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Contents

Page

I Information

Court of Auditors

2003/C 292/01

Special Report No 11/2003 concerning the Financial Instrument for the Environment (LIFE), together with the Commission's replies

1

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*(Information)***COURT OF AUDITORS****SPECIAL REPORT No 11/2003****concerning the Financial Instrument for the Environment (LIFE), together with the Commission's replies***(pursuant to Article 248(4), second subparagraph, EC)**(2003/C 292/01)***CONTENTS**

	<i>Paragraph</i>	<i>Page</i>
Abbreviations		3
SUMMARY	I-VIII	4
INTRODUCTION	1	5
THE OBJECTIVE OF THE AUDIT AND THE AUDIT APPROACH	2-4	5
COMMUNITY AID FOR THE PROTECTION OF THE ENVIRONMENT	5-14	5
General context	5-10	5
Contribution to the designation of Natura 2000 sites	11-14	7
CHARACTERISTICS OF THE LIFE PROGRAMME	15-27	8
Structure and fields of activity	15-20	8
Management and financing	21-22	9
Financial implementation	23-27	9
SELECTION OF PROJECTS	28-45	12
Selection procedures	28-33	12
Evaluation criteria	34-37	13
The role of the Member States	38-40	14
Risk of double-funding	41-45	14
IMPLEMENTATION OF THE PROJECTS	46-65	15
Imprecise administrative provisions concerning eligible costs	46-51	15
Delays in payment	52-55	15
Practical problems in connection with the implementation of the projects	56-65	17
Problems with the co-financing of projects	56-59	17
Beneficiaries' accounts insufficiently detailed	60-62	17
Uncertainty concerning the future use of land	63-65	17

	<i>Paragraph</i>	<i>Page</i>
MONITORING, CONTROL AND EVALUATION	66-84	18
Unclear tasks of the technical assistance offices (TAOs) under LIFE II	67-72	18
Observations on the audits carried out by the Commission	73-75	18
External certification of the records of expenditure	76-77	19
Report on the implementation of the programme	78-80	19
Recent initiatives to improve dissemination of the results of projects	81-84	19
CONCLUSIONS AND RECOMMENDATIONS	85-94	20
General conclusion	85	20
The programme's objectives and connection with Community environmental strategy ...	86-87	20
Recommendations		20
Management organisation	88-89	20
Recommendations		20
Monitoring, control and evaluation	90-94	21
Recommendations		21
The Commission's replies		22

ABBREVIATIONS

ACE	Action by the Community relating to the environment
ACNAT	Action by the Community relating to nature conservation
TAO	Technical assistance office
DG ENV	Directorate-General for the Environment
Fifth EAP	Fifth environmental action programme
LIFE	Financial Instrument for the Environment
Medspa	Strategy and plan of action for the protection of the environment in the Mediterranean
NGO	Non-governmental organisation
Norspa	Community action to protect the environment in the coastal areas and coastal waters of the Irish Sea, North Sea, English Channel, Baltic Sea and North-East Atlantic Ocean
OLAF	European Anti-fraud Office
Sixth EAP	Sixth environmental action programme

SUMMARY

I. The Court examined the management of the Financial Instrument for the Environment (LIFE), which is managed directly by the Commission and is being implemented in phases. The programme consists of three strands: LIFE-Nature, LIFE-Environment and LIFE-Third countries, plus accompanying measures. The audit focused in particular on the second phase (1996 to 1999, LIFE II).

II. The global objective of LIFE — to contribute to the development and, if need be, implementation of Community policy and legislation in the environmental field — is very broad and has not been defined in sufficient detail. By contrast, with regard to the individual strands, LIFE-Nature is more precisely defined, inasmuch as its actions depend on the implementation of two Directives concerning the conservation of natural habitats and of wild fauna and flora and the conservation of wild birds (see paragraphs 16 and 17).

III. LIFE is the largest programme amongst the special measures under the 'Environment' title of the budget. Of the Community participation of 450 million euro for the second phase (LIFE II), 435 million euro was used during the period for which it was allocated (see paragraphs 23 to 27).

IV. The Commission evaluates proposals according to different criteria for each strand of the programme and only calls on independent experts in the case of the 'Environment' and 'Third countries' strands. Some of the evaluation documents drawn up by these experts have not been kept (see paragraphs 29 to 33).

V. The complementarity of environmental projects financed by LIFE with those funded by other Community sources (Structural Funds, research) is still poor, and the interdepartmental consultation procedure does not wholly eliminate the risk of double-funding (see paragraphs 41 to 45).

VI. The Court identified numerous difficulties affecting the implementation of the second phase of LIFE (LIFE II). The main points revealed by an on-the-spot audit of a sample of projects were:

- (a) staff expenditure was borne which had not been backed up by reliable records and which included the salaries of civil servants usually already covered by public budgets (see paragraphs 47 to 49);
- (b) a large number of Commission payments were affected by substantial delays (see paragraphs 52 to 55);
- (c) the financial arrangements for the projects suffered from deficiencies and the beneficiaries failed to keep sufficiently transparent and detailed accounts to allow the movements of funds to be retraced in their entirety (see paragraphs 56 to 62);
- (d) the volume of expenditure on the purchase of land for actions under the 'Nature' strand was considerable and there were insufficient guarantees that this land would continue to be used for nature conservation purposes once the implementation period for the actions was over (see paragraphs 63 to 65).

VII. With regard to the monitoring and control of the projects, the Commission increased the number of on-the-spot visits and the findings revealed several types of errors at beneficiary level. The tasks of the technical assistance offices (TAOs), which act as external project-monitoring teams, were not well defined and the monitoring of the actions suffered as a result (see paragraphs 67 to 75).

VIII. The efforts made to reduce the shortcomings in the management of the LIFE programme should be kept up. To this end, the Court recommends that:

- (a) LIFE's role should be explained in the context of the multiannual environmental action programmes and its objectives better defined and, if possible, quantified;
- (b) the Commission should examine whether it would be expedient to separate the management of the 'Nature' and 'Environment' strands;
- (c) the evaluation of project proposals should be carried out by outside experts for all the strands of the programme and these experts must be selected by a public call-for-proposals procedure;
- (d) the administrative provisions concerning implementation of the actions should be reviewed in order to achieve a better definition of eligible costs, in particular in respect of the accounting for the projects, staff expenditure, depreciation and purchases of land for 'Nature' projects;
- (e) the Commission's on-the-spot checks should be stepped up, if need be by employing outside auditors;
- (f) the results of the projects should be disseminated.

INTRODUCTION

1. LIFE is a financial instrument managed directly by the Commission and devoted exclusively to the environment. The overall objective is to contribute to the development and, where necessary, the implementation of Community policy and legislation in the field of the environment. As far as the Community is concerned, eligible areas of action for financial support under LIFE are actions to conserve nature (LIFE-Nature) and actions intended to implement Community policy and legislation in the field of the environment (innovative, demonstration and preparatory actions) (LIFE-Environment). In respect of third countries, the main aim is to provide financial support in the form of technical assistance (LIFE-Third countries). Lastly, LIFE is also intended to cover the accompanying measures needed for monitoring and publicising the projects and for the circulating of information on the experience gained from these actions and on their results.

THE OBJECTIVE OF THE AUDIT AND THE AUDIT APPROACH

2. The objective of the Court's audit was to examine the conception, management and implementation of the LIFE Financial Instrument (particularly LIFE II) by focusing on the following aspects.

- (a) Are the objectives clearly identified, measurable and relevant with regard to strategy?
- (b) Has the Commission set up:
 - an adequate system of management?
 - adequate controls for the projects?
 - an effective system for making use of the results?

3. Checks were carried out at the Commission's Directorate-General for the Environment, at the national authorities and at the TAOs during the period from March 2001 to June 2002. The audit focused mainly on the implementation of LIFE II. At 31 December 2002, almost half of these projects, decided between 1996 and 1999 and running for a period of between two and five years, had not been closed. Project files relating to the three strands of the programme were examined at the Commission. A sample of 46 projects out of a total of 810 under the 'Nature' and 'Environment' strands, involving eight Member States (Germany, Spain, France, Ireland, Italy, Portugal, Sweden, the United Kingdom), were checked on the spot.

4. The sample of projects examined on the spot was selected on the basis of criteria relating to the eligible field of action, the type of beneficiary, the type of project, the volume of finance and the state of progress. The sample was drawn in such a way as to give an overall view of the type of problems occurring within a large spread of activities selected from amongst the actions financed.

COMMUNITY AID FOR THE PROTECTION OF THE ENVIRONMENT

General context

5. There are many forms of EU aid measures in the field of the environment and they are managed by a number of directorates-general which are responsible for the Structural Funds, the Cohesion Fund, Research, Agriculture, external programmes, the pre-accession instrument and special measures taken by the

Directorate-General for the Environment. They account for an estimated annual average of 11 100 million euro, which includes 5 300 million euro financed from appropriations under the general budget and 5 800 million euro in the form of loans granted by the EIB (see Table 1). This Community expenditure is made within the framework of the environmental action programmes (EAPs) adopted by the European Parliament and the Council ⁽¹⁾.

6. The EAPs play an important role in the development of Community policy on the environment. They are strategy papers covering a multiannual period and their aim is to identify the major challenges that the EU will have to deal with in this field,

to set objectives and provide guidelines. The EU's first environmental action programme dates back to 1973.

7. In 1993, the fifth Community programme of policy and action in relation to the environment and sustainable development (fifth EAP) ⁽²⁾ came into force. It defined the broad policy guidelines with regard to the environment for the period 1993 to 1999 and mentioned the Community Financial Instrument for the Environment (LIFE) for the first time as one of the financial support mechanisms. The fields of action of the fifth EAP are laid down in the LIFE II Regulation, with the exception of the tourism section, which was incorporated into the LIFE guidelines at a later date.

Table 1

The European Union's financial operations relating to the environment

Programme	Period	Amount (million euro)		Average per year (million euro)	(%)
Title B4-3 and Article B7-8 1 0 of the budget: Environment	1996-1999	639	⁽¹⁾	160	3 %
Of which LIFE	1996-1999	434		109	2 %
EAGGF-Guarantee Section: Agroenvironmental measures	1996-1997	2 902	⁽²⁾	1 451	27 %
Structural Funds	1994-1999	9 445	⁽³⁾	1 640	31 %
Cohesion Fund	1993-1999	8 424	⁽⁴⁾	1 203	22 %
Fifth framework programme for research: Special programme, 'The environment and sustainable development'	1998-2002	1 083	⁽⁵⁾	217	4 %
ISPA — Instrument for Structural Policies for Preaccession	2000-2006	3 640	⁽⁶⁾	520	10 %
External programmes	1996-1998	485	⁽⁷⁾	162	3 %
Total subsidies				5 353	100 %
Individual loans by the EIB: The environment and quality of life	1997-2001	29 000	⁽⁸⁾	5 800	
Total				11 153	

⁽¹⁾ Commitments in Sincom.

⁽²⁾ SR 14/2000 (OJ C 353, 8.12.2000).

⁽³⁾ SR 4/98 (OJ C 191, 18.6.1998).

⁽⁴⁾ Directorate-General for Regional Policy.

⁽⁵⁾ Directorate-General for Research.

⁽⁶⁾ Council Regulation (EC) No 1267/1999 of 21 June 1999 (OJ L 161, 26.6.1999, p. 73).

⁽⁷⁾ The European Community external cooperation programmes. Policies, management and distribution — Overseas Development Institute on behalf of the Commission, 1999.

⁽⁸⁾ The European Investment Bank's Activity Report for 2001.

⁽¹⁾ See the 'Background' section of Chapter 6 of the Court's Annual Report for the financial year 1994 (OJ C 303, 14.11.1995, p. 161).

⁽²⁾ Council resolution of 1 February 1993 (OJ C 138, 17.5.1993, p. 1).

8. The sixth EAP, adopted in 2002, does not (generally) state the instruments which are intended to implement the measures planned, with the exception of one explicit reference to LIFE in the context of improving the dissemination of results ⁽¹⁾. As in the case of the fifth EAP, the fields of action covered were redefined in the LIFE guidelines.

9. Although the EAPs are a display of the political will to take account of environmental strategies aimed at ensuring sustainable development, the fact that the instruments are scattered between various directorates-general with no horizontal coordination makes their implementation difficult at operational level. With regard to LIFE in particular, no complementarity could be found in practice between the aid measures financed in the form of projects and other forms of aid measure, especially the Structural Funds.

10. As the Court already recommended in 1992 in its Special Report on the environment ⁽²⁾, the Directorate-General for the Environment's task must be defined precisely so that the Directorate-General is more able to ensure greater complementarity and effectiveness of the environment-related aid measures financed by several directorates-general. For example, actions co-financed by the Structural Funds must be subject to an ex ante evaluation which enables their compatibility with environmental legislation to be verified. According to the 13th Annual Report on the Structural Funds (2001) ⁽³⁾, however, these evaluations revealed a general weakness with regard to a lack of harmonised basic environmental data and indicators. The Directorate-General for the Environment could contribute to this harmonisation, in particular by using the results of the LIFE projects specifically devoted to collecting and harmonising these indicators.

Contribution to the designation of Natura 2000 sites

11. LIFE encourages Member States to designate protected natural sites, as provided for in the Habitats and Birds Directives. However, Member States have been very slow to implement these directives.

12. It was not until the end of 2000, some six-and-a-half years after the June 1994 deadline, that the Conservation of Habitats Directive was transposed into national law in all the Member States. There are also delays in transposing the Directive on the conservation of wild birds ⁽⁴⁾ into national law. In some cases, these delays have been caused by Member States enacting national legislation which contradicts the Directives (for example, in respect

⁽¹⁾ Decision No 1600/2002/EC of the European Parliament and of the Council (OJ L 242, 10.9.2002, p. 1), Article 3(5), fifth indent.

⁽²⁾ Special Report on the environment (OJ C 245, 23.9.1992, p. 1).

⁽³⁾ COM(2002) 591 final, 30 October 2002.

⁽⁴⁾ For example, amendment of Annex 1 should have led to the transposition of the relevant provisions into national law on 30 September 1998 at the latest, in accordance with new Commission Directive 97/49/EC (OJ L 223, 13.8.1997, p. 9). At present, the Directive has only been transposed by five Member States.

of the duration and opening and closing dates of hunting seasons that threaten protected species) ⁽⁵⁾. According to this Directive, the Commission is obliged to produce a report on its application every three years. The last report covers the period 1996 to 1998, but was not adopted by the Commission until 2002, as the Member States had not provided all the required information within the desired time ⁽⁶⁾.

13. Furthermore, the designation of six biogeographical regions defined according to the characteristics of the species living there (i.e. Alpine, Atlantic, Boreal, Continental, Macaronesian and Mediterranean) has been delayed. This is, however, essential for the protection of natural habitat types of Community interest. The list of sites selected as being of Community importance, identifying those sites which host one or more priority natural habitat types or priority species, should have been established within six years of the notification of Directive 92/43/EEC. The first biogeographical region (Macaronesian) was nevertheless not officially approved until December 2001 ⁽⁷⁾. This region covers the archipelagos of the Azores, Madeira and the Canary Islands.

14. The actions under the 'Nature' projects should be continued in areas that have the advantage of a formal decision by the Commission. Such a decision, despite the important principles expounded in this respect by the Court of Justice ⁽⁸⁾, would help to make these actions more lasting.

⁽⁵⁾ Almost 40 % of all cases under examination at the European Court of Justice from 1987 to 2001 concerning the application of Community law are related to the environmental domain. A large number of them concern the two nature conservation Directives (19th Annual Report on monitoring the application of Community law (COM(2002)324 final of 28 June 2002)).

Infringements relating to inadequate application of national measures implementing the Directives:

— Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora: 32;

— Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds: 31.

Infringements relating to non-compliance of national measures implementing the Directives:

— Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds: 6;

— Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora: 7.

⁽⁶⁾ Report by the Commission on the application of Directive 79/409/EEC on the conservation of wild birds (COM(2002) 146 final of 25 March 2002).

⁽⁷⁾ Commission Decision 2002/11/EC of 28 December 2001 (OJ L 5, 9.1.2002).

⁽⁸⁾ Court Judgment of 2 August 1993 relating to Case C-355/90.

CHARACTERISTICS OF THE LIFE PROGRAMME

Structure and fields of activity

15. Adopted in 1992, the LIFE programme ⁽¹⁾ replaced the previous financial instruments (ACE ⁽²⁾, ACNAT ⁽³⁾, Medspa ⁽⁴⁾ and Norspa ⁽⁵⁾). It is designed to be applied in the long term and to be implemented in several phases under three strands: 'Nature',

'Environment' and 'Third countries'. Initially, this programme, which covered the period 1991 to 1995 (LIFE I), was allocated a budget of 400 million euro. LIFE II ⁽⁶⁾ covered the period 1996 to 1999 and was allocated an amount of 450 million euro. Lastly, LIFE III ⁽⁷⁾, which runs from 2002 to 2004, has been allocated funds amounting to 640 million euro.

16. The table below shows a breakdown of the actions across the three strands of the financial instrument:

Actions financed by the LIFE II programme	
LIFE-Environment	<p><i>Demonstration projects intended to:</i></p> <ul style="list-style-type: none"> — encourage the integration of environmental considerations into land-use development and planning, — promote the prevention of pollution in the context of industrial activities, — improve waste management, — develop an integrated production cycle. <p><i>Preparatory projects intended to:</i></p> <ul style="list-style-type: none"> — prepare and implement Community actions and instruments regarding the environment in the following areas: <ul style="list-style-type: none"> — the protection and sustainable management of coastal areas, of rivers which flow into coastal areas and of their wetlands, — reduction of waste, in particular toxic and hazardous waste, — protection of water resources and water management, including waste or contaminated water treatment, — air pollution, acidification, tropospheric ozone.
LIFE-Nature	<ul style="list-style-type: none"> — Conservation of natural habitats and of wild fauna and flora of interest for the European Union — Conservation of wild birds — Setting-up of the Natura 2000 European Network
LIFE-Third countries	<p><i>Technical assistance intended to:</i></p> <ul style="list-style-type: none"> — establish the administrative structures needed in the environmental sector, — encourage nature conservation, — continue demonstration projects that promote sustainable development.

Source: LIFE II Regulation.

⁽¹⁾ Council Regulation (EEC) No 1973/92 of 21 May 1992 establishing a financial instrument for the environment (LIFE) (OJ L 206, 22.7.1992, p. 1).

⁽²⁾ ACE: Council Regulation (EEC) No 1872/84 of 28 June 1984 on action by the Community relating to the environment (OJ L 176, 3.7.1984, p. 1).

⁽³⁾ ACNAT: Regulation (EEC) No 3907/91 of 19 December 1991 on action by the Community relating to nature conservation (OJ L 370, 31.12.1991, p. 17).

⁽⁴⁾ Medspa: Council Regulation (EEC) No 563/91 of 4 March 1991 on action by the Community for protection of the environment in the Mediterranean region (OJ L 63, 9.3.1991, p. 1).

⁽⁵⁾ Norspa: Council Regulation (EEC) No 3908/91 of 19 December 1991 on Community action to protect the environment in the coastal areas and coastal waters of the Irish Sea, North Sea, English Channel, Baltic Sea and North-East Atlantic Ocean (OJ L 370, 31.12.1991).

⁽⁶⁾ Council Regulation (EC) No 1404/96 of 15 July 1996 amending Regulation (EEC) No 1973/92 establishing a financial instrument for the environment (OJ L 181, 20.7.1996, p. 1).

⁽⁷⁾ Regulation (EC) No 1655/2000 of the European Parliament and of the Council of 17 July 2000 concerning the Financial Instrument for the Environment (LIFE) (OJ L 192, 28.7.2000, p. 1).

17. While aiming to set up a single financial instrument for the environment which should contribute 'to the development and implementation of Community policy and legislation in the field of the environment', the LIFE Regulation simply combined the four previous regulations which each applied to a specific field of action. This produced neither a clear vision of the objectives to be obtained nor coherence between the fields of action.

18. The three strands of LIFE, namely 'Nature', 'Environment' and 'Third countries', were run until the beginning of 2001 by three units responsible for the actual management and by one joint financial unit in the Directorate-General for the Environment.

19. As the Court found in the course of its audit, the 'Nature' and 'Environment' strands of LIFE are aimed at very different spheres of intervention, each with its own specific management features, which justified the separation of these two units. LIFE-Third countries, however, had similarities with LIFE-Environment.

20. The Directorate-General for the Environment's departments were nevertheless reorganised, with the aim of standardising and clarifying the administrative procedures for the three strands of LIFE in order to improve the efficiency of the management⁽¹⁾. The three LIFE management units were merged into one single unit to which a further unit responsible for the financial management was added. Because of the complexity of the task and the high turnover of staff, the changes to the procedures went on being made until the end of 2002.

Management and financing

21. The Commission manages the LIFE programme centrally. The Commission receives assistance from the Member States and the national authorities of the third countries, and has recourse to technical assistance offices (TAOs)⁽²⁾. Two committees made up of representatives of the Member States, one for the Nature strand, the other for the Environment and Third countries strands, help the Commission to decide on the projects to be financed.

22. The LIFE rate of financial support is, in general, a maximum of 50 % of the eligible costs of the projects. The rate is reduced to 30 % for projects which generate substantial revenue, and increased to 75 % for measures which, within the EU, relate to priority natural habitats or priority species within the meaning of Directive 92/43/EEC or to the species of birds referred to in Directive 79/409/EEC which are in danger of extinction. Expenditure on technical assistance and accompanying measures is reimbursed at the rate of 100 %.

⁽¹⁾ On the basis of the report, 'Evaluation of the Financial Instrument for the Environment (LIFE)', Arthur Andersen, final report, June 1998.

⁽²⁾ The TAOs are currently known as TAA (technical and administrative assistance).

Financial implementation

23. Table 2 shows the development and utilisation of the budget appropriations for the financial years 1995 to 2002 in respect of the special budget headings managed by the Directorate-General for the Environment⁽³⁾. LIFE-Environment and LIFE-Nature are financed under budget heading B4-3 2 0⁽⁴⁾ and LIFE-Third countries under heading B7-8 1 0. Altogether, LIFE represents approximately 70 % of all the appropriations managed by the Directorate-General for the Environment.

24. The commitment appropriations available for each financial year were used almost in their entirety, with the exception of those for 2000. Only 32 % of the latter were used, owing, in particular, to the low rate of utilisation of the appropriations available for LIFE (4 %): the Regulation concerning the third stage of LIFE was adopted in July 2000 but did not result in any projects being approved in that year.

25. Of the budget of 450 million euro provided for in the Regulation, 435 million euro were, in the end, charged to the budgets for 1996 to 1999. A comparison of the 'Nature' and 'Environment' strands of LIFE II shows a fairly equal distribution of the commitment appropriations (207,9 million euro for 'Nature' compared with 207,8 million euro for 'Environment') and the payment appropriations (160,7 million euro for 'Nature' compared with 157,6 million euro for 'Environment') (see Table 3). Of the new countries applying for accession, Romania was the first to participate in these strands of the LIFE programme. Table 4 shows the amounts allocated to projects under the 'Third countries' strand in the context of LIFE II.⁽⁵⁾

26. According to the Regulation the amount of resources to be allocated to accompanying measures such as monitoring and evaluation is 3 % of the total budget. This rate was exceeded and 3,17 % of the earmarked commitments were allocated, i.e. a total of 13,81 million euro. For LIFE-Nature, the rate was higher (4 %, i.e. 8,2 million euro) (see Table 5).

27. Outstanding commitments are still significant, in terms of both their number and their amount. In December 2002, for LIFE II, these commitments, numbering 380, were 47,2, 50,3 and 3,9 million euro for LIFE-Nature, LIFE-Environment and LIFE-Third countries respectively. Twenty-six of these commitments (4,8 million euro) overran the final date for implementation.

⁽³⁾ For the previous years, please refer to Chapter 6 of the Court's Annual Report concerning the financial year 1994 (OJ C 303, 14.11.1995, p. 161).

⁽⁴⁾ In 1995 LIFE-Environment was financed under budget heading B4-3 5 0.

⁽⁵⁾ The 'Third country' strand is open to Albania, Algeria, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Syria, Tunisia, Turkey, the West Bank and the Gaza Strip, Kaliningrad and the region of St Petersburg.

Table 2

Appropriations in the 'environment' title of the budget and use made of them from 1995 to 2002 (differentiated appropriations)

(million euro)

Year	Financial instrument	Budget Article/ Title	Commitment appropriations			Payment appropriations				
			Final appropriations available	Commitments entered into against appropriations for the year		Final appropriations available	Payments against appropriations for the year			
				Total commitments	Utilisation rate (%)		To settle the commitments for previous years	To settle the commitments for the year	Total payments	Utilisation rate (%)
(a)	(b)	(c)=(b)/(a)x100	(d)	(e)	(f)	(g)=(e)+(f)	(h)=(g)/(d)x100			
1995	LIFE-Nature	B4-3 2 0	48,500	48,500	100,00	48,090	20,883	4,592	25,475	52,97
	LIFE-Environment	B4-3 5 0	48,500	48,488	99,98	48,660	24,506	7,852	32,358	66,50
	LIFE-Third countries	B7-8 1 0	5,750	5,447	94,73	6,500	4,103	—	4,103	63,12
	Total LIFE		102,750	102,435	99,69	103,250	49,492	12,444	61,936	59,99
	Environment — Title B4-3 ⁽¹⁾	Total Title B4-3	146,618	143,715	98,02	150,039	63,952	27,201	91,153	60,75
1996	LIFE-Nature and Environment	B4-3 2 0	90,000	89,923	99,91	75,400	53,981	21,248	75,229	99,77
	LIFE-Third countries	B7-8 1 0	6,000	6,000	100,00	6,000	2,902	—	2,902	48,37
	Total LIFE		96,000	95,923	99,92	81,400	56,883	21,248	78,131	95,98
	Environment — Title B4-3 ⁽¹⁾	Total Title B4-3	136,329	135,850	99,65	123,179	83,517	35,510	120,827	98,09
1997	LIFE-Nature and Environment	B4-3 2 0	90,000	89,909	99,90	90,000	53,435	29,913	83,348	92,61
	LIFE-Third countries	B7-8 1 0	4,500	4,312	95,82	5,400	3,177	1,094	4,271	79,09
	Total LIFE		94,500	94,221	99,70	95,400	56,612	31,007	87,619	91,84
	Environment — Title B4-3 ⁽¹⁾	Total Title B4-3	132,066	131,920	99,89	138,186	83,376	45,420	128,796	93,20
1998	LIFE-Nature and Environment	B4-3 2 0	100,000	99,669	99,67	82,200	42,459	35,694	78,153	95,08
	LIFE-Third countries	B7-8 1 0	4,825	4,824	99,98	4,000	3,246	0,749	3,995	99,88
	Total LIFE		104,825	104,493	99,68	86,200	45,705	36,443	82,148	95,30
	Environment Title B4-3 ⁽¹⁾	Total Titre B4-3	141,031	140,385	99,54	126,272	69,993	51,494	121,487	96,21
1999	LIFE-Nature and Environment	B4-3 2 0	135,252	134,451	99,41	92,552	39,679	37,921	77,600	83,84
	LIFE-Third countries	B7-8 1 0	5,550	5,540	99,82	4,500	4,377	0,074	4,451	98,91
	Total LIFE		140,802	139,991	99,42	97,052	44,056	37,995	82,051	84,54
	Environment — Title B4-3 ⁽¹⁾	Total Title B4-3	184,098	182,907	99,35	140,265	61,198	59,849	121,047	86,30
2000	LIFE-Nature and Environment	B4-3 2 0	113,131	4,762	4,21	94,435	51,266	0,102	51,368	54,40
	LIFE-Third countries	B7-8 1 0	6,622	0,022	0,33	4,432	—	—	4,426	99,86
	Total LIFE		119,753	4,784	3,99	98,867	55,692	0,102	55,794	56,43
	Environment — Title B4-3 ⁽¹⁾	Total Title B4-3	161,797	49,212	30,42	150,933	79,145	23,851	102,996	68,24
2001	LIFE-Nature and Environment	B4-320	170,912	152,525	89,24	121,445	20,989	87,255	108,244	89,13
	LIFE-Third countries	B7-810	9,184	9,067	98,73	4,685	—	2,220	2,220	47,39
	LIFE-Third countries	B7-810A	0,315	0,215	68,25	0,315	—	0,144	0,144	45,68
	Total LIFE		180,411	161,807	89,69	126,445	20,989	89,619	110,608	87,48
	Environment Title B4-3 ⁽¹⁾	Total Title B4-3	232,776	213,355	91,66	180,406	21,220	134,620	155,840	86,38
2002	LIFE-Nature and Environment	B4-320	148,510	148,461	99,97	106,524	—	99,699	99,699	93,59
	LIFE-Third countries	B7-810	6,522	5,733	87,90	7,092	—	6,576	6,576	92,72
	LIFE-Third countries	B7-810A	0,381	0,381	100,00	0,381	—	0,297	0,297	77,95
	Total LIFE		155,413	154,575	99,46	113,997	—	106,572	106,572	93,49
	Environment Title B4-3 ⁽¹⁾	Total Title B4-3	213,431	212,040	99,35	163,138	—	151,925	151,925	93,13

⁽¹⁾ Budget headings:

- B4-3 0 4 Fifth action programme (legislation)
- B4-3 0 4 A Fifth action programme (legislation)
- B4-3 0 5 Sustainable urban development
- B4-3 0 6 Awareness-raising and subsidies
- B4-3 0 7 Radiation protection/ 2002= marine pollution
- B4-3 0 8 2002= Civil protection
- B4-3 1 0 1 European Environment Agency
- B4-3 0 9 Completion of earlier measures ACE/ACNAT/Medspa/Norspa
- B4-3 2 0 LIFE
- B4-3 3 0 Civil protection (end of 2001)
- B4-3 4 0 0 Decommissioning of nuclear installations and waste management.

Source: Revenue and expenditure accounts (Volume II) for the years mentioned.

Table 3

LIFE II Nature + Environment — B4-3 2 0 0 + B4-3 2 0 1 and part of B4-3 2 0 9 from 2000 onwards — Comparison of the amounts of commitments and payments

Country	LIFE II-Nature — B4-3 2 0 0 and part of B4-3 2 0 9 from 2000 onwards			LIFE II-Environment — B4-3 2 0 1 and part of B4-3 2 0 9 from 2000 onwards		
	1996 to 2002			1996 to 2002		
	Number of commitments	Amounts committed to the projects	Amounts paid to the projects	Number of commitments	Amounts committed to the projects	Amounts paid to the projects
Belgium	14	7 801 990,00	6 115 390,87	38	16 017 621,35	9 711 669,27
Denmark	4	2 501 418,00	1 987 651,05	16	8 651 845,98	7 336 368,14
Germany	29	18 950 305,37	14 798 168,13	50	21 010 803,15	18 976 992,29
Greece	17	15 744 650,00	12 900 799,39	29	13 189 471,46	9 879 468,74
Spain	58	29 924 908,38	21 105 393,46	63	21 203 105,20	16 266 421,78
France	31	17 559 250,04	12 890 783,68	55	21 313 000,00	18 133 973,58
Ireland	1	1 513 475,00	945 390,00	11	4 935 832,98	3 559 854,27
Italy	72	23 816 292,40	17 050 709,96	62	23 881 311,90	18 178 319,94
Luxembourg	2	1 351 985,00	618 686,60	2	1 188 073,74	950 459,42
Netherlands	5	5 396 924,00	5 042 933,69	38	14 674 705,49	10 425 142,68
Austria	13	15 318 662,40	12 438 466,58	22	9 248 543,82	6 321 804,85
Portugal	17	10 512 039,00	8 330 285,76	20	5 333 628,39	3 276 844,63
Finland	20	16 367 319,00	14 479 909,89	23	7 700 524,39	7 069 531,52
Sweden	14	18 326 045,00	12 358 309,73	21	11 521 149,24	9 868 071,79
United Kingdom	11	14 098 261,00	11 780 414,85	43	22 152 757,18	12 322 611,20
Romania	4	517 057,24	392 413,83	6	734 120,47	565 182,99
Total without administrative expenditure	312	199 700 581,83	153 235 707,47	499	202 756 494,74	152 842 717,09
External assistance and administrative expenditure	14	8 227 863,00	7 501 967,77	64	5 053 817,89	4 712 621,83
Total (projects, external assistance and administrative expenditure)	326	207 928 444,83	160 737 675,24	563	207 810 312,63	157 555 338,92

Source: Revenue and expenditure accounts Volume II, Sincom1 (1996/1997) and Sincom2 (from 1998).

Table 4

LIFE II-Third countries — B7-8 1 0 0 — Comparison of the amounts of commitments and payments

Code	Country	LIFE II-Third countries — B7-8 1 0 0 1996 to 2002		
		Number of commitments	Amounts committed to the projects	Amounts paid to the projects
AL	Albania	2	763 520,00	746 867,57
BA	Bosnia and Herzegovina	3	701 000,00	647 080,00
CY	Cyprus	7	1 744 975,06	1 398 305,57
DZ	Algeria	1	50 000,00	30 000,00
EG	Egypt	2	827 850,00	745 065,00
IL	Israel	5	1 234 607,20	933 804,72
JO	Jordan	1	402 580,00	336 274,00
LB	Lebanon	2	719 260,00	639 063,90
MA	Morocco	5	1 074 217,46	449 317,26
MT	Malta	4	860 921,09	779 367,53
PS	West Bank and Gaza	3	1 341 636,25	1 274 936,25
RU	Russia	11	2 734 945,00	2 295 813,64
SY	Syria	2	638 536,67	595 201,00
TN	Tunisia	2	380 026,49	280 244,69
TR	Turkey	11	3 585 987,51	2 789 731,59
INT	International (countries not specified)	6	3 050 130,25	2 374 831,43
	Subtotal	67	20 110 192,98	16 315 904,15
	External assistance and administrative expenditure	9	533 367,00	436 603,62
	Total (projects, external assistance and administrative expenditure)	76	20 643 559,98	16 752 507,77

Source: Revenue and expenditure accounts Volume II, Sincom1 (1996/1997) and Sincom2 (from 1998).

Table 5

LIFE II — Implementation — Comparison of the maximum amount indicated in Regulation (EC) No 1404/96, Annex I, Article 8(1), with the amount actually committed

	Allocation to the various strands	LIFE II-Nature	LIFE-II Environment	LIFE II-Third countries	Accompanying measures	Total for LIFE II
(1)	Percentage rate of the amount of 450 million euro to be allocated to each of the strands according to Regulation (EC) No 1404/96	46 %	46 %	5 %	3 %	100 %
(2)	Share of the amount of 450 million euro to be allocated to each of the strands	207,00	207,00	22,50	13,50	450,00
(3)	Amounts committed (million euro)	199,70	202,76	20,11	13,81	436,38
(4)	Percentage rate of the total amount actually committed to each strand	45,76 %	46,46 %	4,61 %	3,17 %	100 %
(5) = (3) — (2)	Difference (million euro)	- 7,30	- 4,24	- 2,39	0,31	- 13,62
(6) = (5) / (2)	Percentage difference for each of the strands	- 3,5 %	- 2,1 %	- 10,6 %	2,3 %	- 3,0 %
(7)	External assistance and administrative expenditure (million euro)	8,23	5,05	0,53	—	13,81
(8) = (3) + (7)	Total committed (million euro)	207,93	207,81	20,64	—	436,38
(9) = (7) / (8)	Percentage rate of total amount actually committed to 'External assistance and administrative expenditure'	3,96 %	2,43 %	2,58 %	—	3,17 %

Source: Revenue and expenditure accounts Volume II, Sincom1 (1996/1997) and Sincom2 (from 1998).

SELECTION OF PROJECTS

Selection procedures

28. The aim of the selection procedure is to ensure sound management of Community funds. It is based on selection criteria which reflect the objectives of the programme and compares the different proposals to ensure that the projects with the best contribution to those objectives are chosen.

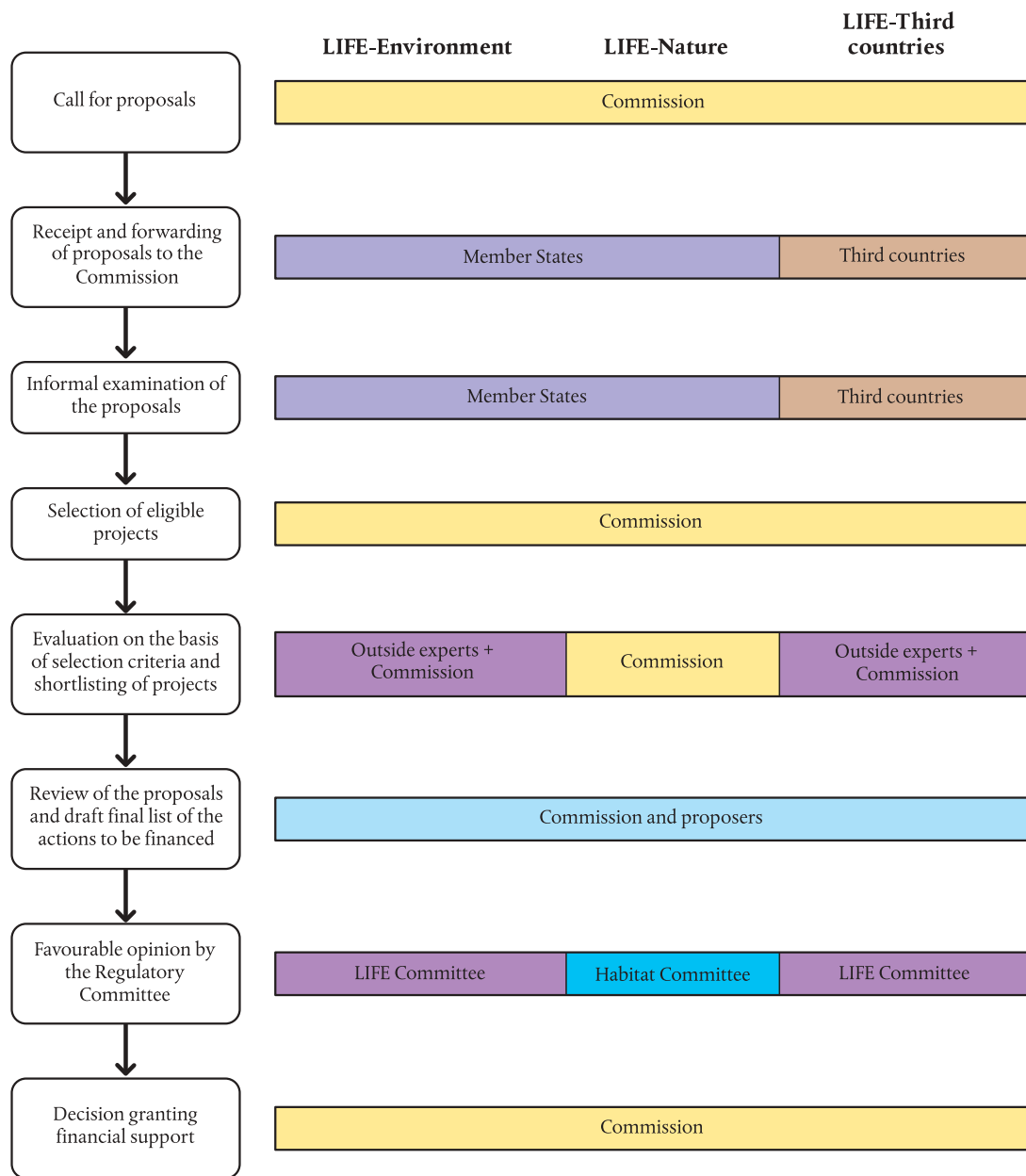
29. In accordance with Article 9 of the LIFE Regulation, the Member States forward to the Commission, before 31 January of each year, proposals for actions to be financed. Applications from third countries are submitted to the Commission by the national authorities concerned. Information meetings, attended by Commission representatives, are organised at varying intervals for potential beneficiaries in the Member States. The proposals received are then evaluated with a view to a possible decision to finance them. The procedures for selecting the proposals are different for the three strands of LIFE.

30. In the case of LIFE-Environment, the Commission employs outside experts to evaluate the project proposals but does not issue any public calls for applications when selecting these experts. For the projects that were checked, the curricula vitae of these experts were not usually kept. It was therefore not possible to ascertain that they did not in fact come from a national body which was itself directly or indirectly responsible for the management of LIFE projects ⁽¹⁾.

31. In the case of the LIFE II period, since the evaluation reports drawn up by the experts are not systematically archived or registered in the Commission's files, the results of the evaluation cannot be substantiated. These documents, which are of fundamental importance for supporting and justifying the choices made, have not been kept. In those cases where the marks awarded are available in an electronic database it is seldom possible, in the absence of the original documents, to verify their authenticity and conformity with the underlying evaluation.

⁽¹⁾ See also the Court of Auditors' Annual Report concerning the financial year 2001, paragraph 4.22 (OJ C 295, 28.11.2002).

Selection procedures for the three strands of LIFE II



32. In the case of the LIFE-Nature projects, the evaluation of the proposals is carried out by the Commission’s desk officers, who may have the status of national experts, and who are then entrusted with monitoring the implementation of these same projects. For the sake of independence, transparency and harmonisation of procedures, the Commission should consider the possibility of entrusting the evaluation to outside experts.

outside experts were not kept, as there were no precise instructions on this subject.

Evaluation criteria

33. As regards project proposals under LIFE-Third countries, the desk officer preselects an initial list of projects and submits it to a group of external evaluators. The projects selected by the outside experts are then submitted to the LIFE-Environment Regulatory Committee for an opinion. It was noted, for all the files examined, that the basic evaluation documents drawn up by the

34. Article 9a of the LIFE Regulation lays down the list of general criteria, specific criteria for actions concerning nature conservation as defined under Article 2(1)(a), actions concerning industrial activity and to support local authorities, preparatory actions and criteria applicable to actions to be implemented in third countries.

35. Projects put forward for financing are classified by awarding them a mark in the case of the 'Environment' and 'Third countries' strands and on the basis of a qualitative assessment in the case of the 'Nature' strand.

36. In the case of projects under LIFE-Environment, some of the criteria that the evaluators were obliged to apply were amended for LIFE III in comparison with LIFE II in order to simplify them ⁽¹⁾. Nevertheless, it is still difficult for the evaluators to form a precise opinion on the subject because the criteria have been combined and as a consequence have become more vague and difficult to apply.

37. Evaluation criteria for all the strands of LIFE III are now published in the application guides available on the LIFE website but with varying degrees of detail: LIFE-Nature and LIFE-Environment define the criteria whereas for LIFE-Third countries they appear, without explanation, in the form of a simple list without any detailed description.

The role of the Member States

38. In accordance with the LIFE Regulation, the Member States forward proposals for LIFE-Environment and LIFE-Nature projects to the Commission for selection. Some Member States apply the Commission's criteria or their own criteria to evaluate the proposals and give them an order of priority. The results of these practices, which are not provided for in the Regulation, should be comparable so that the prioritisation of proposals is done at European level.

39. Before adoption by the Commission, draft decisions to grant financial aid must receive a favourable opinion from one of the two Regulatory Committees, one responsible for LIFE-Nature and the other for LIFE-Environment and LIFE-Third countries. The Commission sends the Committees a list of projects ranked according to the evaluation carried out, divided into two parts: the first represents the budget available, the second is a reserve list. For LIFE-Environment the Member States' evaluation is attached to the evaluation sheet for the projects submitted to the Committee, but this is not the case for LIFE-Nature ⁽²⁾.

40. The representatives of the Member States take part in the selection of the projects in the context of the work of the Committees. In some cases the discussions have resulted in the Commission replacing projects with others of the same value but with less priority at the request of the representatives of the Member

States and on the basis of proof of a neutral financial impact. The audit found no technical justification for these changes. Withdrawal of a project from the priority list should in fact lead to its replacement by the first project on the reserve list, regardless of the 'nationality' of the project withdrawn. In practice, it is replaced by a project of the Member State concerned. This runs counter to the results of the preliminary evaluation and undermines the effectiveness of the use of Community funds.

Risk of double-funding

41. Actions receiving aid under the Structural Funds or other financial instruments are not eligible for aid under LIFE ⁽³⁾. For this reason, applicants for aid are obliged to declare the sources of finance for the projects proposed, but compliance with these conditions is not adequately enforced. The fact that environmental issues are covered by a number of possible types of Community funds gives rise to a special risk of double funding, mainly for LIFE-Environment.

42. Before the decision granting aid, the Directorate-General confirms the beneficiaries' eligibility by using the Commission's accounting software, Sincom2. However, this system does not contain adequate information to allow verification of whether the same beneficiaries have already received other Community funds (Structural Funds, Cohesion Fund or funds for research activities). These data, which play an important role in the Structural Fund programmes, are not entered in detail in Sincom, which therefore means that the control is not effective.

43. The various project proposals are examined during the interdepartmental consultation procedure at Commission level to check complementarity of the aid with other Community funds and, in particular, to ensure that there is no double-financing. Within the framework of LIFE II, in addition to the horizontal departments, the Directorates-General for Agriculture, Research, Fisheries and Regional Policy were consulted for LIFE-Nature, but only the Directorate-General for Regional Policy was consulted for LIFE-Environment. The Directorate-General for Research was not consulted on the 'Environment' strand even in the case of projects proposed by bodies which, as the Court noted, were the beneficiaries of several research contracts. In the absence of basic data, in particular in connection with the Structural Funds, the results of the consultation are often very sparse and the risk of double-financing persists.

44. Where the beneficiaries of the programme are bodies which receive Community research contracts on a continual basis, separation of the activities is difficult to ascertain. The audit showed that these bodies often do not comply with the rules for granting Community funds with regard to the keeping of accounts

⁽¹⁾ Various criteria, such as 'the Community interest' and 'fostering cooperation', or 'the innovative character' and the 'exemplary character' for 2000/2001 and the 'Community interest' and 'environmental problem' or 'innovation' and 'progress' for 2002, were combined.

⁽²⁾ The Committees in question, for which the Commission provides the chairman and secretariat, are made up of representatives of the Member States.

⁽³⁾ Article 5 of Regulation (EEC) No 1973/92.

for the projects (see paragraph 60) as they do not have accounting systems which are sufficiently detailed or systems for recording working time for the various projects. As a consequence it is not possible to demonstrate specific allocations of resources to the projects or to verify whether there may have been double-financing.

45. One example of this audit finding is a project under the 'Environment' strand which received LIFE financing for three parts: the project study, the equipment and the measures to disseminate the results. It also received aid granted by the region under the regional operational programme financed by the Structural Funds, which covered the first two parts too and the construction of the buildings. This being so, the project is not eligible for LIFE financing. As the action received indirect financing under the European Regional Development Fund through the operational programme, the overlapping of these forms of aid was not identified and the beneficiary did not notify the Commission in respect of the Community aid.

IMPLEMENTATION OF THE PROJECTS

Imprecise administrative provisions concerning eligible costs

46. Article 9b of the LIFE Regulation lists the expenditure which is to be considered ineligible. By contrast, the Standard Administrative Provisions ⁽¹⁾ concerning eligible expenditure were neither precise nor uniform for the various strands of the programme. When preparing the new LIFE III Regulation, the Commission harmonised these provisions and made numerous amendments to them, but failed, however, to rectify all the weaknesses revealed by the audit (see paragraphs 47 to 51).

47. With regard to eligible expenditure, staff expenditure represents the largest part of the costs of the projects. It includes the salaries of national civil servants, which make up a significant portion of the expenditure, in particular in the case of LIFE-Nature. The Court notes that these remunerations are already covered by the budgets of the public bodies and therefore do not constitute an additional remuneration which would represent an extra cost for the programme.

48. This being so, the contribution by the beneficiary public body does not represent a national contribution, as LIFE is really reimbursing expenditure which the Member States would have had to bear in any case. The administrative provisions should be amended in such a way as to exclude the possibility of financing the salaries of civil servants, including cases where public bodies are involved in carrying out projects as partners of the beneficiary.

⁽¹⁾ The standard administrative provisions are annexed to the decision granting aid which is sent to the beneficiaries and include special provisions relating to the implementation of the projects.

49. In the case of the projects audited, staff expenditure represented 41 % of total certified costs. The Court's checks revealed that:

- (a) in certain cases the contribution by the staff to Community actions is charged at an hourly rate which is higher than the actual salary rate, with no justification provided;
- (b) some beneficiaries have no time-recording system which enables the hours actually worked and charged to the project to be identified;
- (c) statements affected by this included:
 - (i) work carried out by third parties which should have been charged to external assistance;
 - (ii) charging the entire salary of staff employed to carry out the general work of the beneficiary.

50. Subcontracts accounted for 25 % of the expenditure of the projects examined. The administrative provisions do not clearly set out the details of the supporting documents required in respect of services provided by subcontractors and therefore do not provide a possibility of verifying whether these services were really provided. Thus, in one extreme case, the Court was unable to reconstruct the constituent parts of the costs invoiced, as the subcontractor refused access to the documentary evidence, arguing that his contract contained no clause giving the Court access to these documents. In view of this incident, the Commission has amended these provisions in such a way that the subcontractors' invoices allow identification of every constituent part of the service rendered.

51. With regard to expenditure in respect of the depreciation of consumer durables, the Commission accepted the principle of linear depreciation over the project's period of implementation. As the Standard Administrative Provisions were imprecise, depreciation was not calculated on a *pro rata temporis* basis applied to the period of use of these goods. The Commission subsequently amended the rules governing the charging of these costs and now accepts as eligible expenditure 50 % of their real cost, irrespective of the time required to implement the project. These new provisions are therefore still not taking into account the actual use of the goods in the context of the projects.

Delays in payments

52. Under LIFE II, payments are made in the form of an advance of 40 % of Community financing after adoption by the Commission of the decision granting aid, then an interim payment, which can also be as much as 40 %, made on the basis of a claim by the beneficiary after acceptance of the statement of expenditure and the activities report, and, lastly, a final payment once the Commission has accepted the final report. The

administrative, financial and technical conditions relating to the LIFE programme stipulate, as a general rule, that payment by the Commission must take place within 60 days of the receipt of the statements of expenditure. This period may not be exceeded unless the beneficiaries' applications are incomplete or additional information is required.

53. In view of the volume of delayed payments, the Directorate-General for the Budget adopted measures to ensure that 95 % of payments would be made within the set time limit, with the remaining 5 % having to be settled, at the latest, within 90 days ⁽¹⁾. According to the information available to the Commission, 43 % of the payments made under the LIFE programme during the financial years 1999 to 2002 did not comply with this maximum limit of 90 days (see *Diagram 1*). Nineteen per cent of the payments were not settled by the Commission until more than six months after receipt of the statements of expenditure. The Court notes an improvement in 2002 as compared with preceding years, as shown in *Diagram 1*.

54. From the information available in the Commission's accounting system it was not possible to ascertain the reason for the delays in payment. By examining a sample of files the Court was able to determine the main reasons for these delays. The first is related to the late replies by beneficiaries to requests for additional information sent to them by the Commission; responsibility

for this should be shared jointly by the Commission and the beneficiary (lack of system for issuing automatic reminders to beneficiaries under LIFE II). In three out of 46 cases, this information was required because the beneficiary had made changes to the structure of the budget without informing the Commission.

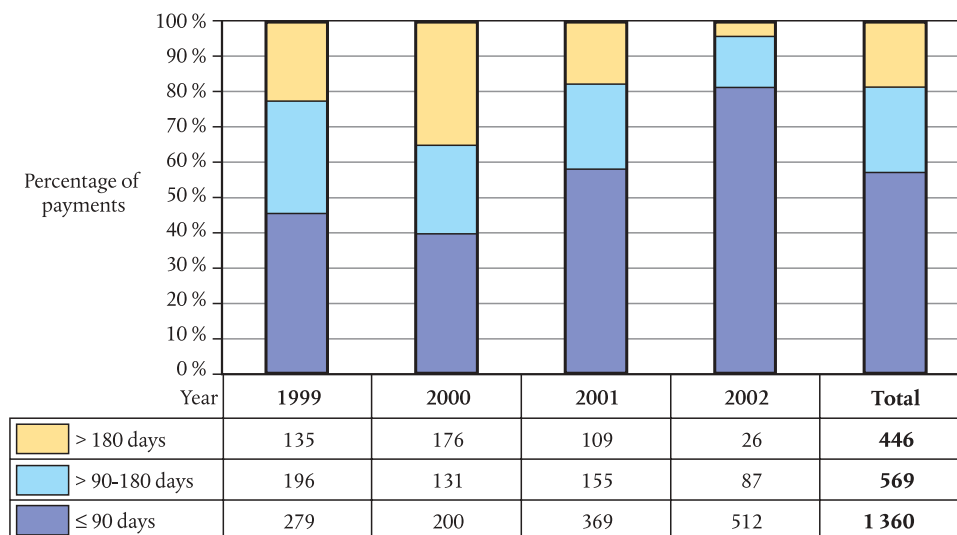
55. Other reasons are connected to Community management, i.e.:

- a break in the continuity of the technical assistance contracts. For example, the TAO responsible for the LIFE-Environment projects in one Member State had to discontinue its activities between November 1999 and January 2001 because it had no contract (see paragraph 68). During this period no external team existed to analyse the implementation reports prior to the issuing of payment orders and this led to delays,
- the distribution of human resources; the desk officers suffered from an excessive workload because of the combination of tasks allocated to these managers. As a result, a number of files could not be dealt with in time in the Commission's departments.

There was no efficient system for monitoring payment claims.

Diagram 1

Time taken to settle payments



Source: The Directorate-General for the Environment.

⁽¹⁾ SEC(95) 1122 and, more recently, the action plan in the White Paper on Reform — COM(2000) 200 — which postpones the 1995 objective until 2002.

Practical problems in connection with the implementation of the projects

Problems with the co-financing of projects

56. The proposals submitted sometimes contain erroneous or incomplete information concerning the arrangements for financing the projects. They do not always make allowance for all the financial contributions planned or the revenue generated by the projects. These are, however, elements which represent an important factor in the evaluation stage and for the adoption of the decision laying down the rate of Community financing.

57. The audit revealed that one NGO, after the decision, had received an amount equivalent to more than 100 % of the cost of the project through national subsidies which had not been declared in the application file. This co-financing, for which no provision was made in the initial proposal, shows the shortcomings in the financial arrangements for the projects. Applicants are obliged to declare their sources of finance (see paragraph 41) but it is up to the Commission to verify the validity of these declarations. The Community aid must therefore be recalculated and the relevant amount paid in excess should be recovered by the Commission.

58. Likewise, this large NGO, which received numerous contributions under LIFE, entered a LIFE contribution in its project proposal which was equivalent to the maximum rate of 50 %. However, the audit revealed that the NGO in question had financed its contribution almost completely by applications to several private and public sources. This information, of which the NGO was aware, was nevertheless not mentioned in the proposal and was thus not available to the Commission when it took its co-financing decision.

59. One project under LIFE-Environment ran into financial difficulties, mainly due to the fact that the beneficiary's own funds proved inadequate and the beneficiary obtained a higher Community contribution on the basis of declarations of expenditure which it had not incurred; this higher contribution allowed it to cover the major part of its own contractual contribution to the project. Following the Court's on-the-spot audit, a recovery procedure is now under way.

Beneficiaries' accounts insufficiently detailed

60. Unlike other forms of Community aid such as the Structural Funds, the administrative provisions for LIFE II do not impose an obligation on the beneficiaries to keep separate accounts for the project. The Court's checks showed that both private bodies with general accounting systems and public administrations did not keep sufficiently detailed accounting records of the financial transactions relating to the projects. For this reason it is not possible to identify all the movements of funds in respect of the revenue and expenditure concerning these projects. In such circumstances, no link can be established between a particular item of expenditure and the project to which it relates, as the documentary evidence submitted does not explicitly indicate the purpose of the equipment or the services concerned.

61. In addition, the audit revealed one case where items of expenditure were charged outside the accounts with the aim of obtaining the total maximum Community contribution provided for in the contract, even though this did not reflect reality. The risk of the same item of expenditure being chargeable to several projects cannot be ruled out, because it is not possible from examining the accounts to determine the project for whose implementation the expenditure can be charged. The checks carried out confirmed this risk.

62. One of the biggest non-governmental organisations, which manages a large number of projects subsidised by the Commission, only introduced a system of accounting records of this kind after 15 years of Community support. In another case, following an on-the-spot check, the Commission had, rightly, refused to grant the association the Community contribution because it did not have a system of general accounts making it possible to substantiate the costs presented in the final report.

Uncertainty concerning the future use of land

63. Purchases of land accounted for one third of the total expenditure on the LIFE-Nature projects, i.e. 131,7 million euro. The impact on the budgets varies from one project to another, but may in some cases be equivalent to the entire project. This substantial item of financing should therefore be examined in depth by the Commission during the evaluation stage in order to ensure that the land purchased is actually reserved in the long term for nature conservation purposes.

64. The classification of land purchases as eligible expenditure is peculiar to LIFE-Nature projects. In the case of nature conservation and preservation projects, the eligibility of land purchases depends on an undertaking by the beneficiaries to continue conservation activities once the period laid down in the decision granting financing for the LIFE projects is over.

65. The Community has no guarantee in respect of the future use of such assets, except for a general clause in the Standard Administrative Provisions, and the use made of this land will depend solely on the beneficiaries' wishes. Under LIFE I the purchase contracts included a clause according to which disposal or a change of use of this land could not be carried out without the Commission's agreement. This clause was abolished for LIFE II and LIFE III. The Court observes that this risk would be reduced if the Commission were to apply similar rules to those of the Structural Funds ⁽¹⁾. The eligibility of such purchases is subject, amongst other things, to the condition that 'the purchase is made by or on behalf of a public institution or a body governed by public law'.

⁽¹⁾ Commission Regulation (EC) No 1685/2000 of 28 July 2000 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards eligibility of expenditure for operations co-financed by the Structural Funds (OJ L 193, 29.7.2000, p. 39) (see, in particular, Rule No 5 — Purchase of land, p. 43).

MONITORING, CONTROL AND EVALUATION

66. Monitoring and control of the projects and evaluation of the results of the programme are functions that are important for guaranteeing an appropriate implementation of the financial instruments, for the timely identification of certain shortcomings and for deciding on the corrective measures which are needed for the programme to succeed.

Unclear tasks of the technical assistance offices (TAOs) under LIFE II

67. Expenditure on accompanying measures is, to a large extent, intended for the technical assistance offices (TAOs), which are the technical interface between the Commission and the beneficiaries. These external teams inform the beneficiaries about the documents to be presented to the Commission and monitor the projects. Their main role is to follow up and evaluate the projects' progress, which includes on-the-spot visits and the evaluation of implementation reports.

68. In the case of the call for tenders issued in April 1999 for selecting the TAOs for LIFE-Environment, potential applicants had difficulty in interpreting the description of tasks ⁽¹⁾ and this delayed the selection of the new TAOs. The LIFE-Environment projects in two Member States were left without intermediaries for almost 13 months. The tasks of the TAOs for LIFE-Third countries are not clearly defined in the contract.

69. Owing to the different procedures followed by the three units which managed the three strands of LIFE, the TAOs did not apply uniform working methods. In addition, no criteria had been laid down for the evaluation of the TAOs' services. Since 2001, monitoring instruments have been in place and the work is evaluated individually. It would, however, be useful for the Commission to make an overall evaluation of the TAOs.

70. In the technical Annex to the contract made with the TAOs, the Commission specifies the human resources required, in terms of both total cost and the time needed for monitoring the projects in each country. Since the number of projects to be monitored varies and no exact provisions can therefore be made for them when the call for tenders is being prepared, no connection can be made between the fees and the actual amount of

work. For example, in one Member State, the fees of a TAO were fixed at almost three times the amount entered in the previous call for tenders, while, at the same time, the number of projects to be monitored fell by half.

71. The TAOs have collected a large amount of documentation concerning the beneficiaries of the LIFE projects. The Commission gave no instructions to those in charge of technical assistance concerning how long these documents are to be kept. Nor has the Commission specified the conditions on which these documents should be forwarded to the Commission or to the new contractor, once the technical assistance contract has been completed.

72. Thus, two TAOs did not receive the data collected by the previous contractors, either in computerised form or on paper. They reconstructed the files with the help of the Commission's desk officer and the beneficiaries of the projects, who were asked to forward their entire files. One of these TAOs, in turn, failed to forward the files to its successor on completion of its contract. It should be noted that the new contracts with the TAOs make explicit provision for forwarding these files.

Observations on the audits carried out by the Commission

73. It is the Directorate-General for the Environment's financial unit that decides which LIFE projects are to be audited, on its own initiative or at the request of the LIFE II technical units. The financial unit, which is also responsible for on-the-spot audits, does not determine the number of projects to be audited on the spot on the basis of precise criteria and objectives. In 2001 this unit audited 29 LIFE projects and in 2002, 32 projects.

74. Of the projects audited in 2001, which accounted for a total of 15,9 million euro in commitments, 10 were the subject of proposals to draw up recovery orders for amounts ranging between 4 243 euro and 393 746 euro and totalling 675 592 euro, i.e. 4,2 % of the total committed for the projects audited. In the case of five other files, termination of the projects was proposed without further payment and the files of two projects were sent to the European Anti-fraud Office (OLAF) because the same expenditure had been declared twice ⁽²⁾.

75. In spite of the existence of precise instructions, an analysis of the content of the audit reports reveals a lack of homogeneous structure and great variations in quality. Half of the reports examined were vague in content or very brief and must therefore be regarded as inadequate. Five reports did not get beyond the preparatory stage. As they were drawn up by the financial unit, the observations mainly concerned financial aspects and said nothing about the implementation or the results of the measures

⁽¹⁾ See 'Replies to tenderers' queries at the information session held in Brussels on 29 April 1999', 5 May 1999, 'Open invitation to tender' XI/B2/ASS/990015 TO 990022; paragraph 3.3, for example: 'the Commission expects the contractor to propose methods to define indicators and to adopt a dynamic approach'. Likewise, later: 'the contractor is requested to formulate suggestions as to the user's requirements, the conceptual data model and the description of the main results that the proposed system provides'.

⁽²⁾ The Court has also sent OLAF its audit findings for two other projects.

taken. In spite of improvements in the procedures, the Commission's departments were unable to provide precise information concerning the number of audits actually carried out in the years before 2000 although programmes in respect of on-the-spot checks did exist.

External certification of the records of expenditure

76. The Standard Administrative Provisions for LIFE II contained a clause, in respect of the 'Nature' strand, which encouraged beneficiaries to include certification of their records of expenditure by an authorised auditor. In the case of LIFE-Environment, a clause stated that a certificate drawn up by a chartered accountant, before final payment, would guarantee the beneficiary accelerated payment and reduce the risk of disagreement. In the absence of precise instructions from the Commission concerning the audit work to be carried out, the scope and quality of this work vary considerably. The Court found cases where the certificates were inadequate because no detailed analysis of the expenditure had been attached. The certificates are mainly concerned with the conformity of expenditure with national rules.

77. Since 2001 the provisions have standardised the requirement for independent financial audit for all strands of the programme and oblige the beneficiary to appoint an auditor to verify expenditure records. This auditor 'should not only verify compliance with national legislation and accounting rules but should also certify that all costs incurred respect the Standard Administrative Provisions for the LIFE programme'. However, the form and content of the audit reports has still not been set out in detail.

Report on the implementation of the programme

78. The aim of an evaluation is to assess, using clear, relevant and measurable criteria, what the real situation of the project is in relation to the set objectives. The activity report relating to LIFE II ⁽¹⁾ was drawn up in accordance with Article 14 of the Regulation and in the light of the evaluation made by the outside consultant. It paints a general picture of the programme's implementation, but says nothing about the attainment of specific objectives. In particular, it does not state to what extent the projects financed by LIFE-Nature have, for example, helped to reverse the trend of the decline of species facing extinction, nor does it say how the projects financed by LIFE-Environment have contributed to the development and implementation of environmental policies. In the latter case, the Commission has not made any in-depth assessment of the results obtained concerning the innovative nature of projects, contrary to what is required by the provisions of the Regulation governing this subject.

⁽¹⁾ COM(1998) 721 final of 4 December 1998.

79. Similarly, there have not yet been any analyses of the contribution made by LIFE II to achieving the aims of the fifth EAP. Because the objectives are not defined properly, the instrument is only mentioned in these terms: 'LIFE, the only programme completely devoted to the environment, has produced many examples of innovative technologies, good practice and integration at local levels' ⁽²⁾.

80. In its communication on the sixth EAP, the Commission states that the implementation of the LIFE programme has 'contributed substantially to the improvements' made to the quality of the environment and that it will continue to be 'a valuable instrument in illustrating the possibilities and advantages of better environmental performance by business and local authorities' ⁽³⁾. This statement has not been further enlarged upon.

Recent initiatives to improve dissemination of the results of projects

81. In view of the fact that LIFE finances, amongst other things, innovative and demonstration projects, dissemination of the results of these projects is crucial. In the absence of a clear strategy for dissemination laying down the objectives, the target groups, the methods and the media, there is a risk that dissemination will not be effective and this will limit the impact of such projects. In its replies to Special Report No 3/98 ⁽⁴⁾, the Commission acknowledged, in general, the need to put in place a strategy for disseminating the results of the LIFE projects.

82. During LIFE II, each 'Environment' project was required to include a dissemination plan and to publish a general report in printed and in electronic formats. One of LIFE's stated objectives is to contribute to developing and implementing environmental policies and legislation, but the Commission did not set down precise standards on these activities, nor have the results been used by the Commission itself. Effective management of the programme is only possible, however, if the Commission uses the results to help improve the strategy and application of Community environmental policy.

83. LIFE results are mainly published in the Commission's reports and in the newsletters produced by the TAOs, which present in detail the results of a selection of projects. For example, in the case of LIFE-Nature, there is a report on the long-term effects of nine LIFE I projects and a newsletter issued three times a year; in the case of LIFE-Environment two reports have been

⁽²⁾ See 'Global assessment — Europe's environment: what directions for the future?', section 6.22(2), p. 20 (COM(1999) 543 final of 24 November 1999).

⁽³⁾ COM(2001) 31 final of 24 January 2001.

⁽⁴⁾ Special Report on water pollution, paragraph 127 (OJ C 191, 18.6.1998).

published describing the best projects ('success stories')⁽¹⁾. No systematic monitoring was carried out in respect of the results of the projects, and only a summary of the proposals relating to the projects financed was presented on the LIFE website.

84. In March 2002 the LIFE unit presented a communication strategy for the dissemination of the results of projects, recognising that such a strategy had been lacking until then. The main emphasis of this strategy is on the Community nature of projects, proximity to citizens and networking of environmental stakeholders. The strategy describes how the shortcomings highlighted by the external evaluation could be remedied. One major plan is to reinforce the link between the LIFE unit and the thematic units of the Directorate-General for the Environment.

CONCLUSIONS AND RECOMMENDATIONS

General conclusion

85. As from 2001, in the context of the reorganisation of the Directorate-General's departments, a major effort was made to tackle the shortcomings in the management of the LIFE programme, at the level of the organisation of departments and in the procedures put in place by the Commission and the beneficiaries. For the measures taken since then to be effective this effort must be kept up.

The programme's objectives and connection with Community environmental strategy

86. LIFE is a tool for furthering the development and implementation of Community policy and legislation in the field of the environment. However, LIFE-Environment does not clearly reflect the way in which it is supposed to contribute to the attainment of the general and specific objectives set out in the strategic guidelines of the environmental action programme (see paragraphs 5 to 10).

87. The definition of clear and measurable objectives is an essential element for ensuring effective evaluation of the implementation of this Community programme. In the case of LIFE these objectives have not been set down, owing, on the one hand, to difficulties in setting targets for the innovative aspect of projects and, on the other, to the absence of harmonised ecological parameters. There is insufficient complementarity with the other Community aid measures in the field of the environment and the risk of double-financing persists (see paragraphs 16 and 17 and 41 to 45).

Recommendations

- The Court recommends that the role of LIFE should be made clearer, in particular in the environmental action programmes to be adopted in future. Precise objectives, quantified where possible, should be defined so that the instrument's effectiveness can be evaluated. The Commission should improve the interdepartmental consultation procedure so to ensure the complementarity of the aid measures.

Management organisation

88. The organisation of the LIFE Financial Instrument in three distinct strands is, in fact, a regrouping and not an integration of the previous instruments. In order to improve the situation, the Commission merged three units to form a single unit which is responsible for managing the financial instrument in its entirety (see paragraphs 15 to 20).

89. The Court's audit revealed structural differences between the three strands of the programme which are reflected in the selection procedure, including the role of the Member States and of the outside experts. The Standard Administrative Provisions concerning the eligibility of expenditure were harmonised for LIFE III, particularly as regards the financial aspects (see paragraphs 28 to 40).

Recommendations

- The Court recommends that the Commission examine whether it would be expedient to separate the management of the 'Nature' and 'Environment' strands in future, in view of their intrinsic differences. This ought to ensure consistent management of the instrument in the long term. Taking into account the similarities in management and its relative importance, the 'Third countries' strand should be attached to the 'Environment' strand.
- Nevertheless, during the project proposal evaluation phase, use should be made of outside experts for all three strands of LIFE, as is the case for certain other Community programmes, in order to guarantee the transparency of procedures where the evaluator is, at the same time, responsible for monitoring implementation of the project. It would also be advisable to organise calls to tender on a regular basis for the recruitment of outside experts and the Commission should keep their curricula vitae and the evaluation forms in its files.
- The Standard Administrative Provisions should give a more precise definition of eligible costs in order to avoid differences of interpretation. The Court recommends that the Commission should adopt the proposals resulting from the audit concerning the keeping of separate accounts for the projects, staff expenditure, depreciation and the purchase of land.

⁽¹⁾ The reports are available on the Directorate-General for the Environment's website:
http://www.europa.eu.int/comm/environment/index_en.htm

- In particular, with regard to nature conservation projects where the beneficiary is a public body, the salaries of civil servants should represent a special contribution by the Member States, as is the case with other funds, and only additional expenditure should constitute eligible expenditure in the context of the projects.
- The Court considers that the Commission should restrict financing of purchases of land solely to public institutions or bodies governed by public law. Financing granted to other beneficiaries should, if need be, be restricted to covering the cost of maintenance of the land acquired. Where the Commission continues to grant non-public bodies financing for purchases of land, it should set up a system of control to ensure the land is used for the purposes stipulated.

Monitoring, control and evaluation

90. The work of the TAOs makes up the bulk of the accompanying measures. In the context of the procedure for renewing tenders, an inadequate definition of the tasks assigned to the TAOs made evaluation of the proposals submitted difficult (see paragraphs 67 to 72).

91. For several years the Commission did not carry out sufficient on-the-spot checks on the projects. A greater effort has been made and now the on-the-spot checks, which mainly concern the financial aspects, are more regular and consistent and their results bring substantial problems to light (see paragraphs 73 to 75).

92. There are great discrepancies in the quality of the external certification reports, which are indispensable for effective monitoring of the performance of the projects, and they are not always reliable. They are often very brief and, before the new LIFE III provisions were brought in, concentrated mainly on the eligibility of expenditure in terms of national legislation (see paragraphs 76 and 77).

93. The programme has been evaluated from the point of view of the implementation of the actions but no general analysis of its impact has been carried out. Particularly in the case of the

'Environment' projects, optimum dissemination of the results of the projects is a crucial element in the success of this instrument (see paragraphs 78 to 84).

Recommendations

- The Court suggests that the Commission should maintain and, if possible, increase the number of on-the-spot visits and should improve their quality. These checks should concentrate more on material implementation of the projects and analyse their success rate in relation to the expenditure incurred. By employing outside auditors to perform sound financial management audits, the Commission would have at its disposal a suitable additional resource for stepping up its checks.
- The Court attaches great importance to the external audit of the projects because this is the only means of controlling all the expenditure in the budget and recommends to the Commission that it should strengthen and improve this instrument by verifying the quality of these audits.
- The Court notes with approval the measures taken by the Commission, which in 2002 set out a strategy for the dissemination of project results. It suggests that it should introduce instruments to analyse the effectiveness and measure the impact of the projects with a view to setting up a system for the dissemination of results in accordance with the proposals put forward.

94. For many years LIFE has been an important instrument of the Commission's environmental policy. The Court's report highlights the need to improve the existing management procedures in order to increase the effectiveness of the instrument and the Court urges the Commission to keep up the efforts towards improvement that have already been made. The Commission should also pay more attention to using the results of the projects financed under the LIFE Instrument in order to ensure that a satisfactory relationship is achieved between financing and the attainment of environmental policy objectives. By 2004, the LIFE Regulation should be adapted to meet the specific needs of its various strands and it should be split up, preferably, to improve management of the objectives of these strands.

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 11 September 2003.

For the Court of Auditors
Juan Manuel FABRA VALLÉS
President

THE COMMISSION'S REPLIES

SUMMARY

I. The Commission takes note of the Court's observations, in particular concerning LIFE II.

II. The Commission accepts that there is still room for further improvements in terms of the objectives and scope of the Regulation and will therefore continue its efforts to specify the objectives of LIFE-Environment in the framework of Community environmental policy and legislation.

IV. The Commission has taken steps to ensure that evaluation documents are systematically kept.

V. The Commission makes every effort to reduce the risk of double-funding mentioned by the Court, but, since it is aware of this problem and in the light of the Court's remark, it will examine whether other steps might be considered in order to obviate this risk even more.

The complementarity between LIFE and other Community sources is proven in many cases. The scope for improving this complementarity will be the subject of in-depth reflection.

VI. The Commission considers that under LIFE III it has made the improvements suggested by the Court following its finding concerning LIFE II projects.

The following improvements have been made for LIFE III:

- (a) since LIFE III, time sheets are compulsory to record the time devoted by staff in the context of LIFE projects. The Commission will examine the question of taking account of the salaries of civil servants;
- (b) since the restructuring of the management of the LIFE programme, the number of delayed payments has gradually been reduced;
- (c) an effort has been made in the context of LIFE III to ensure better financial arrangements for projects;
- (d) the Commission is prepared to review the terms and conditions regarding land purchased by non-public beneficiaries (9 %).

VII. The Commission has defined and provided a framework for the tasks and responsibilities of the technical and administrative assistance offices (TAOs) for LIFE III.

VIII. The Commission considers that the management of the LIFE programme has substantially improved since its restructuring.

- (a) The Commission intends to clarify the role of LIFE-Environment in relation to the sixth environmental action programme (sixth EAP).
- (b) The integrated management of the instrument has proved to be effective.
- (c) Whenever the Commission has considered it necessary to use external experts, it has applied a tender procedure.
- (d) The Commission considers that the recently adapted Standard Administrative Provisions (SAP) fully comply with the new Financial Regulation and are adequate. The Commission is nevertheless ready to study the Court's recommendations in a future revision of the SAP.
- (e) Apart from regular technical and financial monitoring visits (by technical/financial desks and external teams) as well as financial audits by DG Environment's Financial Unit, an external audit of the final statement of expenditure is obligatory for all projects funded under LIFE III.
- (f) The communication strategy is being implemented and has already led to tangible results.

INTRODUCTION

1. LIFE is an instrument which consumes a small portion of the Community budget (around 0,15 %) and which has developed significantly over a 10-year period. It has made it possible to build up a considerable amount of positive experience.

COMMUNITY AID FOR THE PROTECTION OF THE ENVIRONMENT

9. Special care has always been taken to the extent possible to avoid overlaps with other Community funding instruments and to ensure complementarity between LIFE and other Community instruments.

There are several projects that have worked in synergy with other funds in the case of LIFE-Nature.

10. LIFE is currently focused mainly on demonstration projects. The Commission takes note of the observations made by the Court.

CHARACTERISTICS OF THE LIFE PROGRAMME

17. Coherence between the various fields of action of the LIFE programme is ensured through compliance with the general objective of the Regulation. In each field of action, LIFE projects must contribute towards improving the protection of the environment on the basis of Community directives. To ensure compliance with this objective, the Commission, when selecting projects, takes pains to select them on the basis of their contribution to implementing Community law in their respective fields of activities. This is an essential (eliminatory) criterion for choosing LIFE projects.

20. The Commission considers that the improvements achieved since 2001 justify the reorganisation of the management of the entire LIFE programme, including the financial project management, within one single unit. Different project themes and contents do not necessarily require different management methods or follow-up procedures for the projects.

The Commission has taken specific steps to ensure close cooperation between the LIFE unit and the thematic units of the Directorate-General for the Environment which cover the fields of action of the LIFE programme.

Following the reorganisation in 2001/2002 and 2003, management procedures and methods have stabilised.

24. Due to the late adoption of the LIFE III Regulation, it was impossible to organise a call for proposals and a selection procedure to be terminated before the end of the year 2000.

The unused commitment appropriations of 2000 were consequently carried over to 2001 and consumed at a rate of 90 %.

26. The ratio is below the threshold of 3 % in the case of LIFE-Environment (2,4 %) and LIFE-Third Countries (2,6 %).

As a consequence of the experience gained in the management of the LIFE II programme, the Commission came to the conclusion that the 3 % ratio for accompanying measures was insufficient. Consequently, the ratio was raised to 5 % in the LIFE III Regulation.

27. By May 2003, the number of open files with expired commitments had decreased to 21. For 15 of these commitments, there will be either an automatic decommitment (done within six months after the final payment) or a recovery procedure is in progress. The remaining six commitments concern problematic projects for which the Commission has requested further information from the beneficiary or a financial audit, or which are currently under final examination.

SELECTION OF PROJECTS

30. As from the financial year 2003 the Commission selects experts on the basis of a call for applications. The LIFE unit is currently preparing a call for tender. For the entire period of LIFE III, the CVs have certainly been kept systematically.

In this period, the LIFE unit closely examines the CVs of the external experts and contracts with the external experts include a 'declaration of independence' to be signed by the expert.

31. The Commission has taken the necessary actions to overcome these weaknesses under LIFE III. In 2001, the Commission introduced a transparent computerised evaluation system ('ESAP') to manage the pre-decision phase of LIFE-Environment proposals. ESAP covers the entire evaluation, selection and award procedure, from the online registration of the initial proposal until the generation of the decisions.

32. The Commission has taken note of the observations of the Court. Under LIFE III, the evaluations are carried out independently by at least two people. Decisions are then taken collectively at a meeting between the LIFE units and the Nature unit where all the proposals are reviewed one by one and commented upon.

36. The Court's finding highlights the difficulty of combining simplicity and precision. There has been a progressive, continuous and pragmatic effort to improve the evaluation procedure. The LIFE Committee has accepted that a good balance has been struck between the need for transparency/objectivity and quality of the projects with respect to the objectives of the LIFE Regulation.

37. For the next evaluation round (projects to be financed in 2004), the Commission will publish the details of the evaluation criteria also for LIFE-Third countries.

38. Under LIFE III, Member States have been informed about the detailed criteria used by the Commission in its selection.

39. The Member States' evaluation for the three branches of the LIFE programme can now be consulted on the computerised evaluation system (ESAP).

40. The Commission considers that if a project has to be withdrawn from the shortlist for whatever reasons, it should be replaced by the first available project from the reserve list.

Therefore, for Nature projects under LIFE II and for the entire LIFE III, the Commission no longer responds to Member States' intervention by replacing projects on a neutrality basis but by taking from the top of the reserve list.

41. In order to avoid double-financing of the same project, from LIFE and other EU funds, the Commission checks the declarations about funding from other EU sources in LIFE applications and in applications for funding from other directly managed budget lines. For the Structural Funds, apart from major projects with over EUR 50 million of EU funding, the Commission is not involved in project selection. The checking of project applications for Structural Funds, including the issue of double-funding, is an essential part of the management and control systems that the Member States are required to have in place for these funds. Checking the effectiveness of these systems is one of the main objectives of the Member States and the Commission in their audit work.

The Commission therefore makes every effort to reduce the risk of double-funding mentioned by the Court. However, it is aware of this problem and in the light of the Court's remark, it will examine whether other steps could be considered in order to obviate this risk even more.

42. To check the solvency of beneficiaries, the DGs have a link with external databases. EWX is a tool in Sincom2 allowing a certain check of the financial reliability of a potential beneficiary providing indications on beneficiaries at risk. In each DG there is an 'early warning system contact point' which has access to the complete payments database and to the full third party file of the Commission and which can therefore check whether payments have been made, in the past, to a given beneficiary.

As part of the modernisation of the accounting system, the supplier file will be modified and will make it possible to verify directly whether Commission contractors have already received other Community funds.

43. The procedures have been modified for LIFE III-Environment, and Directorates-General RTD, REGIO, TREN, AGRI, ENTR, ELARG are being involved in an inter-service consultation on the proposals. This contributes to a more comprehensive verification of financial and technical reliability of the participants and reduces the risk of double-funding.

Where the LIFE unit detects elements that give rise to the assumption of double-financing, the case is further examined and, if necessary, the file is transmitted to OLAF.

44. Since the entry into force of the LIFE III programme, the obligations of beneficiaries as regards the keeping of accounts for projects (see reply to point 61) and the recording of working time (see reply to point 49(b)) have been reinforced.

45. Since the beneficiary has failed to inform the Commission, it was virtually impossible for DG Environment to identify such double-funding. Possible measures to be taken are being examined.

IMPLEMENTATION OF THE PROJECTS

46. For LIFE II-Nature projects, detailed SAP have existed since 1996 and have served as the basis for the harmonised SAP for LIFE III. The Commission is confident that this single set of rules for the administration and management of LIFE projects constitutes a substantial improvement and contribution to the performance of the Commission services managing the LIFE programme. They have simplified and clarified the rules for the project beneficiaries. Based on the Court's observations during the audit phase, the Commission has once again reviewed the SAP in 2002.

47 and 48. The SAP does not make a distinction between a private company/organisation or a public institution to establish the eligibility of expenditure. At present, there is no reason to disallow the costs incurred, if the expenditure is provided for in the project budget, if the person concerned has worked on the project and this work has been sufficiently documented by time records. The part of the salaries borne by the public institution can be considered as co-financing.

The Commission will, nevertheless, examine the conditions concerning the Community contribution for the intervention of civil servants in LIFE-Nature projects.

49. In fact, only audits on the beneficiaries' premises now increased by the Commission can lead to findings of the nature described by the Court.

Whenever required, the Court's specific remarks have been or are being taken into account in the management of the individual project files.

- (a) The correct application of this rule is being monitored. The Commission refuses now to reimburse expenses that are not directly related to actual salaries.
- (b) For LIFE III, the project working time of each employee must be registered.
- (c) (i) Since this problem has been identified in the past, new definitions of eligible personnel costs and external assistance costs have been introduced in the SAP for LIFE III (Articles 6, 21(2) and 21(4)).
- (ii) The Commission considers that only the part of the salary corresponding to the working time actually spent on the project is eligible. At least for LIFE II-Nature projects, the then applicable SAP (Article 9) clearly stipulated that 'personnel costs shall be charged in respect of the *actual time devoted to the project*.'

50. Based on the Court's observations during the audit phase, the Commission has already solved this problem by modifying the SAP in 2002. The following Article 6(5) was introduced: 'All invoices by subcontractors shall include a clear reference to the LIFE project (i.e. number and title or short title) and to the order/subcontract issued by the beneficiary/partner. All invoices shall also be sufficiently detailed as to allow identification of single items covered by the service delivered (i.e. clear description and cost of each item).'

51. The Commission considers that the revised depreciation rules applicable under LIFE III (eligible costs represent 25 % of the purchase costs for infrastructure and 50 % for equipment costs) are appropriate in view of the peculiarities of the programme. They take account of the fact that several beneficiaries of LIFE projects are public entities, which often do not apply depreciation on durable goods but register the full purchase price as expenditure at the moment of the acquisition. The Commission considers that the present rule meets the need to simplify the method of how durable goods are accounted for, both at the time of the evaluation and selection of the project proposal as well as at the moment of interim and/or final payment procedures.

The Commission will however examine the feasibility of introducing a more precise, but still simple, method for the calculation of the eligible costs for durable goods if the LIFE programme is continued.

53. The analysis of the figures shows that the positive development already visible in 2001 following the creation of the LIFE unit has continued to improve in 2002.

54. Adequate measures have been introduced to overcome this problem. Now, whenever an outstanding reply is overdue, the responsible desk officer is alerted by a computerised monitoring and control tool (see point 55 'Butler') and is therefore automatically required to take the necessary follow-up steps.

55. — The problem raised by the Court was due to an unsuccessful result of the tendering procedure.

— Due to the workload and the unpredictability of incoming reports with payment requests, some short-term delays in the treatment of the files are almost inevitable at certain periods. The frequency of such a situation has however gradually decreased since the creation of the LIFE unit.

— The Commission has since introduced a computerised monitoring and control system ('Butler') for the monitoring and the follow-up to all three components of the LIFE programme, including payment requests.

56. Since 2002, the LIFE unit examines proposals from the financial point of view. One of the major aspects of the financial analysis prior to the funding decision consists of assessing the realistic nature of the conditions laid down by the partners/co-financers before committing themselves to a project. This risk analysis is designed to enable the Commission to take its decisions with a full knowledge of the facts.

57 and 58. The Commission has taken note of the Court's observations and will take the necessary steps. In addition, the 2003 standard administrative provisions have been modified (Article 13(2)) in order to include the obligation for the beneficiary to obtain the written agreement of the Commission before any substantial modification of the funding plan while a project is being carried out.

59. Based on the information received from the Court during the audit phase, the Commission has also taken action to investigate the case further.

60. The standard administrative provisions applicable to the LIFE III programme require beneficiaries to keep specific accounts.

61. Appropriate steps have been taken following the Court's remarks concerning this project.

62. In the second case referred to by the Court, the Community contribution was partially recovered and the beneficiary was included in the list of organisations excluded from LIFE funding until clear proof was received that the administrative deficiencies were eliminated and a reliable accounting system installed. On the occasion of an additional financial verification, the Commission could establish that the beneficiary had meanwhile introduced a new and effective accounting system comprising the necessary tools for analytical and thus project specific accounting.

63. The thorough examination of proposed costs for land purchase according to clearly established written and published rules constitutes an essential part of the evaluation procedure for LIFE-Nature project proposals. There is always a notarial clause of alienation of the land to 'Nature' and 91 % of the land is purchased by public bodies.

65. In the case of the small percentage of land (9 %) which is not purchased by public bodies but essentially by nature protection NGOs, the Commission is prepared to examine measures offering even more guarantees than at present (notarial clause of alienation).

FOLLOW-UP, CONTROL AND EVALUATION

66. The Commission continues its effort to constantly improve the required procedures already in place.

68. The tasks of the external teams for LIFE-Third countries are described in more generic terms, but two long meetings have been devoted to a detailed description of their tasks at the beginning of the contract; and the agreed vademecum is applied to them as well.

69. Under LIFE III the working methods of the TAOs have been standardised. The Commission takes note of the Court's observation with regard to the evaluation of the TAOs as a whole.

70. The Court's observation refers to the period 2000/2001 which was exceptional since, contrary to the Commission expectations, the late adoption of the LIFE III Regulation delayed a selection exercise.

The Commission has since negotiated a new overall contract with a single external team in 2001. The distribution of staff was calculated on the basis of the number of foreseeable projects (the Commission is forced to make estimates since it never knows in advance how many projects will be selected per Member State) and the external team has been asked to provide more services in terms of communication (new LIFE communication strategy). The negotiation of a single contract for all the external teams makes for greater flexibility in the utilisation of the external staff according to the number of projects actually adopted in the different countries.

71 and 72. The previous monitoring teams contracts did not foresee any obligation to hand over the project files to a new team. However, the handing over of these files has in most cases been achieved through voluntary agreements. The new contracts starting from 2001 have remedied this lack by including such an obligation.

73 to 75. The current approach to on-the-spot audits was developed during the period up to 2001 following the identification of the need by the Commission to supplement the existing arrangements provided by other services.

The fundamental requirement of the Commission was, and still is, for the Financial unit to focus on the financial aspects of projects and specifically the eligibility of costs. On the other hand project performance and outputs were deemed to be the responsibility of the operational units concerned.

From 2002 on clearer audit project selection criteria have been developed and documented and audit reports have been standardised. In addition, experience gained is now being applied to the preparation of a model audit programme and to the refinement of the risk analysis, for the selection of the projects for audit.

76. For LIFE II-Environment projects, the 'administrative and financial information' distributed to beneficiaries included a detailed 'standard work programme for the audit of expenses' in public sector and private sector versions.

The quality of the audit certificates is variable and range from very detailed and thorough reports to simple declarations claiming the correctness of the financial statements. Since an insufficient external certification of the expenditure alone cannot result in the rejection of a final financial statement, the Commission's responsible financial desk run an in-depth examination.

77. The Commission takes note of the Court's observation concerning the lack of precise form and content rules of the audit reports and is envisaging a new updated set of guidelines for external audits.

78 to 80. The Commission has taken steps to be able to carry out a more precise and overall assessment of its activities under LIFE III (preparation of databases, final data sheets by project with key words, LIFE-Nature study, cross-sectional studies for water and agrienvironmental measures. The Commission has also had an external evaluation carried out.

81 to 84. With regard to the Court's observations concerning the requirement for improved dissemination of project results, The Commission services have developed a communication strategy in 2002.

The individual measures in the strategy including the LIFE website supplement the many local, national and international communication activities in relation to the LIFE projects.

CONCLUSIONS AND RECOMMENDATIONS

85. The efforts made have been effective, as the results obtained since 2001 show. The Commission would refer in particular to its replies to points 30, 31, 46, 53, 54, 55, 84.

86. The Commission recognises that there is room for improvement where LIFE-Environment is concerned.

87. The Commission will examine whether improvements can be made.

Recommendations

The Commission will take the necessary measures to define more precise objectives in future action programmes.

It is prepared to examine means of improving the effectiveness of the inter-service consultation procedures.

Recommendations

- The Commission considers that, since the introduction of centralised management, the programme is better managed and that sectoral results are starting to emerge more clearly.

The Commission would like the units responsible for monitoring the thematic activities to be more involved in the monitoring of LIFE to ensure that the instrument makes a clearer contribution to the achievement of their objectives.

- The Commission has launched a call for applications to recruit outside experts. Evaluation-related elements are now kept in the ESAP system.

- The present definitions of cost eligibility are compatible with those set out in the implementing rules for the new Financial Regulation. The Commission will examine the Court's recommendations in the revision of the SAP.

- The Commission will examine the question of taking into account the salaries of civil servants.

- The Commission will examine the issue of land purchased by private entities which represents 9 % of the land acquired through the LIFE programme.

90. The Commission has since rectified this situation.

92. The Commission will draft a new updated set of guidelines for external audits if the LIFE programme is continued.

93. The Commission will evaluate the LIFE instrument in the light of progress with carrying out the programme.

Recommendations

- The Commission has increased the number of its inspection visits and established procedures aimed at responding to the Court's observations.

- External audits, which are already compulsory, need to be improved. Therefore, the Commission is envisaging the update of guidelines.

- One of the components of the communication strategy is to analyse the impact of projects and improve dissemination.

94. The Commission has improved the management procedures.

The Commission is at present focusing much of its efforts on the utilisation of results.

It considers that, since the introduction of centralised management, the programme is better managed and sectoral results are starting to emerge more clearly. It therefore considers that the LIFE Regulation should not be split up.