC) No 1260/1999: a period of three months applies if consultation with the EIB is required.

[26] This time frame obviously incorporated the time needed for the region to reply to questions put forward by the Commission.

[27] See point 4.25 of Special Report No 1/1995, and point 42 of Special Report No 7/2003.

BOX 7

EXAMPLE OF GOOD PRACTICE FOR SETTING INDICATORS

A best practice case that should be highlighted is the 'Port 2000' major project in Le Havre (Upper Normandy, France), where a number of physical indicators, result indicators, impact indicators and multimodal indicators were provided. In addition to a particular assessment of the environmental aspects and a satisfaction survey of the users, local population and visitors, these indicators were regularly monitored by a specific body which brought together the beneficiary, a local branch of the statistical office and a regional government body.

COMMISSION'S ROLE ON MONITORING COMMITTEES

32. The legislation required the Commission to perform an annual review of the main outcomes of the previous year in monitoring committees albeit in an advisory capacity[28].

33. The Court found that there was little evidence to confirm that the Commission had taken action to influence the monitoring committee meetings to direct them towards ensuring effective spending. For example, in the case of the port of Gela (Sicily), the project was abandoned and the relevant funds were used to continue building the Palermo–Messina and Catania–Gela motorways, which was not in line with the objective of shifting the transport from road to other modes; in the port project in Campamento (see ***Box 2***), the Commission allowed the project to change its purpose from a container terminal into a dry dock for special constructions. As the rules in force for this type of port restrict cohesion funding to infrastructures increasing intermodal efficiency, the changed purpose of this project did not comply with the TEN-T guidelines (a condition for a cohesion project).

34. Moreover, there is no evidence that the Commission intervened or raised objections to the implementation of the major projects and Cohesion Fund projects audited, although the project results did not comply with the objectives for which the co-funding was provided. For example, in the case of the Bari interport project, the intermodal objectives were not achieved and buildings remained empty because the new railway tracks were not connected to the national railway system as the national railway company had not authorised the beneficiary to use its infrastructure.

[28] Another possibility to examine initial results, their relevance, the achievement of targets, monitoring and implementation and, therefore, to influence the chances to increase project effectiveness is the mid-term evaluation (to be carried out by an independent assessor under the responsibility of the managing authority and in cooperation with the Commission). As Special Report No 1/2007 clarified, the time frame for these evaluations was too early in the period to assess effectiveness and measure impacts given the late or slow start-up of programmes (see paragraph 20 and Box 4 of Special Report No 1/2007).

CONCLUSIONS AND RECOMMENDATIONS

35. The Court found that only 11 of the 27 audited transport infrastructures in seaports projects co-financed by the Structural and Cohesion Funds in the 2000–06 programme period were effective. In addition, a third of the projects audited had non-transport-related objectives. As well as ineffective projects, the Court found that some projects were not in use and significant projects with a value of 70,8 % of the total amount audited had not been completed at the time of the audit. Eleven projects had been completed on time but the 12 other completed projects experienced an average construction delay of 26 months. Furthermore, five of the projects, representing almost half of the amounts audited, will need considerable further investment before they can be put into effective use.

36. This audit also showed that none of the regions visited had a long-term port development plan in place and needs assessments to support the selection of seaport infrastructure projects had not been carried out. In addition, there was a lack of suitable projects to compete for the allocated resources. Some regions, as is permitted, retrospectively financed replacement projects to absorb the available allocated resources. However, two of the three replacement projects included in the sample did not attain their objectives. It was also found that national administrative procedures for the delivery of building authorisations and permits were often long and burdensome.

RECOMMENDATION 1

The Commission should:

(a) remind Member States of their obligation to use EU funding in a way compatible with the tenets of sound financial management. To do so, the Commission should provide appropriate guidance and disseminate best practices found in Member States;

(b) in its decisions and supervision relating to seaport infrastructures, seek to ensure that the Structural Funds are used effectively in support of the objectives set out in operational programmes;

(c) make cohesion policy aid for seaport infrastructures for the coming period conditional upon the existence of a comprehensive long-term port development strategy (based on an assessment of needs) for all the ports of the region.

37. Little consideration was given to the monitoring and supervision of project results.

(a) The monitoring committees concentrated on the timely uptake of appropriations and general intervention strategies whereas the managing authorities' monitoring of projects was focused on the rate of spending; indicators were designed mainly to monitor spending and construction. The results and impact of the co-financed seaport infrastructures were not monitored and empty ports and unused seaport infrastructures were found.

(b) There was little evidence that the Commission ensured adequate supervision for the major projects and Cohesion Fund projects audited, that it intervened in the monitoring committees to ensure effective spending and that it encouraged the setting or using of result or impact indicators.

RECOMMENDATION 2

The Commission should:

(a) increase the focus on the effectiveness of the co-financed projects through:

- encouraging the systematic use of result and impact indicators by managing authorities,
- ensuring that on-the-spot visits made also focus on effectiveness issues, and
- introducing the principle that EU funding should be conditional upon the attainment of planned results;

(b) carry-out *ex post* checks on the use of co-financed infrastructures on the basis of a risk-based sample, to verify that the change of emphasis from spending to results and impact is being achieved.

38. The audit also found that Commission assessments and decisions for major projects and Cohesion Fund projects did not lead to action to remedy project weaknesses observed during the audit.

RECOMMENDATION 3

The Commission should strengthen the assessment procedure for major projects and Cohesion Fund projects to improve the detection of serious weaknesses and the taking of appropriate action to remedy them.

This Report was adopted by Chamber II, headed by Mr Harald NOACK, Member of the Court of Auditors, in Luxembourg at its meeting of 15 February 2012.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

OVERVIEW OF STRUCTURAL AND COHESION FUNDS ALLOCATIONS FOR TRANSPORT INFRASTRUCTURES IN SEAPORTS DURING THE PERIOD 2000–06 PER MEMBER STATE

Member State	Amounts co-financed (in euro)	% of total
Germany	45 510 773	1,61
Estonia	10 406 063	0,37
Greece	358 949 324	12,74
Spain	1 468 837 862	52,12
France	246 157 336	8,73
Italy	339 411 748	12,04
Latvia	3 540 075	0,13
Lithuania	2 847 117	0,10
Malta	1 269 683	0,05
The Netherlands	4 892 440	0,17
Poland	28 487 500	1,01
Portugal	180 258 177	6,40
United Kingdom	58 923 315	2,09
EU cross-border cooperation	55 426 574	1,97
EU interregional cooperation	13 359 052	0,47
TOTAL	**2 818 277 039**	**100,00**

Source: European Commission, Regional Policy DG.

ANNEX II

OVERVIEW OF PROJECTS SELECTED PER REGION

Region/country	Project title	Content and objective of the project	Type of project (C/P/S/U[1])	Total cost (in euro)	EU co-financed part (in euro)
SPAIN					
Andalucia	1. Port infrastructure facilities in Campamento, San Roque.	Port works (a closure dam, three quays, dredging, terminal space) for a container terminal; later on, this objective was amended to the building of a dry dock for special operations.	C	37 688 436	16 582 912
	2. Marina development in Chipiona.	Works (restoring pontoons, dredging and extending the captain's house) to increase by 77 (total of 377 places) the number of berthing places in the marina so as to attract more tourists and reduce the waiting list for leisure boats to berth there.	P	3 918 801	2 155 341
	3. New building for maintenance and port police in Cadiz.	Construction of a building to house workshops, a warehouse, changing rooms, offices and the service control centre for port police staff.	S	1 439 075	719 538
Asturias	4. Expansion of the port of Gijón.	Port works (a new basin, breakwater and terminal surface for dry and liquid bulk goods) to create the capacity needed to meet the growing traffic in dry bulk goods, petroleum products and natural gas; and to create employment.	C	450 000 000	247 500 000
	5. Rehabilitation of the south and west docks of San Juan de Nieva/Aviles (Phase I).	Construction of two docks to enable the port to attract ships with bigger drafts.	C	13 109 074	6 554 522
	6. Aviles — Improvements to the Avenue Conde Guadalhorce with amendments to the wall of the walking area.	Redevelopment of a run-down area from the port to the city, turning it into a newly paved avenue of 1 km with a total surface area of 25 350 m^2, with benches, recycling bins, lighting and berthing places for yachts.	U	2 437 342	1 218 671
Canarias	7. Port of Arinaga, Quay of Agüimes 1st phase A.	Building of a dock and paving of the esplanade as part of the building of an industrial port to decongest the port of Las Palmas (another 298 000 euro of EU funds was spent in a previous period).	C	23 480 152	11 750 152
	8. Southern dike in the port of Las Palmas.	Construction of a breakwater in the port of Las Palmas to keep waves higher than 5 m outside of the port area.	C	13 857 520	6 928 760
	9. Paving of the pier Gran Canaria in the port of Las Palmas.	Port works to replace the surface of 150 000 m^2 and instal illumination towers, sewage water facilities, rail tracks for cranes, power grids and underground telecommunication facilities in an existing terminal to enable the handling of a larger number of containers.	C+S	10 158 820	5 079 410

Region/country	Project title	Content and objective of the project	Type of project (C/P/S/U[1])	Total cost (in euro)	EU co-financed part (in euro)
SPAIN					
Galicia	10. Outer harbour works in Punta de Langosteira.	Extension of the current port through the construction of a new basin, a breakwater and terminal surface for dry and liquid bulk goods with road access to an industrial site nearby to move the most dangerous port traffic away from the city and to solve the problem related to the pressure of the port on the city and create employment.	C	575 182 943	257 539 720
	11. New fish market and export warehouses in the port of A Coruña.	Construction of a new fish wholesale market building (with areas for offloading the fish, trading halls, rooms for fish preparation and areas for preparation for transport, an ice production facility, a cafeteria, administration rooms, port police and other offices, meeting rooms, a bank and technical rooms) to increase the efficiency of trading, handling and dispatch of fish products.	S	18 708 024	9 319 121
	12. Expansion of the port of Ferrol.	Construction of a dry bulk and container terminal, a breakwater, a quay, a platform and its road access and three berthing places (another 25 189 895 euro of EU funds will be spent in the next phase).	C	138 925 795	39 554 238
FRANCE					
Upper Normandy	13. Fast port to receive large container ships in Le Havre (Port 2000) — 1st phase.	Port works (construction of four terminal places and a mole for protection, access channel widening, dredging works, environmental conservation works and land transport links within the port area) to receive the largest container ships in optimal productivity and security conditions and with a multimodal objective to increase the land transport of containers by rail and rivers. (This is part of a bigger port project of around 1,5 billion euro).	C	152 399 384	38 099 846
	14. Completion of the rail link to Port 2000 Le Havre.	Part of the land works (modernisation of the rail link to the terminals and access to the railway line to Paris) to improve the transport by rail of containers attracted by the new port.	C	39 700 999	8 400 000
	15. Modernisation of equipment — acquisition of new equipment (1st tranche) in the port of Rouen.	Purchase of two mobile cranes to increase efficiency and security in the port of Rouen.	S	3 300 000	990 000

ANNEX II

Region/country	Project title	Content and objective of the project	Type of project (C/P/S/U[1])	Total cost (in euro)	EU co-financed part (in euro)
GREECE					
Islands of the southern Aegean	16. Cruise ships dock at the port of Syros.	Construction of a quay measuring 73,50 m × 9,80 m to extend the existing platform already in the port of Ermoupoli in order to support the upgrading of the port and facilitate tourism by increasing the number of visitors to the island.	P	1 660 894	1 458 714
	17. Constructions for the improvement of the port of Tinos.	Port works (extending existing quays, widening platforms and creating berthing places) to improve the basin and services in the port of Tinos.	P	4 894 210	4 019 793
	18. Port constructions at Thira's Athinios port.	Port works (improve the existing platform, a new pier, improvement of the port's access road and construction of a parking area) to improve the Athinios port in Santorini by increasing the number of berthing places, to facilitate tourism and increase the number of visitors to the island.	P	3 734 650	2 377 096
Islands of the northern Aegean	19. Port integration Karlovasi.	Port works (excavation, dredging, construction of an access road and parking spaces) to increase both the number of ships able to berth from one to three and their capacity as well as to ensure safety for berthing in the port (another 512 121 euro of EU funds was spent in a previous phase).	P	9 467 000	6 190 805
	20. Port Myrinas.	Building of a mole of 310 m to protect ships berthing against the north–west winds (another 1 203 226 euro of EU funds was spent in a previous phase).	P	11 000 000	9 632 600
	21. Marina Mytilini, Infrastructure and buildings.	Works (several buildings including an open air theatre, a control tower, another layer of concrete, fencing, network systems) to complete a marina of 222 berthing places so as to increase the wellbeing of the citizens by attracting tourists with high incomes (another 5 300 000 euro of EU funds was spent in a previous phase).	P	6 646 195	5 943 850

ANNEX II

Region/country	Project title	Content and objective of the project	Type of project (C/P/S/U[1])	Total cost (in euro)	EU co-financed part (in euro)
ITALY					
Puglia	22. Completion of the tourist port of Vieste.	Construction works (a quay extension, dredging, several buildings, access road, network systems) for a marina of 447 yacht places to upgrade the infrastructure serving relevant tourist areas (another 497 705 euro of EU funds was spent in a previous period).	P	9 834 534	2 532 711
	23. Completion of the Interport of Bari Lamasinata — 2nd phase.	Construction of three warehouses and a directional building, as well as roads, parking spaces, rail systems and networks and service utilities as part of a bigger interport area aiming at the integrated development of the intermodal regional network to support modal rebalance in favour of rail and sea. (part of an EU contribution of 30 675 263 euro for the entire major project).	C	27 355 200	7 984 001
	24. Strengthening of the rail link and rail service in the outer port area of Brindisi.	Railway works (renovation of rail tracks, strengthening of railway beds, reactivation of old lines and connection to the port area) with the driving idea of 'developing an integrated logistic and distribution system favouring the connection between the north–south axis within the region and the international corridors No 8 and No 10. The project is part of an EU contribution of 36 720 480 euro for the entire local programme.	C	36 720 480	4 497 285
Sicily	25. Messina–Tremestrieri — construction of two berths and their connection to the motorway.	Construction of two berths of 150 m and an inner basin of 12 000 m² obtained by dredging; an inner square used for parking, services and a tunnel to reduce road traffic (especially trucks), congestion and pollution in the city centre of Messina.	C	23 291 458	10 481 156
	26. Commercial port of Augusta.	Port works (quays, ro-ro berths, buildings, pavements, barriers, network systems) to allow the commercial port to become a logistically and economically valid alternative port for traffic crossing the Messina Strait and attract container and bulk cargo traffic. This is part of a bigger port project of 130 million euro to complete the infrastructures.	C	15 493 707	3 839 328
	27. Port of Marina di Ragusa — Ragusa.	Construction of a new marina with places for 723 yachts (two dams, several buildings, pontoons, an access road, parking places, network systems) to increase tourism in the Ragusa province, stimulate growth in tourism expenditure and reduce unemployment.	P	69 667 972	15 414 641
TOTAL				**1 704 072 665**	**726 755 212**

1

- C: infrastructure for cargo and containers
- P: infrastructure for passenger traffic
- S: superstructures
- U: a project supporting urban development

REPLY OF THE COMMISSION

EXECUTIVE SUMMARY

III. First indent

The Commission has information that by January 2012, 25 of the 27 projects audited had been completed. Twenty-two out of them are in use even though four projects need complementary investments to make an effective link to their hinterland. For three projects their effectiveness and use has to be further improved. Under the closure guidelines for the 2000–06 programmes, the programme authorities have to inform the Commission at the latest two years after submission of the closure documents about the completion of operations that were listed as unfinished or non-operational. The Commission will ensure an appropriate follow-up on these cases.

III. Second indent

As a general rule, operational programmes must comply with transport and other EU policies. Moreover, investments supported by the cohesion policy must be consistent with regional development strategies. This is generally verified during the design and *ex ante* assessment of the programmes.

III. Third indent

The Commission is aware of the issue of construction delays and has encouraged Member States to simplify decision-making procedures.

III. Fourth indent

The results and impact of investments in transport infrastructures are not always tangible immediately after construction work has been finished but take some time to materialise, as economic conditions may also change during the operational phase. Economic and social benefits to society accrue only some years after completion of the construction work.

III. Fifth indent

The Commission approved the major and/or Cohesion Fund projects. It has taken into consideration all the information at its disposal, including economic appraisals carried out by external experts. The Commission guidance notes and training seminars helped to raise awareness of the principles of sound financial management.

REPLY OF THE COMMISSION

III. Sixth indent

The Commission participates in monitoring committees, performing an advisory role within the limits of the legal provisions, and intervenes whenever it considers it appropriate. In addition, it has other tools to influence effective spending, e.g. monitoring reports, technical meetings, project visits and observation letters.

IV. First indent

The Commission is already implementing this recommendation in the form of guidance notes and technical meetings.

IV. Second indent

The Commission is already implementing this recommendation and has proposed for the 2014–20 cohesion policy framework an increased use of performance indicators in the overall design and set-up of programmes and projects.

In addition, the Commission has recognised the need to better coordinate the Cohesion and Structural Funds with transport policy objectives in its Transport White Paper of March 2011 (COM(2011) 144 final of 28 March 2011, point 56).

IV. Third indent

The Commission is already implementing this recommendation and has proposed for the 2014–20 cohesion policy framework the introduction of an *ex ante* conditionality to ensure the existence of a long-term strategic planning prior to any funding decision.

The Commission shares the view that seaport infrastructure planning should be carried out in the context of overall planning of transport networks. This is made clear in Article 4 of the Proposal for a Regulation of the European Parliament and of the Council on Union guidelines for the development of the Trans-European Transport Network (COM(2011) 650 final of 19 October 2011). Objectives of the trans-European network include 'the interconnection and interoperability of national transport networks', the 'optimal integration and interconnection of all transport modes' and 'the efficient use of infrastructure'.

In this context, the Commission considers that optimum performance also requires long-term strategic planning at national level, and that cross-border effects should be taken into account.

IV. Fourth indent

The Commission is already implementing this recommendation and carries out, where appropriate, on-the-spot project visits and organises technical meetings with the respective authorities. In addition, the Commission has developed a performance audit framework which forms the basis for a first set of targeted audits that will start in 2012. Its proposal for the 2014–20 cohesion policy framework introduces incentives for the programme authorities to improve performance along with sanctions if performance objectives are not met. However, the Commission considers that result and impact indicators should be set at priority level rather than at project level.

IV. Fifth indent

The Commission is already implementing this recommendation and is carrying out closure audits for projects co-financed by the ERDF and the Cohesion Fund during the 2000–06 programming period, selected on a risk basis. For the ERDF, a further enquiry is planned for 2012 focusing on the residual error rate in closed programmes.

IV. Sixth indent

The Commission considers that it has already improved the quality of the decision-making procedure for major projects in the 2007–13 programming period.

REPLY OF THE COMMISSION

INTRODUCTION

7. (b)
Under shared management of cohesion policy, implementing and monitoring assistance are primarily the responsibility of the Member States. Only major projects and Cohesion Fund projects require a Commission decision, based on a project application submitted by the Member State.

The Commission points out that only 7 of the 27 projects audited by the Court required a Commission decision. All the others were selected, implemented and monitored by the managing authorities without any approval by the Commission (see paragraph 11).

OBSERVATIONS

13.
The aim of ERDF programmes relates primarily to regional and local development. Therefore, first of all projects must comply with cohesion policy objectives and the objectives laid down in each specific programme. Transport and tourism policy are interlinked with the cohesion policy, as in the case of seaport funding. It is clear, therefore, that port projects co-financed by the ERDF are of varying nature. Some may be linked to major transport corridors, such as the TEN-T. But they may also be smaller, as in the case of tourism-related port projects ('marinas').

14.
All projects approved within a programme must be in line with the programme's objectives. This is achieved by applying the 'selection criteria for the operations' which are approved by the monitoring committee at the beginning of the programming period. For the 2000–06 programming period, Cohesion Fund projects were not included in operational programmes, but were subject to individual approval procedures.

15. (b)
The Commission notes that 25 of the 27 projects audited had direct transport objectives or objectives linked to other areas supported by the Structural Funds.

15. (c)
The Commission considers that these two projects had objectives that were in line with broader objectives of the cohesion policy or the programme concerned.

Box 1 (c)
The project in Greece was carried out under a programme that had, amongst others, the strategic objective of developing transport links (communication with and accessibility of the islands).

Concerning the port in Campamento, the Commission considers that it is in line with TEN-T guidelines. Dry-dock facilities are necessary elements of maritime transport infrastructure, directly linked to the requirement to improve safety and network reliability. Dry docks are of crucial importance for ship repairs and maintenance and for ship safety inspections.

16. (a)
Under the guidelines for the closure of the 2000–06 programmes, programme authorities are requested to inform the Commission at the latest two years after submission of the final report and closure documents on the programmes about completion of the operations that were listed as unfinished or non-operational. Only after this period would the Commission be in a position to consider projects as unfinished or non-operational and to take the necessary steps to recover EU funds and apply financial corrections.

Port construction projects consist of major engineering works that require a long period of planning and construction, with many factors that can influence progress.

The enlargement of the port of Gijon was a major civil engineering project involving construction in the deep waters of the Bay of Biscay, known for high tides and large waves.

For the port of Langosteira, an extension of the eligibility period was requested by the Spanish authorities. The final eligibility date for the completion of the works is therefore 31 December 2011. The number of days of work depended heavily on weather conditions.

In the case of Brindisi, the managing authority estimates that the construction works will be concluded in May 2012 and that the project will be operational immediately afterwards.

REPLY OF THE COMMISSION

16. (b)
Based on information provided by the managing authorities, the Commission points out that all four projects are now in use.

Box 2
The legal framework of the Cohesion Fund has been designed to leave sufficient flexibility to adapt to changing contexts and circumstances.

The Spanish authorities pointed out in earlier replies to the Court and to the Commission that the deep technological changes in the maritime transport sector, the substantial increase in infrastructure for container transport and the current global economic crisis made it necessary to redefine the project. The various changes to the project were not made with the sole objective of turning the dock into a dry dock for special constructions but also to increase the range of possible uses.

As a result of the project, the port can now be used for: general container traffic, car traffic, shelter and general merchandise operations without a container wharf (breakbulk), floating repairs and as a repair wharf, maintenance and repair of large floating structures and as a large dry dock.

The main objective of this project remained unchanged. The works have made it possible to rehabilitate the obsolete existing infrastructure. The new infrastructure can meet the requirements of a container terminal as well as of other types of traffic at cargo ports.

The documents provided by the Spanish authorities include a list of ships and periods of stay. They show that use of seaport infrastructure has been increasing steadily.

According to the information provided by the managing authority, the section of the Augusta port co-financed by the ERDF through this project is completed and part of it is already in use. The Italian authorities have provided the Commission with figures on the costs of the project and on operations.

17. (b)
Concerning Campamento, Arinaga and Augusta, the Commission refers to its replies to paragraph 16. (b) and Box 2. For the Le Havre project, the national infrastructure and transport scheme will address the problem of ineffectiveness.

17. (c)
The Commission considers that the eight projects were effective in achieving other regional development objectives, i.e. to connect territories in order to improve accessibility and increase economic activity. This also contributes to the effectiveness of the projects assessed against the various objectives of the co-funded programmes and Cohesion Fund projects. See also reply to Box 1 (c).

18.
The Member States are compelled to make choices in order to ensure that the best use is made of limited EU funds. Investments in ports need complementary investments in road/motorway networks in order to ensure their effectiveness. Some of these investments are being financed under current ERDF/Cohesion Fund programmes or with national funds. See also reply to paragraph 16. (b).

Box 4
The Commission has already taken steps to avoid such problems in the future. For example, Article 26 of the Proposal for a Regulation of the European Parliament and of the Council on Union guidelines for the development of the Trans-European Transport Network (COM(2011) 650 final of 19 October 2011) states that 'Within the sphere of their responsibility, Member States, port operators and infrastructure managers shall ensure that maritime ports are connected with railway lines, roads and, where possible, inland waterways of the comprehensive network … '
See also reply to 17. (b).

19.
A specific long-term strategic port development plan to support investment decisions was not required by the regulations in force for the period 2000–06. Therefore, specific strategies for each sector/category of intervention in every region were not provided by the national authorities.

The investments supported by the ERDF and the Cohesion Fund have to comply with a regional strategy where the investment is planned, defined on the basis of a SWOT (strengths, weaknesses/limitations, opportunities and threats) analysis and supported by relevant economic evaluations.

REPLY OF THE COMMISSION

In general, a check with the transport strategy was carried out in the course of preparation of the operational programme. The *ex ante* evaluation was used to assess the relevance of the proposed programming documents to the local, regional and national contexts.

The Commission considers that optimum performance also requires long-term strategic planning at national level, and that cross-border effects should be taken into account.

21.
The Commission considers that managing authorities should be in a position to select from different mature project applications in order to fund those projects that would best achieve the programme's objectives. However, competition between major infrastructure projects is often limited, either because there are not many projects ready to be implemented or because they are not in line with the objectives set in the programme.

22.
The Commission does not see the potential lack of suitable projects as the main reason for retrospective financing.

Under strict conditions, the Structural Funds regulations allow the inclusion of retrospective projects within a programme (see the Commission's reply to Box 6).

23.
Concerning attainment of the objectives of the project in Augusta, the Commission refers to its reply to paragraph 16. (b) and Box 2, example 2. For the rail link in Bari the work necessary to improve the connection was planned to be carried out in the 2007–13 period.

Box 6
In order to ensure that retrospective projects fulfil all applicable rules, the Commission and the Italian authorities have agreed on a set of guidelines to clarify under which circumstances such projects can be included in EU-funded programmes. The 2000–06 ERDF programmes are being closed on condition that the resources invested in retrospective projects are reused for funding projects that are in line with the programme. This ensures that even if retrospective projects are included in a programme, the total resources allocated to investments are not reduced.

24.
Delays in the construction of major infrastructures are an issue of which the Commission is aware and that it has raised regularly in monitoring committees, bilateral meetings and in formal letters to Member States.

The responsibility for defining the authorisations lies with national authorities. However, the Commission has repeatedly reminded the Member States' authorities of the need to simplify decision-making procedures and has recommended not placing any additional burden on the administration of EU funds. As a result, Greek authorities have recently proposed a law for speeding up the environmental permit procedures.

In particular in Greece, archaeological finds and environmental permits are the main reasons for delays in project implementation.

25.
The managing authority informed the Commission that improvements in the electricity, sewage and water supply systems were necessary due to regulations that came into force during the implementation period.

Moreover, by mid-2011, the project was partly operational, with an average of 300 berths occupied out of 400 currently available. By mid-2012, a further 200 berths will be made operational to give a total of about 600.

26.
In the case of ERDF, the monitoring committees are appointed by the Member State to monitor and oversee the assistance to programmes, to check how programmes are being managed by the managing authority, to ensure compliance with the programme's own guidelines and implementing rules and to review evaluations.

The Commission has issued guidelines which would help set up and implement effective management and control systems.

Furthermore, the Commission has taken specific capacity-building actions throughout the whole programming period.

REPLY OF THE COMMISSION

27.
ERDF programmes are monitored by the managing authorities on the basis of the physical and financial indicators specified in the operational programme, as these are the best indicators to monitor progress on the ground.

Cohesion Fund projects are monitored by the Commission and the Member State with reference to physical and financial indicators relating to the character of the project and its specific objectives.

In the 2007–13 programming period, the decisions on major projects include output and result indicators.

28. (a)
The aim of monitoring committees is to supervise the effectiveness and quality of assistance at programme level and not at the level of individual projects. Programmes generally include thousands of projects. A discussion on each individual project is neither feasible nor desirable, except for major projects.

28. (b)
The sustainability of the action co-financed by the EU is a crucial principle of the EU assistance. Member States have to guarantee that the projects are operable, functional and comply with EU policies. In the context of closure of ERDF programmes, Member States are required to submit to the Commission, together with the closure documents, a list of unfinished and non-operational projects and have up to two years to submit information about completion of these projects. If, by then, projects are still not completed then the Member State has to recover the funds concerned.

In the case of the Cohesion Fund, the closure process requires reporting on the investment in the final report which includes an initial assessment of whether the results expected are likely to be achieved. For a period of 3 years after the final payment by the Commission, the Member State authorities responsible have to provide all supporting documents regarding expenditure and checks on the project.

28. (c) and (d)
The managing authority should monitor the achievement of some results, such as job creation, or others by means of indicators set at measure, priority or programme level. Therefore, the lack of monitoring at project level does not preclude a systematic monitoring at measure, priority or programme level.

For ERDF major projects in the 2000–06 period, there was no legal requirement to include indicators at project level. Monitoring indicators were to be set in operational programmes, single programming documents or programme complements. For the 2007–13 programming period, decisions on major projects include output and result indicators.

28. (e)
The Commission issued a number of guidance notes for the 2000–06 programmes, for instance on cost–benefit analysis, monitoring indicators and evaluation, which helped to raise awareness of the managing authorities in ensuring certain aspects of sound financial management. For the 2007–13 period, the Commission has provided updated guidance in the area of sound financial management.

In addition, the Commission has developed a performance audit framework which forms the basis for a first set of targeted audits to be launched in 2012.

Box 7
The Commission welcomes this example of good practice in Le Havre.

29. (a)
The length of the decision-making process on major projects and Cohesion Fund projects depends on the quality of the proposal submitted. The Court itself stresses in its footnote that the average of 19 months includes the time needed for the managing authority to reply to the questions asked by the Commission.

29. (b)
The Commission approved the major projects and/or the Cohesion Fund projects taking into consideration all the information at its disposal, including economic appraisals carried out by external experts. For Campamento, the Commission considers that the project was in line with TEN-T guidelines (see replies to Box 1 (c) and Box 2).

REPLY OF THE COMMISSION

30.
In the 2000–06 programming period, the Commission approved only major and Cohesion Fund projects.

For the 2007–13 programming period, management of Cohesion Fund projects is incorporated within the ERDF and European Social Fund (ESF) programmes and is, therefore, subject to the same rules on programming, management and control. The Commission no longer approves each Cohesion Fund project (except in the case of major projects), which reduces bureaucracy and gives the Member States greater responsibility.

31.
Results and impact indicators are included in the cost–benefit analyses and other economic assessments which accompany major projects.

For the 2007–13 programming period, output and result indicators are included in the Commission decisions on major projects. Annual and final reports on implementation of each operational programme include quantified information based on key output and result indicators.

33.
The Commission considers that it takes appropriate action in monitoring committees in its advisory capacity. In addition there are other tools, such as monitoring reports, technical meetings, project visits and observation letters, which enable the Commission to influence effective spending. The Palermo–Messina and Siracusa–Gela motorways responded to development needs which comply with EU policy guidelines. The Palermo–Messina motorway is part of corridor 1 of the TEN-T network. The Siracusa–Gela motorway was necessary to provide access to a remote and poorly linked area (this project was mentioned in the original version of the operational programme). Improving accessibility is an essential criterion when deciding about Structural Funds investments in transport and is considered a key indicator in the Italian national strategic framework for 2000–06 and 2007–13.

The Commission followed up the Campamento project in the monitoring committees for the Cohesion Fund with periodic monitoring reports. Financial and operational audits carried out each year confirmed that the expenditure was legal and in line with the original project activities.

The Commission considers that the project complied with TEN-T guidelines, since dry-dock facilities are part of the maritime transport infrastructure and directly linked to the requirement to improve safety and network reliability (see replies to Box 1 (c) and Box 2).

34.
The Commission ensures proper monitoring and supervision within the limits of the legal provisions.

Concerning the port of Bari, please see the Commission's reply to paragraph 16. (b).

CONCLUSIONS AND RECOMMENDATIONS

35.
The Commission has information that by January 2012, 25 of the 27 projects audited had been completed. Twenty-two out of them are in use even if four projects need complementary investments to make an effective link to their hinterland. For three projects their effectiveness and use has to be further improved. Under the closure guidelines for the 2000–06 programmes, the programme authorities have to inform the Commission at the latest two years after submission of the closure documents about the state-of-play of operations that were listed as unfinished or non-operational. The Commission will ensure an appropriate follow-up on these cases.

36.
As a general rule, operational programmes must comply with transport and other EU policies. Moreover, investments supported by cohesion policy must be consistent with regional development strategies. This is generally verified during the design and *ex ante* assessment of the programmes.

Concerning the replacement projects, see reply to paragraph 35 on the two years after submission of the final report and closure documents for the 2000–06 programme authorities to inform the Commission on the state-of-play of programmes that were listed as unfinished or non-operational. Only after this period would the Commission be in a position to consider projects as unfinished or non-operational and to take the necessary steps to recover EU funds and apply financial corrections.

REPLY OF THE COMMISSION

Recommendation 1 (a)
The Commission is already implementing this recommendation and has duly provided Member States with guidance notes on several aspects, including indicators and cost–benefit analysis. Technical meetings or training sessions have been arranged with national authorities to raise awareness about their obligation to comply with the principles of sound financial management.

Recommendation 1 (b)
The Commission is already implementing this recommendation. It focuses on the overall set-up of programmes and projects, including *ex ante* assessment of the operational programmes, appraisal of the major projects, setting objectives and indicators, regular monitoring via monitoring committees, annual reports, annual implementation meetings, final reporting obligations and *ex post* assessment. These provisions will be further strengthened in the draft regulations for 2014–20.

In addition, the Commission has recognised the need to better coordinate the Cohesion and Structural Funds with transport policy objectives in its Transport White Paper of March 2011 (COM(2011) 144 final of 28 March 2011, point 56).

Recommendation 1 (c)
The Commission is already implementing this recommendation. In its proposal for the new regulations for the 2014–20 cohesion policy framework, it has introduced an *ex ante* conditionality in order to ensure that the conditions necessary for effective support are in place. These include that a long-term strategic plan must exist prior to any funding decision.

The Commission shares the view that seaport infrastructure planning should be carried out in the context of overall planning of transport networks. This is made clear in Article 4 of the Proposal for a Regulation of the European Parliament and of the Council on Union guidelines for the development of the Trans-European Transport Network (COM(2011) 650 final of 19 October 2011). Objectives of the trans-European network include 'the interconnection and interoperability of national transport networks', the 'optimal integration and interconnection of all transport modes' and 'the efficient use of infrastructure'.

In this context, the Commission considers that optimum performance also requires long-term strategic planning at national level and that cross-border effects should be taken into account.

37. (a)
The results and impact of investments in transport infrastructures are not always tangible immediately after construction work has been finished but take some time to materialise, as economic conditions may also change during the operational phase. Economic and social benefits to society accrue only some years after completion of the construction works. See also reply to paragraph 17. (b).

37. (b)
The Commission participates in monitoring committees, performing an advisory role within the limits of the legal provisions, and intervenes whenever it considers it appropriate. In addition, it has other tools to influence effective spending, e.g. monitoring reports, technical meetings, project visits and observation letters.

Recommendation 2 (a) — First indent
In general the appropriate level for setting result indicators and for assessing impact is the priority level and not the project level. Moreover, in the 2007–13 programming period, the decisions on major projects include output and result indicators.

The Commission proposals for the 2014–20 cohesion policy framework call for setting indicators for each priority (common indicators and programme-specific indicators) to assess progress towards achieving objectives.

Recommendation 2 (a) — Second indent
The Commission is already implementing this recommendation. It carries out, where appropriate, on-the-spot project visits and organises technical meetings with the responsible authorities. In addition, the Commission has developed a performance audit framework which forms the basis for a first set of targeted audits to be launched in 2012.

REPLY OF THE COMMISSION

Recommendation 2 (a) — Third indent

The Commission proposals for the 2014–20 cohesion policy framework call for a performance framework. It should be defined for each programme with a view to monitoring progress towards the objectives and targets set for each programme over the course of the programming period. The Commission should undertake a performance review in cooperation with the Member States in 2017 and 2019. A performance reserve should be set aside and allocated in 2019 in cases where milestones set in the performance framework have been attained. In cases where the shortfall from achievement of milestones or targets is significant, the Commission should be able to suspend payments to the programme or, at the end of the programming period, apply financial corrections, in order to ensure that the Union budget is not used in a wasteful or inefficient way.

Recommendation 2 (b)

The Commission is already implementing this recommendation and is carrying out closure audits for projects co-financed by the ERDF and the Cohesion Fund during the 2000–06 programming period, selected on a risk basis. For the ERDF, a further enquiry is planned for 2012 focusing on the residual error rate in closed programmes.

38.

The Commission approved the major and/or Cohesion Fund projects taking into consideration all the information at its disposal, including economic appraisals carried out by external experts.

Recommendation 3

The Commission has already implemented the Court's recommendation. The decision-making procedure for major projects has been significantly strengthened in the 2007–13 period.

— All applications for major projects must be submitted on a standardised form and should include all information relevant for a comprehensive assessment of the project's merits (this includes feasibility studies, cost–benefit analysis, risk assessment, environmental impact, etc.).

— The internal procedure that leads to the Commission decision has been clarified by guidance on decision-making: consultations of relevant departments are compulsory and a time limit is set for every step.

— The Jaspers initiative enables Member States to submit better prepared applications to the Commission. Finally, the decision on major projects has been standardised, which simplifies the adoption process.

European Court of Auditors

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THE EUROPEAN COURT OF AUDITORS ASSESSED THE OBJECTIVES AND OUTPUTS OF 27 RANDOMLY SELECTED TRANSPORT INFRASTRUCTURE PROJECTS IN SEAPORTS WHICH WERE CO-FINANCED BETWEEN 2000 AND 2006 THROUGH THE EUROPEAN REGIONAL DEVELOPMENT FUND AND THE COHESION FUND. THE COURT FOUND THAT ONLY 11 OUT OF THE 27 PROJECTS WERE EFFECTIVE IN SUPPORTING TRANSPORT POLICY OBJECTIVES. IN ADDITION, SOME CONSTRUCTIONS HAD NOT BEEN COMPLETED, SOME WERE NOT IN USE AND OTHERS WILL NEED CONSIDERABLE FURTHER INVESTMENT BEFORE THEY CAN BE PUT INTO EFFECTIVE USE. THE COURT'S REPORT PUTS FORWARD VARIOUS REASONS TO EXPLAIN THESE FINDINGS AND MAKES RECOMMENDATIONS TO ADDRESS THE SHORTCOMINGS NOTED SO AS TO IMPROVE FUTURE EU SPENDING ON SEAPORTS.

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