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I

(Information)

COURT OF AUDITORS

SPECIAL REPORT No 3/92

concerning the environment

together with the Commission's Replies

(92/C 245/01)

(Observations pursuant to Article 206a(4) of the EEC Treaty)

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INTRODUCTION

0.1. Over the years, the protection of the environment has gradually become an essential feature of Community activity. It made its appearance in the inter-institutional debate for the first time at the meeting of Heads of State and Government in Paris in 1972.

0.2. The first action programme on the subject was adopted in a 1973 decision covering the period 1974-1976 ⁽¹⁾ and was followed by three other multiannual programmes in 1977 ⁽²⁾, 1983 ⁽³⁾ and 1987 ⁽⁴⁾. Appropriations for Community action to protect the environment were first entered under specific headings in the Communities' budget nomenclature ⁽⁵⁾ in the 1975 budget. In 1981 the various Commission departments with responsibility for the environment and consumer protection were consolidated into a Directorate-General.

0.3. At the Stuttgart summit in 1983, the European Council stressed the urgent need to speed up and reinforce the Community action that was being taken at national,

Community and international level with a view to combating the pollution of the environment ⁽⁶⁾.

0.4. The Single European Act of February 1986, which entered into force on 1 July 1987 ⁽⁷⁾, introduced into the EEC Treaty Articles 130r and 130t, which concern the environment. These Articles state that the object of Community action in this field is to preserve, protect and improve the quality of the environment, to contribute towards protecting human health, to ensure a prudent and rational utilization of natural resources. They also specify that action by the Community is to be based on the following principles:

- preventive action should be taken,
- priority should be given to making good environmental damage at source,
- the polluter should pay.

0.5. The same Articles also emphasise that the requirements of environmental protection are to form an integral part of the Community's other policies. They stipulate, in accordance with the principle of subsidiarity, that the Community shall take action relating to the environment to the extent to which the objectives mentioned can be better attained at Community level than at the level of the individual Member States. Furthermore, protective measures adopted in common shall not prevent a Member State from maintaining or introducing more stringent protective measures compatible with the Treaty.

0.6. Other provisions of the Single European Act (Article 18, which added the new Article 100a) specify that in its proposals concerning health, safety, environmental protection and consumer protection the Commission is to take a high level of protection as its minimum target.

⁽¹⁾ Declaration of the Council and of the representatives of the governments of the Member States of 22 November 1973 on the programme of action of the European Communities on the environment (OJ No C 112, 20. 12. 1973, p. 1).

⁽²⁾ Resolution of the Council of the European Communities and of the representatives of the governments of the Member States of 17 May 1977 on the continuation and implementation of a European Community policy and action programme on the environment (OJ No C 139, 13. 6. 1977, p. 1).

⁽³⁾ Resolution of the Council and of the representatives of the governments of the Member States of 7 February 1983 on the continuation and implementation of a European Community policy and action programme on the environment (1982-1986) (OJ No C 46, 17. 2. 1983, p. 1).

⁽⁴⁾ Resolution of the Council and of the representatives of the governments of the Member States of 19 October 1987 on the continuation and implementation of a European Community policy and action programme on the environment (1987-1992) (OJ No C 328, 7. 12. 1987, p. 1).

⁽⁵⁾ General budget of the European Communities for the financial year 1975 (OJ No L 54, 28. 2. 1975, pp. 294, 295).

⁽⁶⁾ Bulletin of the European Communities No 6-1983, p.23.

⁽⁷⁾ Single European Act (OJ No L 169, 29. 6. 1987, p. 1).

0.7. As a result of the reform of the Structural Funds, which was also effected by the Single European Act (Article 23, which added the new Article 130d), environmental considerations are to play a larger part in the management of the Funds.

0.8. At Dublin in June 1990 the European Council adopted a general declaration on the environmental imperatives. The Council recognized that the natural environment which forms the life-support system of our planet is gravely at risk and undertook, *inter alia*, to intensify its efforts to protect and enhance it. It also expressed the hope that action undertaken by the Community and its Member States would be developed on a coordinated basis and on the principles of sustainable development and preventive and precautionary action (1).

0.9. The Treaty on European Union, which was signed at Maastricht on 7 February 1992, reinforces the new Community objective of protecting the environment and provides for a cohesion fund for four Member States in the sphere of transport and the environment. Other current initiatives concern the creation of a European environmental agency (2), as well as the introduction of a financial instrument (LIFE), the decision on which was taken by the Council on 12 and 13 December 1991 (3).

0.10. This Special Report has been prepared in response to the Resolution of the European Parliament of 3 April 1990 embodying the comments which form an integral part of the decision granting discharge in respect of the implementation of the general budget for the financial year 1988 (4). The report is the outcome of audits by the Court at the Commission and in six Member States (Germany, Greece, Spain, Italy, the Netherlands and the United Kingdom). The arguments presented are divided into four chapters, which discuss the objectives and resources of the Community environmental measures, the management of the appropriations earmarked for this area, the relationship between the structural instruments and the environment and the implementation of the environmental directives. The report does not, on the other hand, discuss the aspects associated with the common agricultural policy or the Community's external relations.

(1) Bulletin of the European Communities, No 6-1990, p.18.

(2) Council Regulation (EEC) No 1210/90 of 7 May 1990 (OJ No L 120, 11. 5. 1990, p. 1).

(3) Commission document No COM(91) 28 final, 31.1.1991.

(4) Resolution of the European Parliament embodying the comments which form an integral part of the decision granting a discharge in respect of the financial year 1988, paragraph 69 (OJ No C 113, 7. 5. 1990, p. 35).

CHAPTER 1

The objectives of Community action relating to the environment and the resources available

Itemization of expenditure

1.1. The Community's environmental expenditure is spread across various budgetary appropriations and other instruments. At Dublin in June 1990 the Council invited the Commission 'to review the overall level of budgetary resources devoted to Community environment policy, currently disbursed through a number of separate funding mechanisms, and to submit its findings to the Council as soon as possible'.

1.2. The Commission presented a relatively detailed review in January 1991, in the Annex to the proposal for a Council regulation establishing a financial instrument for the environment. This review led the Commission to estimate that, as from 1989, environment-related expenditure ought to amount on average to some 650 Mio ECU, compared with approximately 135 Mio ECU in previous financial years.

1.3. Nevertheless, the results of this appraisal should be treated with caution, as the criteria on which it was based were poorly defined and difficult to verify, particularly where research and the Structural Funds are concerned. The evaluations carried out were not always based on precise calculations and consequently no systematic reference documentation is available. Furthermore, many measures, such as the Structural Funds' operational programmes for example, are classified under non-homogeneous headings which embrace several sectors, e.g. tourism and the environment. Under the circumstances, it is difficult to determine at the outset the proportion which a particular sector will account for at the realization stage and the extent to which the effects are likely to complement each other, or the contrary.

1.4. Despite these reservations, the Court of Auditors has endeavoured to update the Commission's review by incorporating 1991 budgetary data, new programmes, or more accurate information concerning the periods to be taken into account for the various estimates. The results of this updating are shown in *Table 1*, whilst *Table 2* provides a breakdown, by Member State and Fund, of the environment-related contributions contained in the Structural Funds' Community support frameworks.

Table 1 — Estimate of Community expenditure on the environment in 1991

(Mio ECU)

	Period	Duration (years)	Total	Annual average
Environment title of the budget plus support	1991	1	109,0	109,0
Environmental research:				
— specific research programme	6.91-12.94	3.5	261,4	74,7
— multinational JRC programme	1992-1994	3	148,5	49,5
Structural Funds:				
— Community support frameworks:			2 539,1	573,4
— Objective 1	1989-1993	5	1 780,6	356,1
— Objective 2	1989-1991	3	492,1	164,0
— Objective 5b	1989-1993	5	266,4	53,3
— ENVIREG	1991-1993	3	500,0	166,7
— Objective 5a	1989-1993	5	39,0	7,8
Forests (articles B2-515 and B8-255 of the budget)	1991	1	20,0	20,0
ECSC operational budget	1991	1	30,0	30,0
			3 647,0	1 031,1

Table 2 — Estimate of appropriations for the environment under the Structural Funds' Community support frameworks (1989/1993) (*)

(Mio ECU)

Member States	ERDF			FSE			EAGGF			OTHER			TOTAL		
	CSF	Environment	%	CSF	Environment	%	CSF	Environment	%	CSF	Environment	%	CSF	Environment	%
Belgium	137,29	11,72	9 %	43,67	0,19	0 %	11,54	0,00	0 %	0,00	0,00	0 %	192,50	11,91	6 %
Denmark	25,90	5,30	20 %	13,70	0,00	0 %	4,50	0,00	0 %	0,00	0,00	0 %	44,10	5,30	12 %
Germany	443,82	91,35	21 %	179,70	40,04	22 %	181,77	60,89	34 %	0,00	0,00	0 %	805,29	192,28	24 %
Greece	3 662,00	202,00	6 %	1 728,00	0,00	0 %	1 277,00	0,00	0 %	526,24	0,00	0 %	7 193,24	202,00	3 %
Spain	6 780,10	663,76	10 %	2 546,00	5,45	0 %	1 416,90	170,35	12 %	0,00	0,00	0 %	10 743,00	839,56	8 %
France	1 181,86	193,79	16 %	612,62	2,45	0 %	609,02	52,34	9 %	7,90	0,00	0 %	2 411,40	248,58	10 %
Ireland	1 646,00	114,50	7 %	1 372,00	0,00	0 %	654,00	113,50	17 %	0,00	0,00	0 %	3 672,00	228,00	6 %
Italy	5 236,40	537,33	10 %	1 814,70	39,59	2 %	985,90	102,23	10 %	140,00	8,00	6 %	8 177,00	687,15	8 %
Luxembourg	7,90	0,00	0 %	-0,18	0,00	0 %	1,42	0,00	0 %	0,00	0,00	0 %	9,50	0,00	0 %
Netherlands	71,66	0,00	0 %	33,94	0,00	0 %	12,50	0,00	0 %	0,00	0,00	0 %	118,10	0,00	0 %
Portugal	3 757,00	0,00	0 %	2 028,00	0,00	0 %	1 173,00	0,00	0 %	410,00	0,00	0 %	7 368,00	0,00	0 %
United Kingdom	1 655,40	114,76	7 %	621,70	9,53	2 %	154,90	0,00	0 %	0,00	0,00	0 %	2 432,00	124,29	5 %
TOTAL	24 605,33	1 934,51	8 %	10 994,21	97,25	1 %	6 482,45	499,31	8 %	1 084,14	8,00	1 %	43 166,13	2 539,07	6 %

(*) For the Community support frameworks approved before December 1991.

1.5. This showed that in 1991 the Community earmarked a total of at least 1 000 Mio ECU to environment-related activities. This estimate is incomplete, however, in that it does not include the expenditure that may appear in the Community programmes or initiatives which are not included in ENVIREG; neither does it take into consideration expenditure associated with the setting aside of agricultural land (200 Mio ECU, articles B1-400 and B2-500 of the budget), operations outside the Community, or European Investment Bank lendings (which exceed 2 000 Mio ECU annually).

1.6. At both Community and national level, careful itemization and detailing of expenditure are essential, in that they provide an objective and verifiable basis for determining the types of operation, methods of intervention and services which have an environmental impact. At present it is only possible to make an approximate estimate of the level of funding for the Community's environmental activity in the various sectors. Improvements are needed in this area to provide fuller and more accurate information, for example by including analytical codes in accounting software, in order to facilitate the processing of financial data.

The action programmes for the environment

1.7. The Community's multiannual action programmes for the environment set out the basic principles and objectives of environmental policy. They list the general guidelines, the approach to prevention and control of pollution and the measures to be taken in various specific sectors. The approach adopted is one of prevention, the aim being to anticipate problems before they appear, rather than to counteract the effects of them later. Environmental protection is to be included among the fundamental factors which are considered when economic decisions are taken and it is essential that strict standards be established in the various sectors in order to prevent pollution and improve the management of resources.

1.8. The programmes do very little towards translating this approach into operational terms, however: there is no quantification of the results to be achieved, even partial ones, and there is only passing reference to the resources to be deployed. Although the principles and concerns are expressed clearly, there is less certainty regarding the action to be taken in response to them and to redress actual situations and there is no real progress on this point from one multiannual programme to the next. Moreover, the programmes emphasise that progress must not be achieved in the environmental sphere at the cost of jeopardizing the operation of the common market, which raises a problem to which, in many ways, it is often difficult to find a solution.

1.9. In any case, greater attention should be given to the real impact of programmes and measures so that the way in which measures are defined is compatible with the way in which they are put into effect.

The coordination of intervention and the coordinator's role

1.10. A number of departments have responsibility for specific aspects of environmental policy. DG XI (Environment, nuclear safety and civil protection) has a general responsibility in this field and handles the budget appropriations covered by the 'environment' headings. Research-related aspects are the responsibility of DG XII. The Institute for the Environment and the Institute for Remote Sensing Applications, both located at Ispra, are part of the Joint Research Centre. Within DG VI (Agriculture) and DG VII (Transport) there are specialized departments which deal with environmental and ecological questions. The terms of reference of DG III (Internal market and industrial matters) include the implementational aspects of several directives, such as combating noise pollution. DG V (Employment, industrial relations and social affairs) and the European Foundation for the Improvement of Living and Working Conditions in Dublin also have some responsibility in environment matters. Other aspects are the responsibility in particular of DGs XIV (Fisheries), XVI (Regional policy), XVII (Energy), XVIII (Loans and investments) and the European Investment Bank.

1.11. This spread of responsibilities requires substantial coordination, which is far from having been achieved. In the case of many of the operations funded by the special 'environment' appropriations, research or ECSC loans, interdepartmental consultation is arranged only occasionally. In the case of the Structural Fund financing, the DGs concerned do provide each other with information, both in preparing the Community support frameworks and for the operational programmes. Unfortunately, the documents used are too vague for the consultation to be productive or the consideration of environmental aspects worthwhile, especially as the deadlines set are very short. Under optimum circumstances consultation does give rise to textual modifications, but the practical implications of them are not always apparent.

1.12. The lack of coordination also has repercussions for the work carried out. In the aquaculture and fish-farming sectors, funding was provided for several intensive exploitation projects, in particular in the lagoons and other wetland areas along the Mediterranean, and was charged to appropriations earmarked for fisheries and additional IMP or ERDF appropriations. Simultaneously DG XI was working on wetland conservation measures, even going so

far as to provide financial aid to environmental protection agencies wishing to purchase lagoons in order to protect them from intensive exploitation. Audits in Greece revealed a case where aid was provided under an IMP programme for the construction of sea defences which included a road and overhead power lines. The sea defences had to be modified under a contract financed by DG XI in order to provide an adequate flow of water, as the flow had been disrupted by the initial infrastructure, and part of the proposed power lines had to be removed as they were a hazard to birds.

1.13. On 17 November 1986 the Council adopted two Regulations, which were subsequently amended in 1989 ⁽¹⁾, to combat acid rain, forest decline and forest fires. Responsibility for management of the forestry measures, for which commitment appropriations of 20 Mio ECU were entered in the 1991 budget (articles B2-515 and B8-255), rests with a specialized unit within the agriculture Directorate General, DG VI, and is concerned primarily with increasing knowledge and disseminating information in the areas covered by the regulations. Coordination with DG XI is practically confined to the transmission of certain items of data, collected in ways that lack any common approach with a view to ensuring complementarity, especially in forestry matters. Consultation of DG XII, even where the two DGs are working in similar areas, such as the study of air and ground pollution and its influence on forest decline, is mainly concerned to avoid duplication of financing. Nor did the documentation examined offer any evidence of coordination with the forest improvement and protection measures financed by the Structural Funds and managed by other departments within the same DG, DG VI. Situations like this weaken the impact of a basically sound idea and impair proper exploitation of the work financed.

1.14. Because the various approaches are too isolated, there is also a lack of general reports to provide an overview of all the environmental activities funded by the various Community instruments. Although, in general, there is no shortage of well-researched documents on specific aspects, there is, on the other hand, very little documentation concerning the work done by the various departments and Directorates General at the Commission that might provide a global approach to the subject. If the coordinating function is to be performed properly, that presupposes a coordinator whose role has been clearly

defined. DG XI's task should be clearly defined on this point, so as to improve the complementarity and effectiveness of the various initiatives.

1.15. Better coordination is also needed in the Member States. The responsibility for environmental aspects lies with various government departments: the environment departments, but also the public works, industry, agriculture, public health, civil protection, marine, scientific research and similar authorities. In various cases examined by the Court there was, for all practical purposes, no coordination between the departments concerned. The environmental protection and health authorities were not informed of programmes and measures which might damage the environment and the various departments pursued their own sectoral objectives without adequate awareness of the overall need to protect the natural environment. Furthermore, the way in which responsibilities are allocated constantly changes and, depending on the authority questioned, the Court was confronted with different answers to the same question, especially on the subject of the allocation of responsibilities or procedural problems.

Consideration of environmental impact in structural fund initiatives

1.16. Following the reform of the Funds, the Community departments are seldom aware of the exact details of the individual operations funded by the structural instruments, as decisions are essentially taken at national or regional level and, in many cases, during the execution of the programmes. The latter indicate the type of measures envisaged, but they do not specify what technology is to be employed or even, in many instances, the location, or even number, of investments. Furthermore, the work of the monitoring committees seems unlikely to provide satisfactory information on the matter and audits of 13 operational programmes showed that DG XI had neither taken part in the work of the committees nor received a copy of the minutes of the 20 meetings they had held. Financing by programmes makes it difficult to carry out examinations at Community level of the projects and thus take account of their environmental implications.

1.17. Both the twelfth recital and Article 7 of Council Regulation (EEC) No 2052/88 of 24 June 1988 ⁽²⁾, which defines the general framework for the reform, state that the measures financed must be in conformity with Community

⁽¹⁾ Council Regulations (EEC) Nos 3528/86 and 3529/86 of 17 November 1986 (OJ No L 326, 21. 11. 1986, pp. 2 and 5); amended by Council Regulations (EEC) Nos 1613/89 and 1614/89 of 29 May 1989 (OJ No L 165, 15. 6. 1989, pp. 8 and 10)

⁽²⁾ Council Regulation (EEC) No 2052/88 of 24 June 1988 (OJ No L 185, 15. 7. 1988, p. 9).

policies, including those concerning the protection of the environment. Very little has been done towards effectively translating this obligation into operational terms. The implementing regulation, Council Regulation (EEC) No 4253/88 ⁽¹⁾ of 18 December 1988, in particular, does not contain any provisions which are designed to produce such conformity, be it at Community or national level.

1.18. At the very least, the operational programmes should systematically indicate exactly what constraints are to be taken into account, as well as the techniques to be employed or avoided in carrying out the measures funded, so as to ensure that finance provided by the structural instruments is not used for investments which are incompatible with the Community's concern to protect the environment.

Project financing and programme financing

1.19. Management of the research appropriations and the appropriations under the environment title takes the form of funding for projects or studies, even if the operations form part of overall programmes. There is, therefore, provision for direct monitoring of every project at Community level. Structural Fund aid, on the other hand, is essentially concerned with programmes which are funded in annual tranches in line with the progress made; in this case the responsibility for monitoring the implementation of them lies primarily with the monitoring committee, acting within the partnership framework.

1.20. Both these methods of monitoring, the direct and the indirect, have their advantages and disadvantages. With direct monitoring it is possible to assess every project aided for content, implementation and effects; on the other hand, it calls for significant resources in terms of manpower and administrative facilities, particularly if the number of projects is high. Indirect monitoring aims to take a more global approach to intervention and is essentially concerned with the overall results and the impact on the situation which the Community initiative seeks to correct or modify.

1.21. Nevertheless, there is a risk that the Community will fail to secure the benefits of either method, due to lack of care, or because there are not enough resources available to provide proper project monitoring or there is no satisfactory administrative process for evaluating results. To a large extent this applies in the case of environmental expenditure, where project-monitoring is weak and the appraisal of the programmes contains very few elements relating to the environmental impact. As a result, the

function of Community aid is mainly one of redistribution and support for initiatives: an important function certainly, but one which does not leave much room for concern for the effective use of appropriations.

CHAPTER 2

The management of appropriations earmarked for the environment

Environment appropriations and research appropriations

2.1. The appropriations entered under the 'Environment' title of the budget are managed by DG XI (Environment, nuclear safety and civil protection) for the financing of individual projects. The aid is granted in the form of contracts with the beneficiaries, setting out the respective tasks and the period for carrying them out and detailing the reports and other documentation which are to be provided, particularly on the financial side. Unlike the operational programmes financed by the Structural Funds, where management is largely devolved to national and regional level under the partnership framework, these individual projects are defined and evaluated directly by the Commission in association with the beneficiaries. *Table 3* gives more detailed information concerning the volume of these appropriations over recent years.

2.2. The same type of management by contract is employed for projects financed with DG XII (Science, research and development) appropriations, some of which are specifically concerned with environmental problems. In the case of both DG XI and DG XII, joint multiannual programmes, known respectively as The European Community Environmental Action Programme and The Specific Research Programmes, have been adopted in implementation of the framework programme guidelines and set out the action to be taken, along with a broad description of the form intervention is to take. Some of the measures, in turn, are carried out in the form of programmes, which provide an outline procedure for projects.

2.3. At the Joint Research Centre's Ispra establishment, the Institute for the Environment specializes in particular in research problems concerning the natural environment. The number of staff employed is similar to that of DG XI and its annual budget amounts to approximately 30 Mio ECU. Another institute at the establishment is

⁽¹⁾ Council Regulation (EEC) No 4253/80 of 19 December 1988 (OJ No L 374, 31. 12. 1988, p. 1).

Table 3 — Appropriations under the environment title of the budget and the utilization of them ⁽¹⁾

(ECU)

		Budget heading	Commitments			Payments		
			Final appropriations available	Contracted during the year	%	Final appropriations available	Payments effected	%
1986	ACE CORINE MEDSPA Other	6610+6611	6 704 769	5 745 923	85,7	3 450 000	1 031 966	29,9
		6603+6614	3 213 500	2 999 581	93,3	1 200 000	990 937	82,6
		665 + 6615 + 6616 ⁽²⁾	1 580 000	1 224 797	77,5	1 630 000	727 505	44,6
		Various	19 401 194	14 406 538	74,3	15 470 325	11 241 643	72,7
			30 899 463	24 376 839	78,9	21 750 325	13 992 051	64,3
1987	ACE CORINE MEDSPA Other	6610+6611	3 710 168	3 602 568	97,1	5 820 108	3 906 449	67,1
		6603+6614	1 416 483	1 411 487	99,7	1 523 300	1 273 300	83,6
		665 + 6615 + 6616 ⁽²⁾	1 885 450	1 822 152	96,6	1 285 450	535 629	41,7
		Various	31 269 715	29 268 850	93,6	23 038 150	16 773 439	72,8
			38 281 816	36 105 057	94,3	31 667 008	22 488 817	71,0
1988	ACE CORINE MEDSPA Other	6600	5 168 196	5 159 286	99,8	3 100 000	2 824 765	91,1
		6601	2 000 000	1 998 570	99,9	1 200 000	1 115 825	93,0
		6610 ⁽²⁾	3 431 438	3 390 522	98,8	2 600 000	1 019 298	39,2
		Various	26 246 271	25 351 752	96,6	28 320 000	18 314 555	64,7
			36 845 905	35 900 130	97,4	35 220 000	23 274 443	66,1
1989	ACE CORINE MEDSPA Other	6600	7 800 000	7 796 779	100,0	5 800 400	4 980 370	85,9
		6601	3 740 000	3 727 735	99,7	3 240 000	2 425 695	74,9
		6610	6 922 000	6 896 527	99,6	4 342 000	3 559 692	82,0
		Various	25 523 000	24 501 613	96,0	23 628 000	17 711 852	75,0
			43 985 000	42 922 654	97,6	37 010 400	28 677 609	77,5
1990	ACE CORINE MEDSPA Other	6600	10 000 000	9 999 983	100,0	7 450 000	6 534 737	87,7
		6601	2 800 000	2 715 113	97,0	3 500 000	2 390 417	68,3
		665	9 000 000	8 843 775	98,3	4 107 000	2 073 345	50,5
		Various	30 180 000	29 021 450	96,2	33 212 000	24 978 125	75,2
			51 980 000	50 580 321	97,3	48 269 000	35 976 624	74,5
1991	ACE ACNAT CORINE MEDSPA LIFE Other	B4-300+B8-430	408 000	406 762	99,7	2 727 000	1 682 820	61,7
		B4-301+B8-431	27 026 000	13 940 610	51,6	10 676 000	7 570 515	70,9
		B4-3101	5 000 000	2 713 876	54,3	3 500 000	2 348 461	67,1
		B4-302+B8-432	24 442 000	24 207 283	99,0	11 001 000	5 541 074	50,4
		B4-320	1 000 000	996 347	99,6	1 000 000	996 347	99,6
		Various (Ch. B4-3)	25 627 000	16 305 358	63,6	19 993 000	11 161 100	55,8
			83 503 000	58 570 236	70,1	48 897 000	29 300 317	59,9
TOTAL	ACE ACNAT CORINE MEDSPA LIFE Other		33 791 133	32 711 301	96,8	28 347 508	20 961 107	73,9
			27 026 000	13 940 610	51,6	10 676 000	7 570 515	70,9
			18 169 983	15 566 362	85,7	14 163 300	10 544 635	74,5
			47 260 888	46 385 056	98,2	24 965 450	13 456 543	53,9
			1 000 000	996 347	99,6	1 000 000	996 347	99,6
			158 247 180	138 855 561	87,8	143 661 475	100 180 714	69,7
			285 495 184	248 455 237	87,0	222 813 733	153 709 861	69,0

⁽¹⁾ Including amounts for support expenditure.⁽²⁾ Includes expenditure other than MEDSPA projects.

working on remote sensing applications, many aspects of which also concern environmental matters.

2.4. Overall, these activities cover a wide range of intervention. The number of studies and projects is large and covers many areas. The measures involved, however, have been established and developed over the years within the two DGs concerned and in some areas they would benefit from greater coordination. As regards the preparation and implementation of programmes such as ACE (Community action for the environment), STEP (Science and Technology for Environmental Protection) or EPOCH (climatology and natural health hazards), inter-departmental meetings are organized and this generally highlights the desirability of more extensive collaboration, for example, in selecting exactly what topics, models or substances are to be investigated. They amount, however, to declarations of intent that ought to be developed further on the level of practical results and which leave few traces in the project files. The first programme for the environment (1974-1976) included an Annex which set out the relationship between the actions covered by research appropriations and the points on the environment programme, but it is an approach which did not feature again in subsequent documents.

2.5. Contacts are equally superficial at the decision and implementation stages. The works need to be better planned, with a clear distinction between the basic studies and research, technological development and repeat applications, and greater synergy must be created between the measures, so that the combined effort is enhanced and the expected results achieved more efficiently. The Court's audits uncovered several cases of studies on related or similar topics which had been arranged simultaneously but charged to two appropriations, sometimes with the same contractors, without any coordination. The same phenomenon exists in the case of the link with the Ispra establishment.

Award and conclusion of contracts

2.6. Private treaty arrangements feature very largely in the award and conclusion of the contracts financed from the environmental appropriations. Information concerning the possibility of collaboration is generally published in the Official Journal of the Communities, but it takes the form of a notice which publishes information regarding initiatives, rather than a genuine call for tenders. In the case of MEDSPA (Community action for the protection of the environment in the Mediterranean region) and CORINE (information system concerning the state of the environment and natural resources in the Community), more precise criteria have been established for selecting offers of cooperation, but the procedures still need to be improved in

order to achieve a less passive approach, whereby the works to be carried out are defined and contractors are selected to carry them out on the basis of a call for tenders.

2.7. Furthermore, Community aid is very often only one part, a significant one but still only a part, of a financing plan produced by the contractor in order to cover the costs of the operation. In some of the cases examined, the financing plan involved the support of up to a dozen agencies. This type of situation does not lend itself to the use of invitations to tender on the part of the Commission or to consultation of the Advisory Committee on Procurements and Contracts. It is particularly open to criticism in cases where, as the Court has found repeatedly in the course of its audit work, the author of the financial package and the aid recipient is the undertaking that is carrying out the works. There would be a greater element of competition in such procedures if they were handled by the contractor. As things stand, the undertaking that is responsible for the works is in a position to fix prices by private treaty only, a situation which should be avoided.

2.8. As for the work of the advisory committees, especially those set up under the MEDSPA and ACNAT (action by the Community relating to nature conservation) programmes, it is mainly intended to provide the means of establishing a link with representatives of the Member States and does not aim specifically to ensure that the price of the operations financed is a fair one.

2.9. In order to ensure that the aid is used correctly and for the activities concerned, contracts contain a clause to the effect that evidence of the expenditure must be provided. In the case of contracts concluded with large undertakings, evidence of expenditure is provided almost exclusively by the undertaking's internal invoices, for staff services, supplies of material and equipment, research costs, overheads, etc. This type of evidence is of little probative value and it would be better for it to be replaced by a fixed-price contract, the price being determined on the basis of a strictly enforced call for tenders. Such a procedure would improve transparency and encourage the expansion of the important market which the environment constitutes.

Monitoring the financial aspects of contracts

2.10. DG XI's monitoring of the financial aspects of contracts gives rise to several observations. The files are very incomplete and, in various cases, it was only in the course of on-the-spot audits of contractors that the Court was able to see the information which they had sent to the Commission, even where evidence of expenditure was concerned. On-the-spot audits also provided the occasion on which the Court was able to ascertain the number of

successive contracts that had been concluded with the same party, the data obtained at DG XI having proved to be very patchy. Insofar as the contracting agencies are required to make the effort to provide documentation, the documents in question should be the subject of accurate administrative handling, so that they are used fully and in a transparent way.

2.11. Contractors are not given many precise instructions concerning the method to be followed in providing evidence of expenditure. There is no uniform guide which applies in all cases, nor are there differentiated methods for determining the type of evidence that is most suitable for the type of contract or works in question. Direct contact, initiated by one or other of the parties concerned and poorly documented (or not documented at all), plays an important role, but the solutions adopted vary widely, having regard also to the absence of detailed information regarding eligible expenditure.

2.12. Where evidence of expenditure is concerned, this type of approach is not satisfactory, as the Court's on-the-spot audits of a dozen contractors showed. One contractor kept virtually no books and sent to the Commission whatever figures were considered reasonable. Another had expended considerable creative effort on using the contract headings to classify expenditure which was frequently unrelated to the project financed, which simply led the auditors to conclude that the contractual resources had been used indiscriminately for all the contractor's business. There were four other projects where evidence was available for only part of the declared expenditure.

2.13. In another case the contractor had held a cash advance from the Commission for an amount of 100 000 ECU for seven months; as no other expenditure had been incurred in connection with the contract during that period, the advance had been used to finance other activities. The contract, however, provided that a pilot plant for processing waste was to be constructed within six months of signature. At the time of the Court's visit, ten months after the start of the project, a site still had to be found for the pilot plant and consideration was being given to establishing it in a different region from that initially proposed, but there was no trace of these problems on the Commission's file. The contractor thought that the pilot plant was a prototype for the country in question, and it was only during the Court's visit that he learnt that a project of the same type was being carried out as part of the ENVIREG programme, using finance from the Community structural funds.

2.14. In order to improve the technical and financial monitoring procedure, DG XI has often used intermediate agencies to coordinate operations. These are service companies or other external consultants which, in many cases, are paid from the appropriations for support expenditure (Chapter B8-43 of the budget) and are thus involved in contract management, acting on the Commission's behalf in relations with contractors. As a result of its audit work, the Court concluded that the use of such agents did not improve monitoring: the numerous changes in personnel and agencies during the execution of contracts, the very succinct nature, or absence, of documentation in relation to monitoring and the paucity of the information led the Court to think that, on the contrary, a more effective way of checking the conditions under which works are carried out is called for.

The grant of operational subsidies

2.15. Various subsidy appropriations are provided under the 'Environment' title, B4-3, of the budget (items B4-3061, B4-3081, B4-310), including the promotion of European representative organizations operating in the environmental sphere. The action programme underlines the fundamental role of these organizations in fostering awareness of environmental problems and instituting environmental policy and the budget offers the possibility of a lump-sum contribution to the operation of such groups.

2.16. Nevertheless, the procedures for granting lump-sum subsidies should be similar, irrespective of the budget appropriation to which they are charged, and there is no justification for following different procedures according to whether the subsidies are charged to title A3 or B4 of the budget. Furthermore the grant criteria should be set out clearly, so as to reinforce the selective nature of them, and the way in which the amounts paid are used should be supervised more closely.

2.17. Some of the service contracts charged to appropriations other than those mentioned above are, in reality, subsidies, with a large proportion of the agreed consideration being used to cover the beneficiary's general overheads. Situations of this kind, which are favoured by the ambiguity of management methods and procedures, should be scrupulously avoided and the award of service contracts should be kept strictly separate from the grant of subsidies.

Project results: the exploitation of results and the principle of preventive action

2.18. There is also a need for a more precise structure for exploiting the results of contracts, publicising knowhow and, more generally, ensuring that, where studies or pilot projects are carried out, they are not wasted. Forecasts of the practical utility of the research or studies funded and the possibility of their continuing into an operational phase probably exist at the start of the projects, but they do not appear on the files produced to the Court. The problem is sometimes mentioned during the final examination of the work, at the initiative of the contractors, or the Commission departments, or both. This procedure is, however, not very clear and it should be improved substantially, so that decisions are taken in full knowledge of the facts. The quality of contractual collaboration is impaired, particularly as regards proper utilization of the works funded, if scrutiny of the documents received and the decisions which they require are delayed too often.

2.19. The files on important research, such as the processing of waste or the protection of marine algae, are closed without any decision being taken as to the possibility of practical application or any order of priority established for the destination of future finance, and without there being any possibility of making a check on the proposed measures so that the work done is not wasted. Similar findings were made in the case of research contracts, which in practice had been used to fund university dissertations without any indication as to the utility of such work for the Community programme.

2.20. The current rules state that Community action must be based on the principles of prevention and 'the polluter pays'. Several of the contracts examined, however, were essentially of a remedial, rather than preventive, nature.

2.21. This applies in Italy, for example, in the case of the aid granted for the removal of refuse and the restoration of the countryside in the Tremiti (250 000 ECU) and Egadi islands (144 800 ECU), where the pollution was caused mainly by the influx of tourists and holidaymakers, or the grant for cleaning up a wetland lake in Tuscany, which had been polluted by agricultural fertilizers and the discharge from residential holiday sites (200 000 ECU). Also in Italy, Community aid of 250 000 ECU was granted towards the purchase of a lagoon in the Venice region.

2.22. In terms of improving the environment, the merits of such projects are undeniable. On the other hand, the emphasis is on cleaning up rather than prevention and if the

number of such projects were to increase, especially if nothing is done to introduce a real deterrent to recurrent pollution, this would inevitably lend credence to the idea that polluters are not required to pay and that the environmental cost of an activity does not have to be borne by the parties engaging in that activity.

The creation of databases

2.23. The compilation and availability of databases on natural biotopes, sources of pollution and the evolution of pollution are essential to any action concerning the environment. With a view to expanding and harmonizing information, the Commission has produced the database which is the object of the CORINE programme. The programme as originally planned was to be carried out over a period of four years, from January 1985, but it was extended for a further two years by Council Decision (EEC) No 90/150/EEC ⁽¹⁾ and the total cost of the programme was increased by 4 Mio ECU to 10,5 Mio ECU.

2.24. The database was to use a standard base to supply around forty indicators relating to natural biotopes and other ecological factors for the Community as a whole. As the standard of environmental information that is available within the Member States varies widely, however, considerable difficulties have been encountered in implementing the programme. In some countries the information was already available to a greater or lesser extent and the system essentially aimed to ensure that it was compatible. In other countries, however, the collection work was substantial and is still far from complete. As a result, the information collected hitherto is often patchy and more use should be made of it.

2.25. The audits carried out by the Court in the Member States revealed a certain lack of coordination in the efforts being made to create sources of information. Departments set up monitoring networks or databases, sometimes with assistance from the Community structural funds, without any coordinated approach or methodology and even without being aware of the existence of the CORINE programme. Divergent methods are also employed in the case of the aerial surveys financed by the Community, without any justification for the divergence and without any liaison with the specialized institute for remote sensing which exists within the Ispra establishment.

2.26. More effective action is also needed, to facilitate access to the information available and to encourage use of it, notably by setting up and publishing lists of existing data

⁽¹⁾ Council Decision No 90/313/EEC of 22 March 1990 (OJ No L 81, 28. 3. 1990, p. 38).

bases. Several experts and specialist organizations pointed out in the course of the Court audits that the Commission finances a substantial number of studies, but the resulting reports are not readily available to the public, even though the Community itself has adopted a Directive to ensure access to information in the field of the environment ⁽¹⁾. Furthermore there is insufficient liaison with the Community Statistical Office.

2.27. The period of implementation for the CORINE programme, as fixed by the Council Decision, expired at the end of 1990 without any arrangements being made for the future of the work. Continuation and updating of data collection would normally be entrusted to the European environment agency, but it has not yet been possible to set one up. In the meantime there is a risk that the information collected will cease to be relevant and will therefore lose its utility.

CHAPTER 3

The structurally orientated financial instruments and the environment

The evolution of the procedures

3.1. At the national level, the Court's checks did not establish that the reform of the Funds had brought about any appreciable progress in procedures designed to give more attention to environmental problems in the drafting of programmes.

3.2. The bulk of the work involved in preparing the various types of plan (development plans, Community Support Frameworks, operational programmes) is carried out by the departments responsible for regional development, agriculture and employment, each in its own field. In most of the countries and regions visited, the departments responsible for the environment were not formally consulted with regard to the preparation of the programmes in question.

3.3. This was the case in the Netherlands and Germany, where, in general, the department in question had either not been informed or had been informed afterwards in the context of the usual inter-departmental exchanges of information. On those occasions, as in the Saarland, where the local authorities were consulted beforehand, their

scrutiny was virtually confined to the calculation of costs and the analysis of certain technical aspects.

3.4. In Germany, the Federal Environment Office carried out a prior assessment of national plans for town and country planning made by the Ministry responsible. On the other hand, there was no assessment of plans concerning eligible areas that were drafted in the context of the European Structural Funds by the Federal Ministry of the Economy or the Federal Ministry of Agriculture, even where, as is the case for the new *Länder*, the Federal government was involved in financing them. In the United Kingdom, the ministerial departments responsible for the protection of the environment had also not been involved in planning and decision-making procedures concerning Community structural measures.

3.5. The work of the different levels of government involved in carrying out Community procedures is often handicapped, particularly in environmental matters, by insufficient knowledge of the subject, a lack of suitable tools, and even conflicts of jurisdiction or incomplete authority. The technical knowledge and resources needed for assessing the environmental impact of the initiatives being financed are often lacking. The monitoring committees are too passive in their approach and their interventions are too sporadic. The relevant provisions have become so manifold and complex that the numerous public and private bodies concerned either have no knowledge of them or are not in a position to ensure that they are applied. During its audits in various regions of several Member States, the Court itself had to supply the departments responsible for the preparation of programmes with the necessary information as to the existence and content of various provisions of Community law regarding the protection of the environment.

Programme content

3.6. Nevertheless, environmental problems have an important place in the operational programmes, and, as stated above, a significant part of the aid is intended for operations presented as being beneficial for the environment.

3.7. The number of operations has indeed increased, together with the doubling of the funds, but qualitative changes in types and modes of intervention have been more limited. Most of the measures earmarked as belonging to the environmental field are identical to others that have already been financed under another name or heading: infrastructure projects in the fields of waste or waste water treatment, forestry work or soil protection.

⁽¹⁾ Council Directive No 90/313/EEC of 7 June 1990 (OJ No L 158, 23. 6. 1990, p. 56).

3.8. Often, the measures concerned are more a matter of providing support for the development of activities and do not take into account the policy of combating the sources of pollution. No distinction is made between the (largely dominant) corrective side of the matter and the preventative side, and little information is supplied as to expected impact. The operations envisaged and the techniques to be used are mentioned in generic terms, thus opening the door to different and even contradictory definitions and applications.

3.9. This is the case with waste treatment, where the systems envisaged may vary from mere supervised burial or incineration, to methods of pyrolysis or gasification, where the sewers may carry treated or non-treated water indifferently, or where measures applying to protected areas may include the 'building of hotels or other tourist facilities' without any further clarification of what that is supposed to mean.

3.10. A considerable amount of money has been dedicated to the construction of underground railways. For the Athens metro, all the aid provided (178 Mio ECU) was seen as relating to environmental protection, rather than the development of transport, because the investment is supposed to help limit the increase in road traffic and air pollution and therefore have a positive effect on the environment. However, given that numerous towns that already possess underground railways are still suffering from pollution caused by car noise, congestion, parking and exhaust gases, this effect is bound to be limited if it is not included in the context of a general urban traffic policy. In fact, the programmes examined do not entail a genuinely global approach of this kind. The Court's inspection of a technical control centre for cars, for example, revealed that, despite the fact that a considerable number of vehicles did not comply with combustion standards, there was no precise record of the vehicles in the area to be checked, and the checks envisaged every two years were still not very systematic.

3.11. The risk of conflicting effects also exists at other levels. Although the damage caused to coastal areas by the urbanization process is generally stressed, the operational programme for a region in the south of Italy provided for the construction of medium-sized and large hotels up to a capacity of 1 000 beds around a bay which is considered to have great tourist potential. The initiative in question aims to bring the area's hotel capacity up to the level of other, better equipped, areas.

3.12. Conversely, many programmes emphasise the negative consequences of internal areas being abandoned, especially in terms of the conservation of the natural environment. Nevertheless, few measures are planned for

these areas, despite the fact that they are among the most seriously affected by problems of regional imbalance. Similarly, there are few measures concerning energy saving or the use of renewable or alternative sources of energy, whereas, given the difficult experiences of the non-quota energy programmes and the VALOREN⁽¹⁾ programme, this field deserves to be developed further. Furthermore, the part reserved for education in environmental matters is still very limited.

The link between investments and environmental protection

3.13. Despite greater public awareness of environmental problems and a declared interest in them, the link between investments and the need to contribute to the protection of the natural environment remains weak as regards both procedures and the content of programmes. There is a real risk that the implementation of the latter may directly or indirectly contribute to an increase in environmental damage, and, at least in part, become the source of new problems which will require difficult and costly intervention measures.

3.14. The regional authorities concerned tend to stress the need for projects or investments aimed at reducing pollution rather than for global approaches which also aim at ensuring that the measures in question are not carried out in such a way as to contribute to the destruction of the environment or increase pollution. The separation of responsibilities observed in certain cases, between the more environmentally oriented departments responsible for the running of the ENVIREG programme and those, like the public works departments, which are responsible for running other infrastructure programmes, is certainly not an example of a global approach. Separating responsibilities in this way has made it possible for environmental departments to strengthen their hold on certain investments, but it also encourages the idea that environmental considerations only concern some of the programmes.

3.15. Actual operating or running conditions may be such that the implementation of investments does not necessarily guarantee the desired effect in terms of the protection of the environment. Numerous water purification stations have been built in rural villages and towns, often with aid

⁽¹⁾ Council Regulation (EEC) No 2618/80 of 7 October 1980 (OJ No L 271, 15. 10. 1980, p. 16), as last amended by Council Regulation (EEC) No 218/84 of 18 January 1984 (OJ No L 27, 31. 1. 1984, p. 19) — Council Regulation (EEC) No 3301/86, of 27 October 1986 (OJ No L 305, 31. 10. 1986, p. 6).

from the Structural Funds. In actual fact, in various regions the bulk of these stations are not used because the local authorities have insufficient funds to guarantee their upkeep and pay their running costs. Equipment able to supply several villages would probably have been a more appropriate solution.

3.16. In order to gain information on the quality of the air in industrial areas, a region in the south of Italy has developed a network of about thirty monitoring stations to follow the evolution of a certain number of components of the atmosphere. The operational programme financed by the Structural Funds includes plans to extend this network to urban areas. However, even though this equipment gives information on a real-time basis, it is intended only for use as a planning aid and not for the more immediate functions of protection or intervention, because these aspects are not the responsibility of the department running the system.

3.17. Checks were made at a Business Innovation Centre (B.I.C.) which had been appointed by the Commission and the region concerned to manage various types of aid on behalf of small and medium-sized enterprises by means of an operational programme. These checks showed that environmental matters were only tackled in relations between the Centre and the recipient companies if the latter specifically asked for them to be considered. The network of BICs could be made more aware of the environmental implications of the measures they finance and of the fight against environmental nuisances.

3.18. Even where specific measures are provided for in the investment, they are not always carried out. For example, the Community aid file for the construction of a dam on the river Aaos in Epirus was closed in 1991 although the planting of 30 000-odd trees, which had been provided for after a study of the impact of the projects, had not been carried out.

3.19. A general clause in the contracts for global loans granted by the Commission in the context of the activities of the ECSC requires that projects financed by these global loans should respect national and Community provisions on environmental matters and that checks should be made on compliance ⁽¹⁾. The checks carried out by the Court in several countries showed that the clause had rarely been applied and was not reflected in the contracts for the financing of the projects. The financial intermediaries consulted pointed out that they had not noticed the existence of such a clause and they raised the question of the cost of checks of this sort. In other cases, it was their

opinion that the relevant laws were sufficient, which is tantamount to depriving the contractual clause of any significance.

3.20. There is not, therefore, in the measures receiving aid from the Structural Funds, any very clear link between the investments financed and the protection of the environment. In those cases where measures of this sort are actually adopted, there is little follow-up and their real impact is hardly monitored. Moreover, preventative or dissuasive measures are virtually nonexistent in the management of the Funds and practically nothing is done to obtain more accurate knowledge of the environmental cost of the measures being financed and take it into consideration. As for the reports on on-the-spot inspections forwarded to the Court, these only very rarely tackle the problems involved in the fight against environmental nuisances.

The risks of a negative impact on the environment of other investment projects

3.21. The Court's examination of operations carried out with aid from the Community Structural Funds shows that considerable progress is still necessary to prevent the projects being financed from contributing to the deterioration of the environment, or, at the very least, from resulting in negative effects of some significance. The cases noted by the Court and outlined below mostly concern investments decided under previous legislation. Since then, however, few changes have been made in management conditions and the nature of the interventions in order to take environmental aspects more closely into consideration, and it is to be feared that the same findings will be repeated in the future.

3.22. Work carried out on the port of Salonica, which was financed within the framework of the IMPs, consisted of deepening one of the docks and draining the surrounding area. By the time work was due to start, for lack of any preliminary studies, carried out in good time, no decision had been taken as to what should be done with the 3-4 million cubic metres of polluted mud which would be produced by the excavations, and the intention was to pour it into the bay, thus contributing to the destruction of the already badly damaged flora and fauna.

3.23. Still in Salonica, the same programme financed the installation of special filters intended to reduce noise and the emission of dust into the air at a steel factory. The project was completed as planned, but the dust collected was stored on company premises and then spread out in layers over the surrounding land.

⁽¹⁾ Paragraph 11 of Annex II to the model contract for global loans

3.24. In Saxony-Anhalt, the audit covered two projects concerning, respectively, the improvement of an industrial site and the construction of a plant for the handling and destruction of worn concrete railway sleepers. The former project provided that aid would be granted on condition that a solution was found for the treatment of the waste water that would be produced. Nevertheless, the aid was paid out without this point being taken into account and without any particular obligation being stipulated concerning it.

3.25. As for the railway sleepers, there had been no particular examination of the environmental side of the question before aid was granted, but the project description provided for a device for discharging special waste. On the occasion of our on-the-spot audit visit, it was confirmed that the plant had been sited in a drinking water protection area and that there was a risk that the residues of the chemical substances poured over the sleepers to eliminate vegetation might penetrate into the soil, particularly as a result of the effect of rainfall. There was, however, no trace of any device for discharging special waste or separating out oily residues. Despite the installation of filters, the noise and dust were considerable.

3.26. Two agricultural holdings visited in North Brabant (Netherlands) received investment aid intended for environmental protection, and, more specifically, the construction of modern sheds for housing livestock equipped with a system permitting the storage of dung for six months. Only two weeks' storage was possible in the old sheds and new regulations in the Netherlands forbid dung from being spread over the fields. The first project was actually a replacement investment and requires no comment. The second, on the other hand, must quite clearly be seen in terms of a development of the holding, an increase in the number of animals and thus of the production of dung, a fact which should have prevented aid from being granted in the context of environmental protection.

3.27. In the case of a mining project in Spain, the aid application declared that the investment would be 'without negative effects', when, in fact, it involved the deforestation of a vast wooded area and the pollution of significant quantities of water. A decision of the Region in question, taken in 1986, obliged the company to plant new forests, but, in 1989, the last year covered by the report, this had not yet been done. Rather than being treated, the waste water is stored in two artificial reservoirs, and no provision has been made for the disposal of the sediments. The quarterly declarations forwarded by the company to the regional authorities mention very small quantities of toxic substances in the waste water. These declarations are contradicted by analyses of samples taken by the company

itself before and after the passage of the water through the mine, which show that the amount of toxic substances in the water leaving the mine is twice that upon entry.

3.28. Problems of polluted water were also found in a mining project which has been financed in the United Kingdom by the ECSC and which did not yet include a purification plant. In order to avoid contamination of surface water, the company endeavoured to store the polluted water in old disused coal seams, thus creating a risk of groundwater contamination.

CHAPTER 4

The protection of the quality of the environment

Inspections at a number of local monitoring units

4.1. During its audit visits in various regions of the Member States, the Court was able to contact local authorities responsible for controlling waste and effluents and generally ensuring compliance with the established limits and permitted levels of environmental nuisances. In some Member States, specialized environmental inspection services have been created, particularly for certain specific tasks like the protection of rivers or conservation areas. Generally speaking, however, pollution control is entrusted to the departments responsible for hygiene and health. These departments often have other, higher-priority tasks, such as the organization of health care, and have not been adapted to cope with the complexity and specificity of the tasks they are required to perform in the field of the environment. As for 'environmental audits' (the certification by an independent expert that the activity of the company being examined complies with the environmental rules in force), they are very much the exception.

4.2. In some local monitoring units visited by the Court in the south of Italy, checks were essentially organized in response to specific requests, or as the result of the interest shown by local public opinion. Practically no verifications were carried out with regard to air quality. As regards water quality, periodical checks of effluents were in the process of being organized. However, the checks in question only related to known outlets, a list of which had been drawn up on the basis of declarations received during the last few years. No more complete list was available and no research had been carried out concerning unauthorized outlets. There was not even any organized supervision of companies specialized in the collection and transport of

polluted liquids, with the risk that some of the liquid being transported might illegally be poured away into the public drains.

4.3. An Italian law passed in 1988 provides for the creation of an inventory of industrial dumps and waste, and, pursuant to this law, those concerned are required every year to declare the waste that they produce. In one region visited by the Court, the number of declarations received was estimated at less than 10 % of the number that should have been presented. Some of the people concerned were not aware of this obligation or had an insufficient knowledge of their waste products, while others preferred not to make themselves known. The authorities tolerate this situation because it would be difficult for them to investigate a larger number of declarations, and, above all, because they would be incapable of dealing with all the waste if the latter were actually declared. Available facilities for disposal (usually by incineration) are estimated at around 25 % of the necessary capacity and there are difficulties in creating new plants, not because of a shortage of money but, given that each choice of a new disposal site is systematically contested, because of location problems. The region does not possess a specialized centre for hospital waste, the volume of which is estimated at just over 30 000 tonnes per year.

4.4. Council Directive No 85/337/EEC of 27 June 1985, concerning the evaluation of the effect of certain public and private projects on the environment ⁽¹⁾, has given rise to numerous complaints, questions raised in Parliament and Court cases for non-application or incorrect application, including the fact that environmental impact assessments are often carried out by the developer himself and not by an independent body. The Directive, which should have been incorporated into national law by 3 July 1988, contains, in its first Annex, a list, with a few exceptions, of the types of investment which must be submitted to an environmental impact assessment and specifies measures for informing the public and consulting interested parties. Annex II specifies the types of investment for which assessment is left to the discretion of the Member States.

4.5. This Directive has been applied in a very restrictive way. In several Member States, only the first annex has been incorporated into national law. Furthermore, it was held that the Directive was not applicable to projects that had already been approved up until the moment the national law provisions for its application were adopted, even in the case of large infrastructure projects, such as dams or railways, which are liable to have a significant effect on the environment. Furthermore, application of the Directive is often limited to new investments, thus excluding restructuring operations, even if, for example,

the widening of a road in a residential area or the transformation of the same road into a faster one may lead to a veritable disaster.

Prevention and the 'polluter pays' principle

4.6. Slow progress is being made in the implementation of environmental Directives and many areas are left uncovered. Under these conditions, it is doubtful whether the Directives will be able, on their own, to induce a significant change in environmental behaviour. Although people are now genuinely aware of environmental questions and the urgency of such measures is widely recognized, concrete changes in the situation are less noticeable. There is, therefore, a risk of an increase in the discrepancy between those measures that the protection of the human and natural environments requires and those that are actually applied. At the current rate, even if considerable effort is made, it may still take several generations for the Directives to be implemented.

4.7. The situation can only be improved through important accompanying measures that give real significance to incentive and dissuasive factors. A Council recommendation of 3 March 1975 ⁽²⁾, concerning cost allocation and the intervention of the public authorities in environmental questions, clearly lays down that 'charging to polluters the costs of action taken to combat the pollution which they cause encourages them to reduce the pollution and to endeavour to find less polluting products or technologies, thereby enabling a more rational use to be made of the resources of the environment. Moreover, it satisfies the criteria of effectiveness and equitable practice.'

4.8. Few measures have been adopted to achieve this end and, furthermore, techniques need to be improved to enable potential polluters to gain a better knowledge of and put a figure on the environmental costs of the activities they contemplate and ensure that these factors are taken into consideration. If they are not taken into account, the operations and investments concerned — even those in receipt of Community aid — may become a source of future costs for their beneficiaries and mean that they have to finance new measures to correct the negative effects of previous or even concomitant ones.

The application of the environmental Directives

4.9. There have been considerable delays and other difficulties in the incorporation of environmental Direct-

⁽¹⁾ OJ No L 175, 5. 7. 1985, p. 40.

⁽²⁾ Council Recommendation 75/436/Euratom, ECSC, EEC, (OJ No L 194, 25. 7. 1975, p. 1).

ives into national law. Some Member States have failed to supply the required information and documents. In many cases, Directives have not been incorporated into national law within the required deadlines and in others it has been done incompletely or badly. At Local Authority level, implementation calls for enquiries, examinations and specialized technical procedures which the authorities concerned do not always have the necessary knowledge to carry out in an appropriate manner. The division of responsibilities increases the number of legal documents that need to be adopted and the risk of differences in conception or interpretation.

4.10. The Directives leave the Commission very little scope for action with regard to the difficulties faced by the Member States in applying them. About a hundred cases have been referred to the Court of Justice of the Communities, which, in numerous judgments, has declared that the Member States concerned, by not supplying the information requested or by not taking the necessary steps to implement the Directives within the relevant deadlines, have failed to fulfil their Treaty obligations. However, rulings of this sort do not necessarily result in a faster or more complete application of the Directive in question, and there are cases of the same type of infringement leading to more than one judgment in succession.

4.11. Excluding modifications and adaptations, the Council has adopted a total of about 90 Directives that are necessary, amongst other things, for an appreciation of the evolution of techniques and environmental nuisances. Despite the considerable number of texts, all sources of pollution are far from being covered. For example, in support of Council Directive (EEC) No 76/464 of 4 May 1976, on the discharge of certain substances into the aquatic environment ⁽¹⁾, a Council Resolution took note of a list drawn up by the Commission of approximately 130 priority substances, the discharging of which requires prior authorization from the competent authorities of the Member States, in compliance with certain limits to be established by the Council. Of these 130 substances, 21 are considered by the Commission to have maximum priority. In 1991, or more than 15 years after the Directive had been adopted, limits had been established for 17 substances out of 130, of which 12 were among the 21 high priority cases. For the other substances, rather than submitting further proposals for limits to the Council, the Commission in February 1990 presented one for an amendment to the Directive (which has been in suspense ever since), with the aim of replacing unanimous voting for the establishment of limits and quality objectives with the qualified majority system.

⁽¹⁾ Council Directive 76/464/EEC of 4 May 1976 (OJ No L 129, 18. 5. 1976, p. 23).

4.12. On account, among other things, of the size of the departments and the allocation of work within DG XI, the application and monitoring of the Directives remains indisputably very slow and inadequate. There is, therefore, a need for a better organized approach that incorporates, to a greater extent, some of the other means of action at the Commission's disposal, particularly as regards structural operations and the 'polluter pays' principle. The adoption of Directives is indispensable for the establishment of a legal reference framework and for the definition of standards and procedures in the environmental field. However, it is relatively vain to draw up laws that remain largely unapplied, and there is a need for a better balance between the two aspects of drafting directives and monitoring their application.

4.13. Both at the Commission and in the Member States, certain Directives that have a direct and significant impact in terms of the protection of the environment are managed exclusively from the point of view of the harmonization of national legislation on production conditions in specific sectors of industry, and hence in terms of the contribution to the completion of the internal market. This is particularly the case with regard to certain types of noise pollution and, for example, Council Directive No 78/1015/EEC of 23 November 1978 ⁽²⁾, on the permissible sound level and exhaust system of motorcycles — both factors whose impact on the environment is however self-evident. During an inspection carried out at DG III of the Commission, which is responsible for the management of this Directive, the Court was able to obtain neither a progress report nor an assessment of the results achieved. In the Member States, the Departments responsible for authorizing the use of motorcycles on the roads or making technical checks have jurisdiction in this field, and it is generally possible to find spare parts, freely available on the market, whose acoustic characteristics do not take into account the limits provided in the Directive. In an analogous field, it is worth noting that, for Council Directive No 84/538/EEC of 17 September 1984, on the permissible noise level for lawn mowers, it is DG XI that is responsible, without the criteria governing this division of functions being clearly spelled out. As for the Directives on the use of pesticides and 'organic' agriculture, these are managed by the 'Agriculture DG' ⁽³⁾.

CONCLUSIONS AND RECOMMENDATIONS

5.1. Community action in the field of the environment has developed considerably in recent years and its influence

⁽²⁾ OJ No L 349, 13. 12. 1978, p. 21.

⁽³⁾ Council Directive No 91/414/EEC, of 15 July 1991 (OJ No L 230, 19. 8. 1991, p. 1) and Council Directive No 91/368/EEC of 20 June 1991 (OJ No L 198, 22. 7. 1991, p. 16).

is felt in nearly all aspects of the fight against pollution and for the defence of natural resources. This activity, which was introduced by the Single European Act of 1986, was developed and reinforced by the 1992 Treaty of Maastricht.

5.2. The environmental Directives constitute the main instrument of preventative Community action for the protection of the natural environment and their role is fundamental. However, they are being implemented slowly and there is a significant gap between the set of rules in force and their actual application. Meanwhile, the situation may deteriorate and the progress that has been made in certain sectors may be undermined by the growing deterioration observed in others.

5.3. Despite an appreciable level of activity in this field, it is doubtful, given the current speed at which the environmental Directives are being applied, that they will be sufficient to produce significant changes in behaviour in environmental matters. It is therefore essential that they be backed up by other incentives to reduce pollution and that the other means of action available be allowed to contribute more towards achieving the goals expected of the Directives, and, above all, it is vital that these means should not work in the opposite direction.

5.4. The objectives of the Structural Funds should be pursued and achieved in compliance with Community environment policy. This is not only a legal obligation, but also a sound management requirement, if financial measures are not to be a further source of difficulties and expense which will be a burden on the future development of the populations concerned. From this point of view, a great deal of progress needs to be made towards eliminating conflicting effects and achieving concrete results in terms of the limitation of environmental nuisances. Too great a proportion of Community aid goes towards investments that are little more than cleaning operations, whereas preventative measures aimed at the sources of pollution appear infrequently in the programmes and projects financed by the Community. However, if precedence is not given to the preventative side, the effect of interventions of a curative nature will not be lasting. An analogous concern should govern the activities of the new instruments that are due to be created, and in particular the cohesion Fund.

5.5. DG XI will have to take on a more pronounced coordination role if it is to avoid dispersion of interventions and ensure that different measures complement each other more and are therefore more effective. Multiannual programmes should establish concrete and quantifiable objectives to be attained and indicate, in a precise way, the means that are needed to achieve them.

5.6. For projects financed by environmental appropriations, greater rigour is needed in defining and choosing what work is to be done. This also applies to awarding contracts, for which the invitation to tender procedures should be strictly applied. Financial follow-up to contracts should be significantly improved and the results of the work carried out systematically exploited. The repeated financing of activities that produce few concrete results should be more carefully avoided. Follow-up to operations in receipt of aid and the assessment of their actual impact are essential operational aspects of intervention and, in particular, the use of intermediary firms to carry out these tasks does not seem to be justified.

5.7. The financial volume of Community activities is not completely and precisely determined, and better information is needed regarding it. This makes it difficult to coordinate measures developed in different sectors and gain an overview of management results. In particular, there is a complete lack of any documentation on the various aspects of financial activity in the field of the environment that aims to provide a global approach to the subject.

5.8. Insofar as the policy of prevention and correction at source is inadequate, more precise knowledge and greater awareness of the environmental cost of activities must be arrived at. This is the basic condition for greater effectiveness in the protection of the natural environment and, here too, considerable progress remains to be made. Environmental costs cannot be systematically borne by the Community as a whole, but must be more the responsibility of the activity that causes them. A larger proportion of Community aid should be directed towards the implementation of the 'polluter pays' principle, which is clearly stated in the relevant legal texts but which can have no dissuasive, or even educational, effect if it is not transformed into reality.

This report was adopted by the Court of Auditors in Luxembourg at the Court meeting of 18 June 1992.

For the Court of Auditors

Aldo Angioi
President

COMMISSION'S REPLY

INTRODUCTION

The Court's Special Report on the Environment comes at an appropriate moment in the development of Community environment policy and draws attention to a number of issues which the Commission has already addressed in preparing its Fifth Action Programme on the Environment which was agreed on 18 March 1992. The Community has had an environment policy for almost twenty years despite the fact that the environment was not mentioned in the Treaties until the 1986 Single European Act. The four previous Action Programmes have resulted in significant advances in terms of an extensive legislative framework (over 200 pieces of legislation) and actual improvements in environmental protection and quality. The Fourth Action Programme is not yet completed — it runs to the end of 1992 — and its impact will not be visible for some years to come. It is clear, however, that environment policy is at a turning point and is an issue which is playing an increasingly important role in the Community. This was recognized by the Heads of State and Government in their declaration on 'The Environmental Imperative' at the Dublin summit in 1990.

This importance was given extra weight by the new Treaty on European Union signed by the Member States on 7 February 1992 which has introduced into the basic Community Treaty another principal objective: to promote sustainable growth respecting the environment. The new Treaty goes on to include among the activities of the Union a policy in the sphere of the environment and specifies that this policy must aim at a high level of protection and that environmental requirements must be integrated into the definition and implementation of other Community policies. This implies that increasingly environmental considerations will become an integral part of other sectoral policies both at the Community level and within the Member States.

The Fifth Action Programme, which is currently under consideration by the Council and which will be the vehicle by which these changes are given effect, is not a framework for the Commission alone; it is aimed at all the players involved with the environment in the Community; it reflects the importance the Commission attaches to the changing nature of environment policy. It focuses on agents and activities which damage the environment and deplete the natural resource stock rather than wait for problems to emerge. The objectives cannot be met by action at Community level alone but rather on the basis of a coordinated response involving a sharing of responsibility by all levels of society. The basic strategy of the Programme

is to set a series of long-term objectives and targets through which full integration of environment and other relevant policies can be achieved by means of the active participation of all the main actors in society (administrations, enterprises and general public) and a broadening and deepening of the instruments of coordination and control. This is in line with the recommendations and conclusions of the Court.

Within the Commission itself this will require greater coordination between the various departments and much greater awareness of environmental considerations at all stages of policy-making. This will be particularly true of the increased funding which is envisaged for environmental purposes. To this end the recommendations of the Court on the issues as they presently stand will be an important input into the development of the Commission's approach in the future, in particular in the context of the assessment of the Structural Funds and of the new Cohesion Fund.

However, it must be added that the Commission considers that great efforts have already been made to ensure that the aid granted under its structural policies takes fuller account of the environment. For example, under the Community Support Frameworks for objectives 1, 2 and 5b of the reform of the Structural Funds approximately ECU 3 000 million has been granted to a variety of environmental protection schemes. In addition, various action in this field has been provided for under a number of Community programmes, particularly the ENVIREG programme to which the Community has contributed ECU 500 million.

The Commission would also draw attention to the important role the Member States have in implementing environment policy. In the Fifth Action Programme the principle of subsidiarity will play an important part in ensuring that the objectives, targets and actions are given full effect by appropriate national measures. These can only be achieved by concerted action by the Commission and the Member States working in partnership. Such a partnership also requires increased cooperation between the Commission and the Member States in the areas of control of the implementation of environmental measures. Equally, the creation of the European Environment Agency and its information networks will meet a growing need for more and improved scientific environmental data on a comparable basis at the Community level and beyond to improve decision-making.

CHAPTER 1

*The objectives of Community action relating to the environment and the resources available***Itemization of expenditure**

1.3. The review contains the aggregate totals for all spending on environmental measures under the various budget headings. These were calculated by the Directorates-General responsible for authorizing expenditure under the individual headings. Each DG concerned sent DG XI a memorandum containing the results of its evaluation.

1.4. The Court's analysis quantifying the environment-related contributions contained in the Structural Funds' Community Support Frameworks agrees grosso modo with the Commission's estimates. The biggest difference in the figures concerns the Community Support Framework for Portugal, where environmental measures are not placed together as a separate priority but are scattered between the different regional programmes. Between 1989 and 1993 the Community contributed an estimated ECU 168 million to the environmental protection measures under these various regional programmes.

It is clear from these figures that the financing from the Structural Funds plays an extremely important tangible role in environment policy.

1.6. The Commission agrees that more effort is required to arrive at the kind of transparency the Court suggests. One of the problems the Commission and the Member States face is that there is no system of indicators in relation to expenditure linked to the environment. As far as national statistics are concerned, the collection of environmental statistics has not been seen as an important priority by the Member States. At the Community level the Statistical Office and the Commission departments have been working for two years to develop a system which will specify environmental expenditure within the Community and the Member States more clearly. Similar work is being carried out by the OECD in which the Commission is fully involved.

The Action Programmes for the Environment

1.8. The Commission notes the Court's observation on the translation of the Action Programmes into operational terms. It points out, however, that the first Action

Programmes had as their objectives to increase awareness of environmental concerns and to provide the general principles guiding environmental protection activities. The later Action Programme sought to target quality criteria (e.g. water quality and emission controls) and to ensure full implementation and enforcement of Community legislation. Whilst the Fourth Action Programme had emphasized the need to integrate environmental concerns into other policy areas and had called for a widening of the range of instruments used to implement environment policy, in the Fifth Action Programme adopted on 18 March 1992 the Commission recognized that the time had now arrived to set targets, establish the means of achieving them and fix priorities. The Fifth Action Programme will be an operational document which sets long-term objectives, defines performance targets and lays down the action and timetables required to attain these targets. This will be done in relation to key target areas, e.g. industry, agriculture, energy, transport and tourism, and will take account of the progress towards the single market. Furthermore, the Commission itself has detailed management plans at both the Commission and DG level which seek to plan, prioritize and resource environmental activities.

1.9. In the future the Commission will put the emphasis on stepping up monitoring and evaluation of the real impact of the environment programmes and measures, particularly by setting objectives and defining environmental impact indicators. This will considerably help the Commission to set priorities for support and, hence, make a more effective contribution to implementation of the environment policy.

The coordination of intervention and the coordinator's role

1.10. The Commission accepts the need for closer coordination of its approach to the environment and the Fifth Action Programme will provide the basis for ensuring that this is achieved. Environment issues are not the responsibility of the Directorate-General for Environment alone and even more DGs can be added to the list enumerated by the Court, for example DG I, DG II, DG VII, DG XXII and DG XXIII are all involved and some of them also administer credits which relate to the environment.

In these circumstances a coordination process which involves nearly every department of the Commission is a complex issue. Difficulties can only be resolved by changes of attitude and changes of approach but, as the Fifth Action

Programme points out, it inevitably takes time for attitudes and behaviour to change.

1.11. The Commission accepts that in certain cases interdepartmental coordination, consultation and participation on environmental issues can be improved as has been done already for example in relation to EIB and ECSC loans. This will involve the allocation of additional resources to ensure that this is achieved.

In the specific case of the Structural Funds, the Commission considers that the problem is not so much interdepartmental coordination but stems more from the general application of the programme financing approach, in that the operational programmes which provide the basis for granting aid from the Structural Funds contain no details of individual projects. Consequently, when the time comes to grant aid the environmental impact must in turn inevitably be assessed on a more general basis.

1.12. It was decided over five years ago to adopt programme financing for the IMPs. Coordination between DG XI and DG XIV to ensure that aquaculture projects comply with the environmental standards has been excellent: following the adoption by the Commission of the 'Internal instructions concerning the assessment of the impact on the environment of plans, programmes and projects' funded by the Community on 8 December 1988 the two DGs jointly drafted an environment questionnaire which must be attached to all applications for Community support for an aquaculture project. DG XIV regularly forwards these questionnaires to DG XI which examines them thoroughly before any funding is granted.

As regards the relationship between aquaculture and the environment, although DG XI is working on a programme to conserve wetlands this by no means precludes environmentally sustainable economic development.

Also the broad range of functions played by wetlands combined with their natural and socio-economic value calls for a specific integrated management system. On this basis, traditional fishing and aquaculture can thus be authorized in wetlands.

1.13. The measures on the protection of forests against atmospheric pollution [Regulation (EEC) No 3528/86] and against fire [Regulation (EEC) No 3529/86] are managed by the 'Specific measures in rural areas (forestry development, environmental protection, etc.)' unit in DG VI, which is responsible for the Community's forestry policy. Both these measures are an integral part of the Community Action Programme for the Forestry sector adopted in June 1989.

To protect forests against atmospheric pollution, the monitoring system provided for by the Regulation has been set up and DG VI has written various reports, all in close collaboration with DG XI (CORINE).

As regards protection against fire, Regulation (EEC) No 3529/86 is limited to measures to prevent fires and monitor forests.

There are no other Community measures which overlap with these arrangements as the action supported by DG XI in this field is concerned solely with measures to combat these problems proper.

Coordination between the two Directorates-General in this field is ensured by the Standing Forestry Committee, which is administered by DG VI and on which DG XI is regularly represented.

Official consultations between DG VI and DG XII are held during the appraisal procedure for research projects.

Similarly, coordination between the various units of DG VI concerned with forest protection and improvement schemes funded under the reform of the Structural Funds is ensured by means of systematic consultation during the appraisal procedure for the operational programmes.

1.14. As regards DG XI's role as coordinator of Community funding for environmental measures, the Commission has already established appropriate internal procedures for funding from the Structural Funds. DG XI is consulted on the measures proposed by the Member States for part-funding by the Community and participates in the meetings of the Committees responsible for monitoring measures with a significant environmental impact (see also the reply to point 1.11).

1.15. The Commission also considers that there is a need for improved coordination within Member States on environmentally related issues which are constantly changing.

These issues were examined at a meeting of the Directors-General for the Environment convened by the Commission and the Portuguese Presidency in June 1992. Moreover, in the framework of the Fifth Action Programme, there are plans to create an Environmental Policy Review Group comprising representatives of the Commission and the Member States at Director-General level to develop mutual understanding and to exchange views on environment policy and measures. There are also plans to create a network comprising representatives of the relevant

national authorities and the Commission to ensure practical implementation of Community measures.

Consideration of environmental impact in Structural Fund initiatives

1.16. The Commission recognizes that general application of 'programme financing' by the Structural Funds marks a big change from the previous method of project funding and that it can only be achieved gradually, with imperfections here and there. A certain learning curve was necessary, not least for assessment of the environmental impact at the various stages of planning, on the part of the Commission departments concerned and also of the national and regional authorities responsible in the Member States.

Nevertheless, centralization of all environmental assessments and inspections within the Commission departments would be contrary to the spirit of the Community's structural policies and, moreover, technically impossible. The Commission considers that in the future the Member States should be encouraged to involve their environmental authorities more closely at each stage of definition and implementation of funding from the Structural Funds.

First, they must ensure that these authorities are adequately equipped for this task. Consequently, participation in the supervisory committees by the Commission departments concerned could be limited to a few areas which take priority from the environmental point of view and to inspections in selected fields corresponding to the Community's top environmental priorities or to particularly sensitive fields.

1.17 – 1.18. The Commission departments concerned have written guides to help the Member States to prepare their applications for support. These guides specify the details to be contained in each application for support under Article 7 of Regulation (EEC) No 2052/88 and under Article 14 of Regulation (EEC) No 4253/88. In the case of large-scale projects, this takes the form of the environment questionnaire provided for in the 'internal instructions concerning the assessment of the impact on the environment'. In the case of the operational programmes, details must be given of the arrangements made to monitor the environmental impact of the measures planned in each programme. The Commission departments concerned check the information given when they appraise or implement the programmes.

Project financing and programme financing

1.19 – 1.21. The Commission is aware of the respective advantages and disadvantages of the programme financing and project financing approaches. It also realizes that the programme financing approach defined by the Council as the general method of support from the Structural Funds since the 1988 reform offers fundamental advantages in the form of closer coordination between the different structural support and closer assessment of its economic impact. However, with the exception of the fisheries programmes, which combine a package of projects, at the time that support is granted the Commission has only a general assessment of the impact on the environment prepared, in principle, by the competent authorities in the Member States. The Commission plans to submit a proposal for a Directive requiring systematic assessment of the environmental impact of plans, policies or programmes as a whole.

CHAPTER TWO

The management of appropriations earmarked for the environment

Environment appropriations and research appropriations

2.4. The Court has noted the significant growth in the environmental activities of the JRC and DG XII. The appropriations managed by the JRC and DG XII fall under the four-year framework programmes on research and technological development adopted by the Council. The projects undertaken, either as direct action or as cost-sharing contracts, are primarily scientific in character, even though their main application is in the field of the environment. The appropriations managed by DG XI, by contrast, stem from the budget itself. The objective of these appropriations is to finance actions which cover all environmental activities and, in particular, measures which have a bearing on policy formulation and implementation.

There is close coordination of the planning and implementation of the research projects and activities undertaken by the Commission. However, following the Court's remarks, the Commission will seek to ensure that evidence of such coordination and the follow-up of project results is better documented.

The selection procedure for the STEP and EPOCH programmes has been established for many years.

2.5. The Commission accepts that there is scope for improving coordination in this area and has emphasized this in the Fifth Action Programme. It would point out, however, that for some time all research programmes have been submitted to DG XI for examination before a decision is taken.

This process of consultation allows DG XI not only to modify the direction of the programmes but also to determine which type of projects it would like to stimulate further by adding the weight of its own financial appropriations to the resources allocated by DG XII and the JRC. In general, the resulting collaboration extends to the definition of and participation in projects. In the implementation of the projects there are direct links between the units in DG XI responsible for policy and the units in DG XII responsible for scientific support and in particular the STEP, EPOCH, MAST, ECLAIR and THERMIE programmes.

For example, in the case of climate change, given the complexity of the issue and its wide policy and technical implications and the necessity for extensive basic research, a number of DGs were involved in pooling their resources and studying different aspects of the same problem.

Award and conclusion of contracts

2.6. Given the special and technical nature of the work and the comparative rarity of environmental specialists the Commission is generally aware of potential contractors. In the interest of administrative efficiency and economy, from time to time DG XI resorts to a restricted call for tenders. However, for large programmes where a much wider range of potential contractors exists, the Court observes correctly that DG XI makes extensive use of the open call for tender procedures which involve announcements in the Official Journal. It is foreseen that the existing large programmes such as MEDSPA, ACNAT and ACE will be incorporated into the financial instrument for the environment (LIFE). In this way selection procedures and criteria for contractors will be harmonized further.

2.7. Further to the Court's remarks, DG XI has started to centralize its finance and contract functions and, in this context, will review the procedures related to subsidies and financial contributions (see also point 2.10).

Nevertheless it must be emphasized that, even at present, the financial contributions are made only on the strict

conditions that the activity foreseen is indeed carried out, that where necessary the results are widely disseminated and that evidence of expenditure on the activity undertaken is presented to the Commission.

2.8. The Committees concerned do examine cost questions and also give their opinions on the technical aspects of the cost/benefit of projects.

2.9. The Commission notes the Court's suggestions to institute fixed-price environmental contracts. It will need to consider this carefully given that a fixed-price system requires good pre-selection controls. These have to be balanced with the requirements of political timetables and deadlines, a task which can be difficult.

Monitoring the financial aspects of contracts

2.10. Because of the decentralized approach adopted until recently, much of the information sought by the Court was spread over a number of operational files. The Commission was aware of this situation and has anticipated the Court's remarks by commencing to centralize and strengthen the Finance and Contracts function within DG XI. The aim of this activity is to ensure more complete financial files, standardized procedures and an improvement in the administration and follow-up of projects and programmes.

DG XI is in the process of creating an integrated financial data base which will allow it to make a better selection of contractors, keep closer track of the evolution and execution of the budget and provide in a convenient manner the information necessary to monitor and evaluate programmes as well as individual contracts. The fundamentals of the computerized data base are scheduled to be in place and operational early in 1993.

2.11. The Commission relies on the 'general conditions applicable to contracts awarded by the Commission of the European Communities' to guide potential applicants. As regards the eligibility of allowable costs, as they vary from the general conditions from one type of contract to another, is left to the individual DGs to determine the cost allowed. In this context, DG XI will draft operational guidelines for potential contractors on the allowability of costs.

2.12. In the general information supplied in the course of the tendering procedure and at the time of concluding the contracts the Commission draws the contractors' attention to their obligation to comply with the Financial Regulation and the terms of contract. This includes keeping accounts

and the appropriate financial documents to allow verification of the costs related to the contracts.

If DG XI were to carry out detailed, exhaustive checks on the cost statements to ensure the allowability of all costs then considerable additional manpower would be required. With reference to the Court's example of a contractor lacking books, it would be administratively inefficient and wasteful of scarce resources to check the underlying accounting records of each contractor simply to verify the cost statement received. The Commission accepts though that additional on-the-spot audits should be carried out.

2.13. The Commission is aware of the delay in this project. On 22 January 1992 the project was extended for twelve months.

2.14. The Commission is aware of the problems which exist as a result of overdependence on external staff. Given the absence of permanent posts such external staff have been necessary to deal with a rapid expansion in environmental activities. The rapid turnover of these staff has inevitably had an impact on the continuity of some files.

The grant of operational subsidies

2.16 – 2.17. The Commission is aware of the desirability of standardizing procedures for the award of subsidies. Since 1991, DG XI has established a clear procedure and transparent criteria applicable to all applicants. As and when necessary on-the-spot inspections are to be conducted to ensure that the activity supported is indeed carried out and that the funds provided are used as intended.

Project results: the exploitation of results and the principle of preventive action

2.18 – 2.19. The Commission can only partially accept the Court's criticisms on the dissemination and use of project results. Most studies and demonstration projects are used for policy formulation, implementation or evaluation. When the activity is completed the results are published for general dissemination if appropriate.

DG XI has already improved its planning procedures whereby the DG's annual plan is translated into projects and instruments of expenditure. Monitoring the financial and administrative aspects of this plan will allow the effectiveness of activities being undertaken to be assessed.

Operational units will be asked to indicate clearly the internal and external benefits of the contract results before the final payment request is approved. This information will ensure that the benefits of Community-funded activities are not only real but also taken up.

2.20. The Court is correct to point out that Community activity must be based on the principles of prevention and the 'polluter pays'. However, to this the Court should have added the principle that environmental damage should as a priority be rectified at source. The three principles are inextricably linked and it is difficult to separate activities on the basis of any single principle without including the others. In this context the Commission does not agree that application of the remedy-at-source principle would diminish the 'polluter pays' or preventive principles.

2.21 – 2.22. The examples cited by the Court on financial support granted for the clean-up of waste to rehabilitate the Tremeiti Islands or to combat the environmental degradation caused by tourism and agricultural fertilizers clearly illustrate the application of remedial as well as preventive principles. It should also be pointed out that these activities fall well within the criteria established by the 1975 Council Recommendation on the allocation of costs, without infringing the polluter pays principle.

At the same time the cases chosen by the Court demonstrate that these pilot projects have not only had an immediate beneficial impact on the natural and urban environment but also were used to demonstrate the techniques and logistics of environmental protection activities. The purchase of the lagoon in the Venice region was for the protection of flora and fauna. This purchase satisfies the objective set out in the first indent of Article 130 r (1) of the EEC Treaty, which deals with the preservation and protection of the environment.

The creation of data bases

2.24. The use of the CORINE data base which was developed as a pilot project is growing rapidly and its scope has continued to widen and to spread geographically. It is used internally within the Commission, and was the source of much of the information in the 1992 State of the Environment Report which accompanies the Fifth Action Programme. It is also being used by an increasing number of national and local authorities, by the Statistical Office and the European Investment Bank.

The data base will form the starting point of the information network of the European Environment Agency once the Regulation setting up the Agency enters into force.

2.25. The Commission is aware of the problem of the dispersion of efforts in the creation of data bases which is taking place: the European Environment Agency is intended to be the focal point for coordinating future activity in this area.

It is true that diverging methods have been employed, but this is perfectly justified by the different nature of the end-products to be obtained. In the case of the MARS programme on agricultural statistics, for example, the end-product takes the form of annual estimates of the utilized agricultural area (operational) and of yield (still at the experimental stage), where fully automatic interpretation of the satellite images is possible. The CORINE method is designed to produce a more qualitative description, mapping various ecological categories, but could, however, also serve for an initial classification of agricultural categories. Cooperation between Commission departments bore fruit in both these cases.

2.26. The Commission and its Task Force for the European Environment Agency is very conscious of the need to make information available to potential users and the CORINE data base deals with all reasonable requests for information. It is not aware of any complaints that such information is not accessible and indeed special efforts have been made to provide made-to-measure information available to users with specific needs.

Liaison between the Statistical Office and CORINE has been particularly close and constant (exchange of data bases such as REGIO, exchanges of geographical information via GISCO and preparation of the Directive on environmental statistics).

2.27. The final sentence is correct, but the Commission has taken steps to ensure that the CORINE data base is not allowed to run down. It is intended to form the foundations of the European Environment Agency's information base and the Commission decided to use the 1991 budget allocation for the Agency to ensure the maintenance and exploitation of the CORINE system, a decision which the Council and Parliament have endorsed by allowing the 1991 credits to be spent in 1992.

CHAPTER 3

The structurally orientated financial instruments and the environment

The evolution of the procedures

3.1 – 3.5. The Commission shares the Court of Auditors' view that in some Member States the authorities re-

sponsible for the environment have not always been sufficiently involved in the process of preparing the support from the Structural Funds. Nevertheless, it must be remembered that at the moment the Commission has no mandatory basis for demanding their involvement since the Regulations governing the Funds stipulate that the Member States bear exclusive responsibility for establishing the plans and programmes. When the time comes to prepare the next programme of structural measures the Commission will urge the broadest possible such consultation from the start of the planning procedure. It will also strive to keep the national and regional authorities concerned fully informed of the priorities and of the Community's requirements concerning compatibility with the environment. Also the Commission will take steps to simplify the procedures for implementing support for structural measures, particularly when it comes to revise the Regulations governing the Structural Funds.

Programme content

3.6 – 3.7. The absolute amounts invested in environmental measures are only one aspect of the environmental dimension of the structural policies. The Commission recalls that greater priority was given to investment in this field in the regions covered by objective 1 and that it negotiated preferential rates for environmental improvement measures in the Community Support Frameworks for objective 2. At the same time it is conducting environmental assessments for Greece, Italy and Portugal. The objective of these studies is to pinpoint the greatest environmental problems in the regions concerned and to identify the most immediate needs so that a remedy can be found. Measures such as these are a direct contribution towards helping the regions to define their priorities for support more closely and, hence, to ensure more efficient public expenditure in the long term.

3.8. The Council has restricted support from the ERDF for environmental protection measures to investments closely linked to regional development. Consequently, the principal objective of the operational plans and programmes under the Community's regional policies is to devise strategies and ensure consistency from this point of view. Naturally, they take account of the environmental impact of the measures planned, but they are not reference frameworks for every aspect of environmental protection in a given area.

3.10. The ERDF is contributing towards financing the Athens underground because this high-priority investment will help to upgrade the basic infrastructure in the city. What is more, the project is one of the priorities in the Community Support Frameworks for Greece. This invest-

ment will undeniably considerably alleviate pollution in Athens. However, formulation of a general urban traffic policy for Athens (or for any other city eligible for support under the structural policies) goes beyond the objectives of the Community's structural policies.

3.11. The ERDF can make financial contributions towards the construction of hotels, as provided for in the operational programme for part of the Mezzogiorno region, if the objective is to develop the tourist potential of the region concerned. Without denying that urban development can cause damage to coastal areas under certain circumstances, this is not the only aspect taken into account when assessing the advisability of building plans of this type.

Every project receiving Community support must nevertheless rigorously comply with all the Community's environmental legislation. Whenever an infringement procedure is initiated the Commission automatically suspends its financial support to the project called into question.

3.12. The Court regrets that few measures concerning energy saving or the use of renewable or alternative sources of energy are being part-funded by the Structural Funds to follow up the non-quota energy programmes and the Valoren programme.

Work on the Valoren programmes received substantial funding from the Community but is now nearing completion. The Commission will embark on an assessment of the programmes in the near future. The findings will be taken into consideration for negotiating the next phase of the programme.

The link between investments and environmental protection

3.13 – 3.14. As stated in points 3.1 to 3.5, the Commission shares the Court's view that the national and regional environmental authorities should be consulted not only on the structural aid directly concerned with environmental protection, such as the Envireg programmes, but also on measures in other fields likely to have an impact on the environment. To encourage such a global approach, the Commission plans to extend the terms of reference of the network of experts set up under the Envireg programme to include the environmental aspects of all the structural measures taken.

3.15 – 3.16. The Commission regards the wide distribution of water purification stations, and the fact that many of them remain unused for lack of funds to guarantee their upkeep and pay their running costs, as primarily an institutional problem concerning the sharing of the relevant powers and of the available resources. It is true that some small authorities are unable to fulfill their obligations in this area. The scale of certain environmental problems should prompt certain Member States to consider more efficient sharing of responsibilities and resources.

The same argument concerning the internal power-sharing arrangements applies to the limited use made of the results supplied by the network set up under the operational programme for the Mezzogiorno region to monitor certain components of the atmosphere.

In future the Commission will ensure that the facilities which it partfunds are operated properly.

3.17. The Court regrets that the contract concluded with the Business Innovation Centre (BIC) failed to take environmental matters into consideration. The general objectives of the BIC is to provide small businesses with the broadest possible range of services to make them more competitive at regional, national or inter-regional level. Consequently, the environment is one parameter which is always taken into account. However, the Commission has deliberately not delimited the precise areas of activity by small firms eligible for support from the BIC in order to maintain the flexibility needed to take action as and when requests are received from small businesses in the region in question.

3.18. It is true that the Community aid file for the construction of a dam on the River Aaos in Epirus was closed in 1991. The Community support for this project covered expenditure on compulsory purchases and on construction of the dam and certain buildings. No mention was made of any plan to plant 30 000 trees when this support was granted.

3.19. A general clause in the contracts for global loans granted by the Commission in the context of the activities of the ECSC requires projects financed by these global loans to comply with the national and Community provisions on environmental matters. The checks carried out by the Court in several countries showed that the clause had rarely been applied and was not reflected in the contracts for the financing of the projects. The financial intermediaries consulted pointed out that they had not noticed the existence of such a clause and they raised the question of the cost of checks of this sort. In other cases, it was their opinion that the relevant laws were sufficient, which is tantamount to depriving the contractual clause of any significance.

The Commission will draw the attention of the financial intermediaries to the importance of this clause. The Commission staff concerned will continue to check for compliance with the environmental clauses during their on-the-spot inspections of the financial intermediaries and, where appropriate, of the final recipients of the subloans.

3.20. The shortcomings mentioned by the Court stem partly from the Member States' difficulties in taking account of the environment in their regional development strategies and measures and partly from imperfections in the implementation of the Community Directives on the environment. In most cases, the Community's support for structural measures merely reveals more general problems in this connection. However, the Commission is considering which measures could be taken, when the Regulations governing the Structural Funds are revised, to ensure that fuller account is taken of the environment.

The risks of a negative impact on the environment of other investment projects

3.21. The Commission regrets that the Court relies largely on examples drawn from past legislation to illustrate the risk that investments part-funded by the Structural Funds could have an adverse impact on the environment. Contrary to the Court, it considers that considerable progress has been made since then, both in the management conditions and in the nature of the support. The considerable sums earmarked for environmental protection measures under the Community Support Frameworks for objectives 1, 2 and 5b, the Community's ENVIREG programme and the explicit inclusion, in the new ERDF Regulation, of investment in the environmental field in the scope of the Fund cannot be ignored. In addition, the Commission has adopted clear rules to ensure rigorous application of the Community legislation on the environment. In the event of an infringement procedure, the Community support is automatically withdrawn from the project called into question.

3.22. The Commission stresses that in the meantime an environmental impact assessment has been conducted on the work on the port of Salonika financed within the framework of the IMPs. The delay in starting the study was due to the time taken to find a consultant qualified to deal with the complex issues and technologies involved.

3.23 – 3.25 and 3.27. The examples mentioned by the Court all concern national regulations or other national provisions which it is up to the Member States to monitor.

Nevertheless, the Commission will ask the authorities responsible in the Member States concerned for details of

the measures which they have taken or plan to remedy the adverse environmental impact of the examples mentioned by the Court. The Commission will inform the Court in due course.

3.26. The two cases mentioned by the Court concern aid granted to investments in environmental protection measures. However, in exceptional cases the aid provided for by Council Regulation (EEC) No 2328/91 may permit development of holdings and, hence, an increase in production.

3.28. The sole objective of the project was to open up access to a new seam in a mine which has been worked since 1915 in order to maintain its production capacity.

The Commission endorsed this investment on the grounds that it fitted in with the objectives of the Council's energy policy.

The file contained no suggestion of any environmental problems.

CHAPTER 4

The protection of the quality of the environment

Inspections at a number of local monitoring units

4.1. The Commission is aware of the shortcomings mentioned by the Court and is anxious to ensure that in future there is a greater exchange of experience between Member States. For this reason the Commission has urged a greater role for Member States in the implementation of the Fifth Action Programme. As far as the private sector, especially the business sector, is concerned, the Commission has put to the Council a proposal for a Regulation on the conduct of environmental audits and the creation of a body of environmental auditors.

4.4. The Court correctly notes that implementation of the environmental impact Directive has given rise to a number of difficulties. The Commission has monitored very closely its implementation by the Member States and, by 31 December 1990, 26 infringement procedures were under way for incorrect implementation of the Directive, even though most Member States had only recently introduced legislation. It should be noted that it is the Directive itself which contains the requirement that the developer should establish the impact assessment.

Prevention and the 'polluter pays' principle

4.6 – 4.8. The Commission notes the Court's comments on the 'polluter pays' principle. The 1975 Council Recommendation was seen at the time as a first application of the principle which would develop and evolve in the light of results and also in the light of socio-economic changes (including liabilities from the past).

The Community's approach has developed and has to be seen in the context of integrating environmental considerations into other areas with the 'polluter pays' principle playing an important role in this respect. The difficulty has been to bring about full integration at the level of the Member States. Nevertheless the experience accumulated has now been incorporated in a coherent way in the Fifth Action Programme.

The Fifth Action Programme recognizes that legislation alone is not enough and that pricing and accounting mechanisms have a pivotal role to play in the achievement of environmental aims. Economic valuations can help economic circles take environmental impacts into account when they make investment or consumption decisions. The Commission has suggested that where market forces are relevant, prices should reflect the full cost to society of production and consumption, including the environmental costs. Equally the use of economic and fiscal incentives will be an important element in the future evolution of environmental policy. For example, in the field of water pollution consideration could be given to charges oriented towards discouraging pollution at source and encouraging clean production processes. In another area the Commission is currently considering an integrated approach to environmental liability as a tool of last resort to punish despoilation of the environment. Another category of instrument is State aids where the Commission has already adopted a framework for environmental State aids in order to guarantee an orderly system in the Community, compatible with the 'polluter pays' principle. The Commission is currently considering how to update this framework.

4.8. The Fifth Action Programme examines the measures required to determine environmental costs with a view to more environmentally effective pricing mechanisms, e.g. evaluation of natural and environmental resource status in economic terms, development of renewable resource indicators, development of cost benefit analysis methodologies for the environment or redefinition of accounting concepts to take account of the use of environmental resources.

The application of the environmental Directives

4.9 – 4.13. The Commission notes the Court's comments on the implementation of environmental legislation and, in general, share this assessment. As part of its action under the Fifth Action Programme it intends to establish a network comprising representatives of the national authorities and the Commission in the field of practical implementation of Community measures.

4.12. The Commission is conscious of the issues to which the Court draws attention and shares its assessment of the need to improve the application of legislation. This is taken up in the Fifth Action Programme, where the practical reforms proposed include more careful choice and preparation of instruments, incorporation of specific enforcement provisions, training on application of legislation, stricter application of time frames, strict compliance with reporting requirements, etc.

In addition, the use of economic and fiscal instruments described elsewhere in the Fifth Action Programme will be used to complement the legislative measures and ensure better application thereof.

4.13. Council Directive 78/1015/EEC of 23 November 1978 and Council Directives 87/55/EEC and 89/235/EEC amending it have been implemented in every Member State except Greece, which has yet to notify the Commission of its national measures implementing Directive 89/235/EEC.

As this Directive is optional, the Member States may retain their own parallel national regulations, which are generally less stringent than the harmonized rules.

To complete the legislation on two- and three-wheeled vehicles, the Commission is drafting a further proposal amending the Directive which will ensure full harmonization.

CONCLUSIONS AND RECOMMENDATIONS

5.1. The Commission would point out that environment action by the Community predates the 1986 Single Act and in fact goes back to 1972.

5.2 – 5.3. In the Declaration made at the June 1990 Dublin summit on 'the Environmental Imperative',

reinforced by the changes to the Treaty agreed at Maastricht, the Community has already accepted the need for an integrated approach to resolve environmental problems. Moves are being made away from the purely legislative or regulatory approach (command and control) to greater use of economic and fiscal instrument and other horizontal mechanisms such as training and education, research and development, and some financial support mechanisms.

5.4. The role of Community financing is to complement these two main elements which will henceforth lie at the heart of the Community's environment policies. This will necessitate striking a balance between cleaning up environmental damage and preventing new damage (the precautionary principle). This is being actively considered by the Commission in the context of the Structural Funds and the preparation of the new Cohesion Fund. It also lies at the heart of the approach adopted in the Commission's Fifth Action Programme on the environment.

The Commission accepts the need for greater integration of environmental considerations into other aspects of Community policies and this is increasingly being done as these policies are developing.

The Fifth Action Programme, with its emphasis on integration and coordination with concrete, quantifiable objectives, precision on the means to be used, and indications of the role of the principal actors, provides the basis for achieving this objective.

5.5. The Commission will ensure that environmental considerations are much more closely integrated into other policy areas. This has happened already in the preparation of the Fifth Action Programme where all Commission departments were fully involved under DG XI's leadership in the development and agreement of the concepts which underlie the Programme.

5.6. For projects financed by environmental appropriations, the new financial planning procedures being introduced within DG XI will impose greater rigour in the definition, selection and implementation of projects. The centralization of finance and contracts will ensure a much better administration and follow-up to projects and will require minimal use of external resources.

5.7. As regards the Court's suggestion that better information is necessary on the volume of financial assistance in the environmental sector, the Commission would again draw attention to the lack of reliable indications as to what constitutes environmental expenditure: it will continue to work internally and externally to ensure that a common base is developed as rapidly as possible.

Within the area of pure environment expenditure administered by DG XI the computerization of financial procedures already being planned will allow improved information on financial flows in close coordination with other Commission departments.

5.8. Finally, as indicated in point 4.8, the Commission accepts the need to develop indicators of real environment costs. The Commission would draw attention to the fact that the definition of such costs has yet to be agreed in the work at global level in which the Commission is fully involved. The internalization of such external environmental costs is perceived to be necessary and important for the future.

The 'polluter pays' principle is already being implemented by the development of economic and fiscal instruments, by self-regulatory instruments and by the introduction of the concept of civil liability for environmental damage.

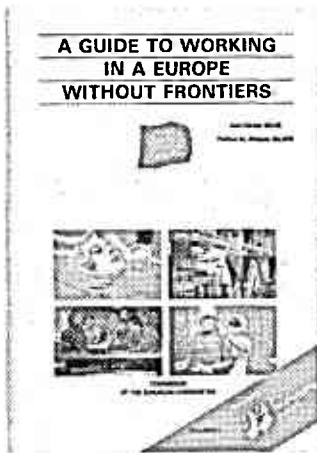


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