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I

(Information)

COURT OF AUDITORS

SPECIAL REPORT No 1/93

on

the financing of transport infrastructure
accompanied by the replies of the Commission

(93/C 69/01)

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

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I. INTRODUCTION

1.1. The adoption of a common transport policy is one of the measures which the Treaty of Rome defines as contributing to the establishment of the European Economic Community ⁽¹⁾. To that end Title IV of Part Two of the Treaty concerning the foundations of the Community is wholly taken up with transport policy.

1.2. Until 1982, however, no Community appropriations had been specifically allocated in the form of subsidies to transport infrastructure. As a result, the creation of transport infrastructure had remained the responsibility of the Member States and it was they who bore the costs of it, with the option of supplementing national funds with loans from the European Investment Bank (EIB), which was similarly established by the Treaty of Rome.

1.3. The significant resources that have been allocated to the construction of transport infrastructure have, therefore, been allocated within the framework of Community policies other than the transport policy and, more especially, since 1975, the regional policy and regional development measures.

1.4. Since 1982 financial support for transport infrastructure projects has been included in the budget, in addition to the above measures. This specific item in the budget was introduced, within the framework of the transport policy, with the aim of encouraging the Member States to become involved in the construction of transport infrastructure of Community interest and to speed up the execution of the work. It is essentially concerned with infrastructure which promotes the development of transport between the Member States.

1.5. At Community level, therefore, there are three possible ways of financing transport infrastructure. The first two take the form of subsidies, either from the European Regional Development Fund (ERDF) ⁽²⁾ (since 1975) or under the specific transport heading which was introduced into the budget in 1982. The third possibility, namely the granting of loans, has been available since the earliest days of the Community. Such loans are granted by the EIB and occasionally by the European Coal and Steel Community (ECSC).

1.6. The Court of Auditors has already discussed the subject of transport infrastructure in its annual reports, on two occasions. The first was in the ERDF chapter of the 1987 Annual report ⁽³⁾, which discussed the use of the infrastructure which had received subsidies. The second

was the transport chapter of the 1988 Annual report ⁽⁴⁾, which was concerned more specifically with transport infrastructure of Community interest.

1.7. This special report discusses, firstly, the entire group of funds and regulations pertaining to transport infrastructure in general. It then goes on to discuss in greater detail the provisions on the financing of transport infrastructure of Community interest and the problems of coordinating such measures.

II. THE GENERAL FRAMEWORK SURROUNDING TRANSPORT INFRASTRUCTURE MEASURES

The place of transport infrastructure in Community policy

2.1. Owing to the absence of any specific appropriations for transport infrastructure in the European Communities' general budget before the creation of the ERDF in 1975, the Member States financed the development of transport infrastructure without recourse to Community subsidies.

2.2. In the case of the transport policy, it was only after prolonged discussion that the Commission, on 5 July 1976 ⁽⁵⁾, tabled a proposal for a Council Regulation concerning support for transport infrastructure projects of Community interest. The aim of this proposal was twofold:

- to provide selective support for a limited number of large-scale projects;
- to set up a Transport Infrastructure Committee (CIT) to undertake examination of the projects put forward by the Member States.

2.3. In practice, it was not until 1978 that this first proposal led to the establishment of the CIT ⁽⁶⁾, which is made up of representatives of the Member States under the chairmanship of a Commission representative. This Committee:

- (a) organizes exchanges of information on the notifications of plans and programmes drawn up by the Member States with a view to developing transport infrastructure;

⁽¹⁾ Article 3(c) of the Treaty of Rome.

⁽²⁾ Council Regulation (EEC) No 724/75 of 18 March 1975 (OJ L 73, 18.3.1975, p.1).

⁽³⁾ OJ C 316, 12.12.1988, Chapter 6, p.97.

⁽⁴⁾ OJ C 312, 12.12.1989, Chapter 10, p.137.

⁽⁵⁾ OJ C 207, 2.9.1976, p.9.

⁽⁶⁾ Council Decision No 78/174/EEC of 20.2.1978 (OJ L 54, 25.2.1978, p.16).

- (b) examines any question concerning the development of a long-distance transport network of Community interest.

2.4. From 1975 onwards it became possible to provide financial support through the ERDF, with the aim of correcting the main regional imbalances within the Community by sharing in the development and structural adaptation of the regions whose development was lagging behind, as well as the redevelopment of declining industrial regions. In this way 81 % of the assistance provided by the Fund between 1975 and 1986 was awarded to infrastructure projects, more than half of them concerned with transport infrastructure.

2.5. Although, in the regional development area, substantial funding made it possible to carry out many transport infrastructure projects which made a contribution to regional development, the situation developed much more slowly and was far more problematical in the case of transport infrastructure of Community interest.

2.6. For the first time, as part of the 1982 budget procedure, the European Parliament, acting as the budgetary authority, entered an appropriation for the specific purpose of financing transport infrastructure. In order to be able to use these appropriations, the Commission submitted to the Council a proposal for an experimental programme of transport infrastructure ⁽¹⁾. The Council, however, did not express any views on what was to be done with the programme submitted by the Commission and simply adopted a decision which made it possible to use the operational appropriations entered in the budget only for the year in question, and then only for projects specifically mentioned in the decision.

2.7. This situation recurred up till 1990, with the appropriations entered in the budget on the European Parliament's initiative being implemented by means of Council decisions covering one or two years. On 20 November 1990 the Council adopted a Regulation which covered three years and concerned the implementation of an action programme in the sphere of transport infrastructure with a view to the realization of an integrated transport market in 1992 ⁽²⁾. Article 11 of this Regulation also provided that the Commission was to submit to the European Parliament and the Council, not later than 31 December 1991, a report on the experience acquired in implementing the regulations adopted since 1982. This report, which was drawn up by the Commission and dated

11 June 1992, essentially consists of a description of the funds allocated and, as regards the experience acquired, provides very few details that will be of any use for the future ⁽³⁾.

2.8. As regards the funds provided in the form of European Investment Bank loans for transport infrastructure projects, it was observed that the loans are set up just as easily as those that are granted within the framework of the regional development policy, and they are allocated to a large number of projects, representing a substantial volume of funding.

2.9. Within this framework where, on the one hand, the funding is substantial and set up quickly and, on the other, more limited and difficult to set up, a legal framework has gradually evolved, with specific provisions concerning each of the sources of finance.

The regulations

2.10. As in the case of the appropriations against the specific item for transport infrastructure, the legal framework and, more particularly, the regulations concerning the structural fund appropriations have evolved gradually until the present situation was arrived at.

2.11. The finance which the EIB provides by way of loans is subject to the Bank's own rules and is handled in accordance with the relevant procedures.

2.12. When it comes to examining the projects, these purely regulatory and banking provisions are supplemented by examination not only of the financing of the operation, but also its feasibility and probable impact in terms of economic development.

2.13. The Community subsidies granted since 1975 within the framework of the European Development Funds have been implemented successively under three main series of regulations, adopted in 1975, 1984 and 1988 respectively ⁽⁴⁾.

2.14. Under the first ERDF Regulation, infrastructure could be funded only as an immediate or preliminary

⁽³⁾ Doc COM(92) 231 final, 11.6.1992, p.30.

⁽⁴⁾ See end-note (2).

OJ L 35, 9.2.1979, p.1.

OJ L 169, 28.6.1984, p.1.

OJ L 185, 15.7.1988, p.9.

OJ L 374, 31.12.1988, p.1 and p.15.

⁽¹⁾ Document COM (82) 828 final.

⁽²⁾ OJ L 326, 24.11.1990, p.1.

condition of direct productive investment. After 1979 the eligibility criterion was extended to include infrastructure projects which made a contribution to the development of the region or area in which they were situated provided that they were justified by the regional development programmes. The regulations which entered into force in 1989 maintained a similar approach by considering measures which formed part of the Community support framework as eligible. They also laid down eligibility criteria and differentiated rates of Community assistance.

2.15. The budgetary appropriations allocated to transport infrastructure of Community interest have been implemented through several Council regulations. The first, Council Regulation (EEC) No 3600/82 of 30 December 1982 ⁽¹⁾, made it possible to use the first operating appropriations for financial support of 10 Mio ECU. The second, Council Regulation (EEC) No 3620/84 of 19 December 1984 ⁽²⁾ permitted the use of the appropriations entered in the 1983 budget, as well as those entered in the 1984 budget. Subsequent Council Regulations, Nos 4059/86 of 22 December 1986 ⁽³⁾ and 4070/87 of 22 December 1987 ⁽⁴⁾, allowed utilization of the budgetary appropriations for the financial years 1985, 1986 and 1987 respectively. Council Regulation No 4048/88 of 19 December 1988 ⁽⁵⁾ allowed the appropriations entered in the 1988 budget to be used and authorized financial support for transport infrastructure projects within the limit of the appropriations which were to be granted for the 1989 budget year.

2.16. On 20 November 1990, the Council adopted Regulation (EEC) No 3359/90 for an action programme in the field of transport infrastructure with a view to the completion of an integrated transport market in 1992. This Regulation, which is in force now, introduced, for the first time, the concept of a 'declaration of European interest' (French acronym: DUE) and laid down the conditions under which it may be conferred ⁽⁶⁾. The benefit of this 'declaration of European interest' has, so far, never been requested or conferred.

2.17. The latter Regulation provides the initial foundation for the establishment of a legal framework within which to programme funding. Up till 1990 it was possible only to fund individual projects which were adopted for each budget, owing to the absence of a legal framework. Furthermore, it was impossible to undertake a global, multiannual evaluation of measures and their financial implications during the budget procedure, because of the lack of programming. A further consequence of this situation was the delay in adopting budgetary commitments, which in turn led to significant delays in utilizing the appropriations that had been approved.

2.18. Nevertheless, in spite of the observations made by the Court in the transport chapter of the 1988 Annual report, and the adoption of the 1990 regulation on the implementation of an action programme in the field of transport infrastructure, little had changed at the time the Court carried out its audit at the end of the 1991 financial year.

Funding

2.19. The financial resources that have been employed for the transport policy since the special budget heading was created in 1982 amount to some 700 Mio ECU only, and of that amount 350 Mio ECU was for the period 1989-1992 alone.

2.20. Moreover, in the case of the financial support granted within the ERDF framework, it is possible to estimate from the available data that total commitment appropriations earmarked for transport infrastructure since 1975 are of the order of 16 000 Mio ECU. To this total should be added the amounts derived from the additional budget heading reserved for the integrated Mediterranean programmes (IMP).

2.21. In the case of the assistance provided by the EIB in the form of individual loans, the amount involved is around 14 000 Mio ECU. This amount includes the new Community instrument (NCI) resources.

2.22. Since 1975, therefore, the total Community financial assistance that has been awarded for transport infrastructure by way of loans or subsidies amounts to some 31 000 Mio ECU overall, of which more than 50 % came from the European Regional Development Fund. The distribution of Community intervention by origin of funds and mode of transport for the period 1982-1991 is shown in *Table 1*.

2.23. In overall terms, therefore, the volume of Community financial assistance for the construction of transport infrastructure is substantial and the methods used to determine which projects should be adopted in terms of their utility, as well as to assess their possible impact, need to be examined carefully.

2.24. In the Chapter of the 1987 annual report ⁽⁷⁾ which dealt with the European Regional Development Fund, the Court observed that the impact on regional development of infrastructure in general, and transport infrastructure in particular, frequently remained low, even after the initial running-in period which followed the commissioning of the infrastructure.

⁽¹⁾ OJ L 376, 31.12.1982, p.10.

⁽²⁾ OJ L 333, 31.12.1984, p.58.

⁽³⁾ OJ L 378, 31.12.1986, p. 24.

⁽⁴⁾ OJ L 380, 31.12.1987, p. 33.

⁽⁵⁾ OJ L 356, 24.12.1988, p. 5.

⁽⁶⁾ Annex to Council Regulation (EEC) No 3359/90 of 20 November 1990 (OJ L 326, 24.11.1990, p.5).

⁽⁷⁾ OJ C 316, 12.12.1988, paragraph 6.69.

Table 1 — Community funding for transport infrastructure

(Mio ECU)

	1982						1983						1984						1985						1986						1987						1988						1989						1990						1991						Total																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																													
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	T.	F.S.	EIB-NCI	T.	F.S.	EIB-NCI	T.	F.S.	EIB-NCI	T.	F.S.	EIB-NCI	T.	F.S.	EIB-NCI	T.	F.S.	EIB-NCI	T.	F.S.	EIB-NCI	T.	F.S.	EIB-NCI	T.	F.S.	EIB-NCI	T.	F.S.	EIB-NCI	T.	F.S.	EIB-NCI	T.	F.S.	EIB-NCI	T.	F.S.	EIB-NCI																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																			
Railways			47,6	7,4		15,0	3,0	43,3	128,5	30,2	60,8	111,7	41,3	201,1	286,1	28,6	303,3	115,6	41,5	204,1	259,1	38,7	203,0	514,3	37,9	203,0	596,3	104,0	203,0	1 063,7																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																												

T.: Subsidies granted under the transport policy (DG VII).

S.F.: Subsidies granted under the structural funds (ERDF) (DG VI).

(x): Estimated figures: annual mean of Objective 1 Community support framework (CSF) total for years 1989 onwards.

2.25. The Court also noted the following: 'One of the consequences of this situation is that the funds employed in carrying out the projects show a very low rate of return compared with the cost of the financial resources committed.'

2.26. In the transport chapter of the 1988 annual report, the Court observed that although the award of a Community subsidy for transport infrastructure of European interest was undoubtedly welcomed by Member States, it was not a determining factor in national decisions to go ahead with projects ⁽¹⁾.

2.27. The Court also commented on the low level of financial assistance provided by the Community subsidy, which under the legislation is limited to 25 % of the project cost. Audits showed that, for reasons which were not entirely clear, the level of assistance awarded for individual projects varied between 10 % and 22,9 %, which seemed unlikely to encourage Member States to embark on transport infrastructure projects of Community interest, or to speed them up ⁽²⁾.

2.28. The financial information set out in paragraphs 2.19 to 2.22 demonstrates the significant place occupied by transport infrastructure in the Community budget. The integrity of objectives and resources must be protected and it is important that responsibilities should not be diluted as a result of the absence of an overall picture of present and future transport infrastructure requirements, especially where it is in the Community interest. Such vigilance is still required, even though the Commission has now prepared programmes and proposed that outline schemes should be available for each mode of transport from 1993 onwards.

III. IMPLEMENTATION OF THE REGULATIONS CONCERNING THE FINANCING OF TRANSPORT INFRASTRUCTURE OF COMMUNITY INTEREST

3.1. The Court's documentary audits and on-the-spot visits at the Commission and in the Member States have shown that the financing of transport infrastructure of Community interest has suffered from all the general constraints described in paragraphs 2.24 to 2.27 above and has not been entirely free of problems.

Programming

3.2. Programming presupposes a sound knowledge of existing circumstances and an overall picture of future transport infrastructure requirements and resources, determined in terms of precise, quantifiable objectives. This implies a permanent Community supervisory body, operating in close cooperation with the national and international agencies that are responsible for transport matters.

3.3. There is no programming structure of this type within the Community institutions and as a result planning hitherto has taken the form of transport infrastructure programmes, plans or outline schemes for each type of transport. A more global approach would make it possible to implement an intermodal concept and to rethink the programming overall.

3.4. Even though these ideas have been under consideration for a number of years, especially since 1991, it was only in 1992 that the Commission, in response to a Council resolution of 30 October 1990, produced a paper on the creation of a combined European transport network ⁽³⁾. Similarly, on 10 June 1992, it produced communications and proposals for Council decisions on a trans-European road network and a European network of navigable waterways ⁽⁴⁾. A Council Resolution ⁽⁵⁾ on the development of a European high-speed rail network was adopted on 17 December 1990 following a proposal by the Commission.

3.5. Although the Regulation was adopted in 1990, and despite the efforts made by the Commission, Community funding continues to be granted to projects which have been defined in the regulations (and which, in many cases, already form part of national transport infrastructure plans and guidelines) and which do not always produce an incentive effect that is in line with Community requirements.

Management, monitoring and control

3.6. In its 1988 Annual report, the Court pointed out the difficulties encountered by the Commission in monitoring projects. The situation has not improved and the Commission is still experiencing the same difficulties in obtaining information on the physical and financial progress of the projects funded.

⁽¹⁾ Annual report concerning the financial year 1998, OJ C 312, 12 December 1988, Chapter 10, paragraph 10.17.

⁽²⁾ Annual report concerning the financial year 1998, OJ C 312, 12 December 1988, Chapter 10, paragraphs 10.17, 10.18 and 10.20.

⁽³⁾ Document COM (92) 230:

⁽⁴⁾ Document COM (92) 231 final, 11 June 1992.

⁽⁵⁾ Council Resolution 91/c 33/01 of 17 October 1990 (OJ C 33, 8.2.1991, p.1).

3.7. Under the Council regulations the Commission, in cooperation with the Member States, is required to carry out on-the-spot checks of projects which are receiving Community finance. Similarly, the financing decisions call on the Member States to submit detailed interim or final reports in support of every request for payment of an advance or final payment.

3.8. The Court's audit, of documents and on the spot, showed that the supporting documents submitted by the Member States in order to obtain payment of advances or final payments were not such as to allow the Commission to authorize the payments in full knowledge of all the circumstances, and improved on-the-spot checks are necessary.

3.9. The Court commented on the delays to the Saragossa-Barcelona rail project in 1988. These delays have been aggravated by the fact that the Spanish authorities are awaiting results of the study on the Madrid-Seville high-speed link before deciding whether the project should be halted or continued. As a result, the 4 Mio ECU paid as an initial advance have been in an account with the Spanish Treasury since 1988, and the Commission has not reacted to this situation in any way whatsoever.

3.10. During documentary and on-the-spot audits in France, the Court noted that two road projects which had been the subject of Commission financing decisions in 1986 and 1988 respectively and had automatically obtained payment of an initial advance (amounting to 2 Mio ECU in total), had simply been abandoned, without the managing department's having been informed, first, that the start of the projects had been delayed and then that it had been decided to abandon them.

3.11. In Belgium, the Federal Republic of Germany, Greece, France, Ireland and the United Kingdom final payments have still not been made on some 20 projects (more than half) which were adopted before 1986.

3.12. A close examination of the Commission's files showed that, of 141 files examined since the adoption of the first Regulation on 30 December 1982, only 23 had actually been closed as of 31 December 1991. Furthermore, of 87 projects and studies for which the schedule appearing in the financing decision proposed a completion date before the end of 1991, only 23 were considered to have been terminated as of that date. *Table 2* shows the project situation for each Member State and illustrates the significant delays in carrying out the works.

Table 2 — Position concerning projects and studies which were to be completed by 31 December 1991

Member State	Number of projects or studies which were to be completed by 31.12.91		Projects closed	Delayed projects and studies	% of projects delayed
	Projects (P)	Studies (S)			
Belgium	3	1	0	4	100 %
Germany	2	2	1 P	3	75 %
Denmark	3	2	1 P 1 S	3	60 %
Greece	17	0	2 P	15	88 %
Spain	5	1	0	6	100 %
France	13	1	4 P 1 S	9	64 %
Ireland	5	0	1 P	4	80 %
Italy	7	1	2 P 1 S	5	63 %
Luxembourg	3	0	1 P	2	67 %
Netherlands	4	1	2 P	3	60 %
Portugal	1	1	0	2	100 %
United Kingdom	9	1	6	4	40 %
Various organizations	0	4	0	4	100 %
TOTAL	72	15	23	64	75 %

3.13. In financial terms the situation is just as worrying, because the amount outstanding against the total amount of Community intervention for these 87 projects, some 247,6 Mio ECU, is 93,1 Mio ECU. *Table 3* shows, by Member State, the financial situation with regard to these projects, as indicated in the Commission's financial files.

3.14. This situation provoked a reaction on the part of the Commission. At the end of 1991 it was proposed that a report on the state of the works should be drawn up and used as the basis for an on-the-spot audit programme which was to be established at the beginning of 1992.

3.15. The strict demarcation which exists between the individual departments of the Directorate-General for transport makes it difficult to monitor the physical and financial execution of projects. In fact, under Article 5 of the amended Council Regulation (EEC) No 1108/70 of 4 June 1970 ⁽¹⁾, which instituted a system of accounts for expenditure pertaining to road, rail and water transport infrastructure, the Member States send to the Commission each year accounts of infrastructure expenditure for the previous year in accordance with the schedules annexed to the Regulation. These specialized documents have not been used for project monitoring, even though they set out the

progress on projects for each type of infrastructure, with statements of investment and operational expenditure.

3.16. The documents mentioned in the previous paragraph, which are forwarded by the Member States, have not been used either for the purposes of Regulation (EEC) No 1108/70. Even though, under Article 9(3) of the Regulation, the Commission is required to submit a summary annual report to the Council, setting out the main figures in the infrastructure accounts, the first triennial summary report, covering the years 1984-1985-1986, was not published until September 1991. The Commission has undertaken to make up for the delay and it expects to produce a further summary report, for the years 1987-1988-1989, in 1992.

3.17. The Court wishes to draw attention to the delays that have built up and notes that the Commission wishes to rectify this. The Court calls on the Commission to take the necessary steps to ensure that the Member States forward the missing documents as soon as possible and to improve the quality of the monitoring by improving inter-departmental collaboration.

3.18. The situation is no better as regards the checks carried out by the managing departments, or even by the departments of the Financial Control Directorate. Of the

⁽¹⁾ OJ L 130, 15.6.1970, p.4.

Table 3 — Financial position of projects and studies which were to be completed by 31 December 1991

(1 000 ECU)

Member State	Number of projects and studies which were to be completed by 31.12.91	Community support	Amount paid	Amount not yet paid	%
Belgium	4	8 800	3 270	5 530	63 %
Germany	4	9 350	7 460	1 890	20 %
Denmark	5	10 200	7 380	2 820	28 %
Greece	17	70 270	36 118	34 152	49 %
Spain	6	19 800	12 990	6 810	34 %
France	14	26 960	13 618	13 342	49 %
Ireland	5	12 580	7 930	4 650	38 %
Italy	8	35 432	22 882	12 600	36 %
Luxembourg	3	6 570	4 438	2 132	32 %
Netherlands	5	7 150	3 980	3 170	44 %
Portugal	2	2 250	1 350	900	40 %
United Kingdom	10	37 390	32 596	4 794	13 %
Other	4	900	570	330	37 %
TOTAL	87	247 652	154 582	93 120	38 %

141 projects and studies which have received finance since 1982, checks carried out on the spot by the Directorate-General for transport up to the end of 1991 covered the 23 cases in which final payments had been made and the files closed. The Directorate for Financial Control (DG XX), for its part, has carried out a few on-the-spot controls in this area.

3.19. Article 5(4) of the latest Council Regulation, No 3359/90, provides that Community budgetary support may not exceed 25 % of the cost of the total project or of the part of the project receiving assistance. As the regulation does not state at which stage this rate is applicable, the Commission considers that it must be applicable at the end of the project on the basis of the final cost.

3.20. This being so, the exact rate of subsidy is unclear throughout the projects. In the case of the decision concerning the improvement of the Athens-Patras railway line, for example, the Community budgetary support granted at the time of the decision, with the approval of the Financial Controller, amounted to 4 Mio ECU, equal to a level of support of 27,58 %, which at that moment was higher than the regulation maximum. In a similar case, concerning the trans-Pyrenean road links, and more precisely, the Somport tunnel, although the Community subsidy in overall terms is less than 25 %, this does not hold good for the French part of the project assisted. In fact, the decision concerning this part authorizes Community assistance of 14 Mio ECU, for a total estimated cost of 42 mio ECU, equal to a support level of 33,33 %, which is, once again, higher than the ceiling given in the regulation.

3.21. In the Court's view, such an application of the rules is not regular. In the absence of any specific provisions in the regulation, checks to ensure that the maximum permitted rate has not been exceeded should be carried out at the moment the decision is taken and at the final statement stage. A system of internal control should also be introduced to ensure that the situations pointed out by the Court do not recur.

3.22. In addition, the Regulations do not give any indication of the date with effect from which expenditure on the project becomes eligible. In view of this uncertainty, the Commission has included in its financing decisions the dates on which the work is expected to start and finish, which, however, are not used as terms of reference for determining the eligibility of the expenditure.

3.23. For example, audits carried out on the spot by the Court showed that some Member States, when applying for payment of the second advance or the final payment, submitted expenditure which predated the date given in the decision as the date on which the works were expected to start, but this had not affected the advance or final payment made. In Ireland the six projects inspected by the Court submitted supporting documents for work going back five years before the date for the start of work stated in the financing decision. In France the financing decision of 23 December 1986 concerning the Bayonne-Hendaye rail

project expected work to start in 1987, but an on-the-spot audit of supporting documents revealed that expenditure from 1984 had been included in the project accounts.

3.24. This kind of application of the regulation does not promote the incentive effect of Community aid and results in the growing use of such aid for the purpose of refunding national expenditure which has already been settled.

3.25. The weaknesses that were found to exist in the management, monitoring and control of projects, notwithstanding the existence of an infrastructure committee and the initiatives taken by managing departments, are due to the lack of any formal structure for monitoring, controlling and, above all, coordinating infrastructure investment.

Evaluation

3.26. Owing to the absence of relevant, identifiable and measurable indicators of physical and financial execution and impact, it is not possible to evaluate transport infrastructure projects efficiently. This being so, there is no way of confirming and justifying the decisions taken.

3.27. The Court regrets that the Commission does not systematically use as the basis for an analytical method the economic and impact studies made by national authorities and organizations specializing in transport infrastructure, particularly in France and the Federal Republic of Germany.

3.28. Especially in the environmental sphere, where it is generally accepted that the impact of transport in general and transport infrastructure in particular is seldom ecologically neutral, there are often no impact studies, and those which do exist are not adequately taken into account by the Community authorities in the process of selecting transport infrastructure projects.

3.29. The absence of predefined appraisal criteria renders the task of *ex post* evaluation difficult, not to say impossible. Checks made by the Court showed that neither the Member States nor the Commission had carried out any *ex post* appraisal, even in the case of the 23 projects that had been completed.

3.30. The Court did find, however, that the Commission was trying to make progress in the matter of evaluation by

consulting specialists and trying to develop a method of appraisal based on indicators. Progress in this area is particularly necessary because, in the light of the Maastricht Treaty, transport infrastructure will assume greater importance as a means of promoting economic and social cohesion and will therefore require monitoring and more accurate control based on a pertinent appraisal.

3.31. Optimum operational exploitation of the appraisal methodology thus developed should be of use to all the departments involved in constructing and financing transport infrastructure.

IV. ADDITIONALITY

4.1. The aim of Community financial support for infrastructure projects of Community interest is to encourage the Member States to construct, or speed up the construction of, infrastructure works. For this to be effective, the financial assistance provided should be additional to any national funding that has already been provided, rather than a substitute for it.

4.2. The regulations that were adopted in this area prior to the latest, 1990, Regulation do not mention this principle specifically. Similarly, the financing decisions adopted under these regulations are silent on the subject. Only after 1990 did the concept of additionality make its appearance in Commission financing decisions.

4.3. The audits carried out in various Member States have clearly shown that even though Community support does not form a significant part of the funding for transport infrastructure at national level, it has not had the desired additionality and instead has tended to be treated as a reimbursement of national funds.

4.4. For example, in Germany and Ireland the audits showed that there had been no improvement in the situation noted in the transport chapter of the 1988 Annual report and that there was still no demonstrable link between the receipt of Community funds and increased expenditure on infrastructure projects of Community interest. The adoption of the 1990 Regulation has not changed the situation in any way. Audits carried out by the Court in 1991 showed that the Community subsidies granted for transport infrastructure were still in the hands

of the Treasuries in the Member States and in consequence there was no evidence of additionality in practice. The final recipient of the subsidy was often unaware of the existence of the Community element in the funding.

V. COORDINATION AND THE GUIDELINES ENVISAGED

Coordination: general

5.1. Transport infrastructures constitute an important factor in the realization of the global objectives of the Single Market and of economic and social cohesion. This necessitates coordination among the various Community policies in drawing up the multiannual programmes.

5.2. An examination of the various files shows that, in practice, coordination, be it between the instruments of Community policy, between the Commission and the Member States or even among the Member states, themselves, or between the Commission and non-member States, is far from adequate and has had only limited success.

Coordination between the instruments of Community policy

5.3. The aim of coordination is to combine the various instruments of Community policy in such a way that together they contribute to the realization of common general objectives. This inevitably means that the convergence of the objectives of the various policies towards the main objective of completion of the Single Market and economic and social cohesion must be manifested in a harmonized approach at the level of the various instruments.

5.4. Coordination between the specific transport budget heading and the ERDF has often remained on a formal level, without any real interdepartmental cooperation with a view to constructing infrastructure networks — by mode of transport or combining types of transport — which will take maximum account of all the considerations.

5.5. In practice, the lack of coordination results from relations between the managing departments being based exclusively on the formal aspects. Even at this level, the Court, in its annual report concerning the financial year 1988 ⁽¹⁾, had already observed that it was surprising that

⁽¹⁾ OJ C 312, 12.12.1989, chapter X, p. 137.

the Commission had not developed clearer operational links between the transport infrastructure programme and some of the related policies.

5.6. The checks carried out in 1991 confirmed these facts and even led to the discovery that the situation had worsened, particularly since the reform of the Structural Funds and the drawing up of the Community Support Frameworks (CSF). In fact, at the interdepartmental consultation phase in the drawing up of the CSFs, the Directorate-General for Transport, though it was systematically consulted by the Directorate General for the ERDF, has practically never formulated a reply concerning transport infrastructures, even when the latter were of interest for the Community network.

5.7. Thus, in Ireland the majority of transport infrastructure programmes, with the exception of the Dublin-Belfast railway line, are included in the operational programme resulting from the negotiation of the Community Support Framework for the reform of the Structural Funds in respect of regional development, without the DG for transport having formally delivered its opinion.

5.8. In Spain, the Court found that the Saragossa — Burgos road link was supported by various Community financings at the same time. An examination of the files revealed that this road project had been divided into 12 sections. Two of them, Lerma-Sarracin and Carabias-Milagros, were receiving financial support as transport infrastructures of Community interest, whilst the majority of the other sections were receiving finance under the head of PNIC Autovias, as part of regional development. In spite of the existence of these various forms of finance, there was no sign in the appraisal and implementation files for these projects of any increased cooperation or coordination between the Directorates-General concerned.

5.9. The regulations provide for coordination with the EIB and the other existing financial instruments, but such coordination is not easy to put into practice. The EIB systematically consults the Commission as to the interest for the Community of each transport infrastructure project for which it is considering granting financial assistance. An examination of the documentation available nonetheless shows that checks remain very limited and are not even harmonized with other sources of financing.

5.10. The absence of any real coordination structure has negative repercussions, not only at the level of the definition of Community transport networks but also at the level of the implementation of the various sources of financing. In fact, each of the Directorates-General insists

on its own independent budgetary administration and control, without any real cooperation with the other Directorates-General and without making optimal use of the financial resources employed.

5.11. This situation is made worse by the fact that, as the Court has indicated in those chapters of its annual reports that deal with the ERDF, there are inconsistencies between the conditions governing financing, eligibility and the rate of aid fixed in the ERDF regulations and those agreed in the specific regulations adopted each year up to 1990 concerning transport infrastructures of Community interest.

5.12. Increased coordination is necessary, particularly if one accepts the assumption that the implementation of the Cohesion Fund will require the intervention of several Commission Directorates-General.

Coordination between the Commission and the Member States and among Member States

5.13. Coordination with the Member States is also poor and ought to be improved. An examination of projects presented by the Member States showed that any coordination via the Infrastructure Committee was merely illusory, because the latter was in fact only involved at the implementation of regulations stage, and was not involved in the definition of plans and programmes for transport infrastructures of Community interest. The Irish authorities admitted, during an on-the-spot audit, that they had no contact with the DG for transport with regard to the coordination and administration of transport infrastructure projects.

5.14. Furthermore, attempts at coordination often give rise to tricky problems. The setting-up of networks of Community interest has to be reconciled with the priorities and constraints of national plans. The Member States, which are used to drawing up their infrastructure programmes independently, do not always willingly accept the idea that the transport infrastructure 'outline plans' should be more binding.

5.15. In addition to this major problem of coordination, two other important factors must be taken into consideration. The first relates to the diversity of, and even the differences in, priorities accorded to transport infrastructures in the Member States. This problem is made even worse where there are substantial differences in priorities between two neighbouring countries. As far as the definition of an infrastructure network of Community

interest is concerned, it is difficult to bring these differences together in one document, particularly in the context of a transfrontier vision of networks. The second factor relates to the wide variety of different types of equipment used by the various types of transport in each of the Member States and the national priorities accorded to them. The part played by the outline plans of Community interest will remain weak if the guidelines which they contain are not more closely integrated by the Member States into their priorities.

5.16. The Committee on transport infrastructures should see its powers increased as a result of the Maastricht Treaty, particularly as regards programming and the coordination of work with the national authorities. With this in mind, contacts have already been established with a view to improving this type of coordination.

Coordination between the Commission and non-member states

5.17. The development of relations with the countries of the European Free Trade Association (EFTA) and with those of Central and Eastern Europe in recent years has necessitated a common approach to problems connected with transport infrastructures. Commendable efforts have already been made in this direction and these are to be encouraged. However, additional efforts and increased coordination are necessary to take Europe-wide problems into account.

5.18. The pan-European transport conference held in Prague in November 1991 confirmed this vital need for coordination at all levels and voiced collective awareness of the problem.

5.19. The essential basic factor which emerges in relation to coordination is that many efforts have been made but in too haphazard a way to be fully effective. It is very important that the coordination aspects should be greatly improved and that a coordinating authority should be specifically appointed.

Proposed guidelines

5.20. The Treaty on European Union signed at Maastricht on 7 February 1992 defines the main Community guidelines in the transport infrastructures field. Article 129(b), stipulates that the Community, in order to achieve the objectives of the Treaty, — to strengthen social and economic cohesion and to gradually establish the Single Market — 'shall contribute to the establishment and development of trans-European networks in the areas of transport... infrastructures'.

5.21. Back in 1990 ⁽¹⁾, the Commission, in a communication to the Council and the European Parliament, proposed a Community action programme entitled 'Towards trans-European networks'. This communication was in response to the mandate given to the Commission by the European Council (at its meetings in December 1989 and June 1990), inviting the Commission to propose appropriate measures, taking into account the possibilities of extending this action throughout the Community and paying particular attention to peripheral situations within the context of economic and social cohesion.

5.22. This communication, after analysing the geographical dimension, the content and the environmental problems connected with trans-European network infrastructures, presents the main elements of a Community action programme. The inclusion in the Maastricht Treaty of a new title on trans-European networks was the concrete result of the activity triggered off by this communication.

5.23. As far as the financing of the trans-European networks is concerned, the communication emphasizes the priority role which private financing will be called upon to play in the creation of these new networks. Favourable conditions are necessary to ensure that private operators make their financial contribution: risks must be under control, the concept of profitability must be present and there must be the political will to realize these trans-European networks.

5.24. For the Commission, a 'déclaration d'intérêt européen' (DIE) ⁽²⁾ constitutes the concrete expression of the Community's commitment in respect of clearly defined initiatives. It is thus intended to encourage the financial markets to provide financing for the projects(s) covered by the DIE.

5.25. If a DIE issued by the Commission is to be credible in financial circles, projects likely to receive such support must be selected with great care, selection being based on meaningful assessment criteria and careful measurement of economic impact. No such analysis chart has yet been drawn up.

5.26. The DIE is the follow-up to the 'declaration of European interest' (DUE) which is provided for by Council Regulation (EEC) No 3359/90 of 20 November 1990 and may be adopted by the Commission with the assistance of the Transport Infrastructure Committee, on the basis of projects which lie within the scope of the priorities of this regulation. This new DIE takes over from the declaration of European interest, which had not produced the expected results, and it will be included in the regulation extending, from 1 January 1993, Regulation (EEC) No 3359/90.

⁽¹⁾ Document COM(90) 585 final of 10 December 1990.

⁽²⁾ OJ C 71, 20.3.1992, p. 7 (Doc. COM(92) 15 final submitted by the Commission on 24 February 1992).

VI. CONCLUSIONS AND RECOMMENDATIONS

6.1. The field of transport infrastructures is of considerable importance in the implementation of transport policy and in that of other Community policies. In this sense, it constitutes a fundamental element in the completion of the Single Market and the development of economic and social cohesion.

6.2. Transport infrastructures receive large amounts of money from the ERDF, within the framework of the Structural Funds, and from the EIB in the form of individual loans. Subsidies granted in respect of transport policy are scanty and widely dispersed. That being the case, it is not possible to ensure that the interventions complement each other, nor to create possible synergies. The diversity of the various types of funding requires an appropriate general framework and effective coordination.

6.3. Although the Directorate-General for Transport is formally consulted in the case of more than 95 % of Community interventions, whether in the form of ERDF subsidies (52 %) or EIB bank loans (45 %), it does not carry out a detailed examination of them.

6.4. In order to increase the effectiveness of its interventions, the Community must define, in a clear and precise manner, not only the objectives to be assigned to such interventions in the field of transport infrastructures, but also the priorities to be implemented in a coordinated fashion.

6.5. In this respect, Title XII of the new Treaty, which deals with trans-European networks, and Title XIV, regarding social and economic cohesion, provide an excellent starting point and need to be translated into action by means of an appropriate structure.

6.6. The objectives and priorities being thus defined, the financial instruments and resources have to be found. In view of the amount of existing and available financing, improved coordination is necessary to make optimum use of this funding and to ensure that the Community resources are complementary and additional to national measures and financing.

6.7. On this basis, and applying the principle of subsidiarity, the international dimension of transport infrastructures calls for increased collaboration and cooperation between the various partners. Consultation procedures, or even a coordination structure, thus become necessary in order to strengthen the Community's role in the field of transport infrastructures of Community interest.

6.8. The implementation of the measures planned rests on prior physical and financial planning, and the programme-based approach, which appears for the first time in Council Regulation (EEC) No 3359/90 therefore needs to be strengthened.

6.9. This programme-based approach may best be achieved by seeking to identify needs more effectively and selecting those projects most likely to meet the requirements. The Commission must therefore provide itself with the means of observation and guidance which will make it possible to improve the potential synergies which exist.

6.10. These means should permit not only improved planning and coordination, but also more efficient monitoring and control. The serious weaknesses which the Court uncovered when carrying out on-the-spot audits and documentary audits, both at the Commission and in the Member States, must be eliminated if the expected developments are indeed to be realized.

6.11. It is important that the Commission should establish a methodology for the monitoring and control of projects in this field, whilst at the same time developing operations for on-the-spot checks of transport infrastructures.

6.12. The situation as regards assessing the projects decided upon and implemented and measuring the impact of transport infrastructures is equally unsatisfactory. In addition to the efforts already undertaken by the Commission in this field, further work is necessary and an assessment method must be found.

6.13. The rules concerning eligibility must be clear. However, the regulations currently in force are inadequate in this respect, which makes the administration, monitoring, control and assessment of projects difficult. The next Council regulation should solve this problem. Without such legal provisions, no type of internal or external control can be carried out effectively.

6.14. The principle of additionality, which appears in the decisions taken by the Commission in 1991 in application of Regulation (EEC) No 3359/90, has not yet actually been applied. In order to make this principle effective — which is essential from the point of view of sound financial management — it must be formally enshrined in the legislation, since otherwise the Member States will continue to see Community subsidies as reimbursements of national expenditure, as they have in the past. A transport infrastructures policy of Community interest, with a far wider scope and far greater repercussions than the current

policy, can only be based on the proper application of the principle of additionality.

6.15. The Commission must take care, especially in respect of the implementation of the principle of subsidiarity and within the framework of an active partnership, on the one hand to remould the procedures governing its interventions and, on the other hand, to specify and strengthen the powers of the departments responsible — both national and Commission departments — in such a way as to ensure efficient monitoring and control, which is the guarantee that a measure is under control at Community level.

6.16. The draft Council Regulation (EEC) of 11 June 1992 which, as of 1 January 1993, will extend Regulation (EEC) No. 3359/90, which is currently in force, does not constitute the expected progress as far as legal provisions are concerned, and does not seem to take into account earlier comments made by the Court in 1988.

6.17. The pressure of deadlines and the rapid development of the social, economic and political environment further increase the urgency with which measures need to be taken to give transport infrastructures the role and the weight necessary for the achievement of the European Union that is the object of the Treaty of Maastricht.

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 21 January 1993.

For the Court of Auditors

André J. MIDDELHOEK
President

REPLIES OF THE COMMISSION

I. INTRODUCTION

The Commission has studied the Court of Auditors draft special report of 8 October 1992 on the financing of transport infrastructure. Before responding to the criticisms levelled at the management of the specific instruments used to finance transport infrastructure projects, it wishes to begin with a number of general comments.

Transport infrastructure is an essential component of the common transport policy. However, the Member States have not yet given the Community the legal and financial resources needed to develop a coherent long-term investment strategy in this area. The Court of Auditors report alludes to this fact on several occasions.

Decision-making power as regards transport infrastructure investment lies with the relevant national and regional authorities. Their decisions are inspired chiefly by national and regional considerations. In the past, the Community has endeavoured to give a Community dimension to the national decision-making process by highlighting the problems raised by the interconnection of national networks and the cross-border interoperability of the various modes of transport.

It is against this background that the Community's past efforts and their subsidiary nature and limited impact must therefore be evaluated. This does not mean that the Community has to resign itself to such a situation. The growth of international traffic, the establishment of the single market and the drive for economic and social cohesion are making the need for concertation between the Member States in the transport sphere increasingly acute.

The Commission, which has just adopted an important communication [COM(92) 494, 2 December 1992] on the future development of the common policy on transport, moreover intends to develop interconnected and interoperable transport networks from a multimodal perspective so as to ensure the lasting mobility of persons and goods. However, the Member States will always remain the architects of their own transport infrastructure. As regards the financing of such infrastructure, under the strategy proposed by the Commission, the portion of the necessary investment costs to be charged to the Community budget will not differ greatly from what it is at present. However,

the mechanisms needed to facilitate these financing operations have to be perfected. The call made by the Edinburgh European Council (11-12 December 1992) to the Ecofin Council and the EIB to give urgent consideration to the creation of a new temporary loan mechanism of ECU 5 billion under the EIB and of a European investment fund so as to provide the necessary guarantees falls within this context. In particular, the application of a coherent and comprehensive approach to the development of the Community's transport systems should be an important yardstick in the eyes of potential investors.

The Treaty on European Union, while promoting the concept of trans-European transport networks, also lays down limits for Community intervention by listing the various tasks incumbent on the Community (Article 129c). Community intervention in financing infrastructure is even more tightly circumscribed in that it must concentrate mainly on feasibility studies, interest rate subsidies and loan guarantees.

II. GENERAL FRAMEWORK SURROUNDING TRANSPORT INFRASTRUCTURE MEASURES

The place of transport infrastructure in Community policy

2.7. It is true to say that the report [COM(92) 231] on transport infrastructure concentrates on describing the use made of budget resources in the period 1982-92 without making any qualitative judgement. An analysis of the economic effects, in terms of transport sector efficiency, and the extent to which they have influenced national priorities is expected in 1993.

The regulations

2.16. The new Commission proposal concerning the declaration of European interest, referred to in points 5.24 and 5.26. ⁽¹⁾ sets out to redefine this instrument so as to make it more attractive both to public authorities and to private investors.

2.18. Whereas belated commitments in the years to 1990 are to be explained by the date of Council decisions (only at the end of the year), in 1991 and, especially, in 1992 the situation improved. The infrastructure Committee was able to deliver its opinion in the early part of the year while a far more intensive coordination procedure was set up with the other Commission departments and the Member States, mainly thanks to the new arrangement entailing the drafting of outline plans in anticipation of the measures provided for in Title XII of the Maastricht Treaty.

Funding

2.19. Despite their limited amount, the ECU 700 million implemented under the transport policy during the ten years in question did make it possible to:

- unblock a number of projects of Community interest;
- influence certain national priorities;
- prompt or supplement feasibility studies for projects of Community interest, funding for which is generally very difficult to secure.

2.24. Calculating the short-term regional impact of transport infrastructure works is a delicate matter. In its annual report on the 1987 financial year (point 6.70) the Court itself rightly stated that 'although the presence of infrastructure was necessary and essential condition of regional development, it is far from being enough'.

2.27. The level of Community support is conditioned by the 25% ceiling laid down in the regulations. It varies

mainly as a result of the high number of applications submitted by the Member States.

2.28. Two different considerations influence Community support operations:

(i) regional policy, and (ii) the Community interest of projects located on trans-frontier trajectories. The 'trans-European networks' approach, which has to encompass all aspects of transport infrastructure, including connections with feeder networks, will make it possible to obtain an overall picture.

III. IMPLEMENTATION OF THE REGULATIONS CONCERNING THE FINANCING OF TRANSPORT INFRASTRUCTURE OF COMMUNITY INTEREST

Programming

3.2. Despite the efforts made by Eurostat, reference has often been made to the lack of comparable and reliable statistical data, a situation which can only be rectified with the active support of the Member States. Public and private initiatives are currently being taken with a view to solving these practical difficulties. It is in this connection that the Commission supports the initiatives taken to ensure coordination between the existing national observatories or to set up a Forward Analysis Centre for Infrastructure as proposed by the European Round Table of Industrialists. The EURET research programme also incorporates measures to this effect.

3.3 – 3.4. The first outline plan, which concerned the High-Speed Train, was proposed by the Commission in December 1990. Other plans (combined transport, roads and navigable waterways) were proposed in June 1992 following major preparatory work carried out since 1990.

Guidelines for other modes of transport (sea, air, rail) are in preparation. The value of the overall approach referred to by the Court has therefore not escaped the Commission, which has undertaken to present guidelines for a multi-modal system incorporating existing or imminent proposals for modal plans by the end of 1994.

⁽¹⁾ Proposal for a Council Regulation introducing a declaration of European interest to facilitate the establishment of trans-European networks in the transport domain — COM(92) 15.

3.5. Steps must be taken to ensure that the specific projects supported by the Commission are compatible with the thinking behind the projects and plans drawn up by the Member States. It is therefore normal, and consistent with the principle of subsidiarity, that the Community should continue to focus its activities on projects 'which form part of national transport infrastructure plans and guidelines'. The Community interest is moreover defined in Council Decision 78/174/EEC setting up the Transport Infrastructure Committee and in Regulation (EEC) No 3359/90 on the action programme in the transport infrastructure field.

Management, monitoring and control

3.6–3.8. The Commission has set up systems for monitoring the progress of projects. As intimated in point 3.14 of the Court's report, throughout 1992 the Commission impressed on the Member States the need to supply data on the projects in progress and made inspection visits to the twelve Member States in order to verify the state of the works and the related expenditure on the spot. More than 100 projects qualifying for financial support were thus subjected to a visual and accounting inspection.

Particular attention was paid to projects running behind schedule. The conclusions to be drawn from these inspections will be drawn shortly and submitted to the Transport Infrastructure Committee. Furthermore, they may give rise to more detailed rules in the future.

3.9. As regards the Zaragoza-Barcelona railway line, an initial instalment of 40 % was paid out in accordance with the rules under Decision C(88)2410 of 20 December 1988.

The provisional timetable for the works covers the period 1989 to 1994. The Commission is studying progress on this project with the Spanish authorities and will take the steps provided for in the rules should the project not be completed on time.

3.10. The inspection carried out in France in October 1992 confirms the situation described by the Court. The Commission will re-examine the file and draw the appropriate conclusions.

3.11. As a result of the on-the-spot inspections carried out in 1992 in Belgium, Germany, France, Greece, the United Kingdom and Ireland, final payments have been made in respect of 16 of these projects, viz. Port of Ostend (B), A4 Motorway (DE), Axios-Gallikos, Klidi-Axios, Inofita-Schimatari, Ritsona-Thiva and Solomos-Nemea

(EL), le Fayet-les-Houches, Calais-A 26 and A 26-Marck (F), Newry and Maidstone-Ashford (2 projects) (UK), Wexford, Shankill-Bray and Tallaght-Galway (IRL). The inspection work on the remainder of the projects pinpointed by the Court is still in progress.

3.12–3.14. By their very nature, infrastructure projects involve long periods of planning and execution, over which the Commission has no control. Once the Commission decision to fund a given project has been taken, the execution of the project is subject to the time-scale imposed on it by the competent authority and the difficulties inherent in its completion.

At the end of 1992, the inspections carried out in all the Member States made it possible to close the files on a large number of projects so that only 41 projects or studies which should have been completed at 31.12.1991 remain, with a balance to be paid of ECU 49 632 000 (see updated Tables 2 and 3 in Annex).

3.15. Regulation (EEC) No 1108/70 has a statistical and fiscal purpose connected with the breakdown of infrastructure expenditure between the various modes of surface transport. These data are not naturally suited to the implementation of the Regulation on the Community funding of infrastructure.

Obviously, however, any information gathered under Regulation (EEC) No 1108/70 which might be of relevance to the funding of infrastructures will be taken into account.

3.16–3.17. The fact that between 1983 and 1989 the Commission failed to comply with the regulations requiring it to present an annual report to the Council cannot be blamed on the Commission itself. If the Member States fail to submit the necessary information, the Commission cannot produce a homogeneous report containing exhaustive, reliable and comprehensive data.

Apart from sending numerous reminders (some 40 letters have been sent to the Member States over the last three years), the only way in which the Commission can obtain the requisite information is to open infringement proceedings against a recalcitrant Member State. The Commission has done this on occasion (e.g. against Luxembourg, France, Belgium and the Netherlands) and will do so again in future if necessary.

To make up for the delay, the Commission works by dealing with several years at a time.

3.18. As stated with regard to points 3.12 to 3.14, a large number of projects were inspected in 1992; more than 100 of the 141 projects and studies financed between 1982 and 1991 have now been inspected.

3.19 – 3.20. It is true that Regulation (EEC) No 3359/90 does not specify the point at which the ceiling for Community support, amounting to 25% of the total cost of a project, should be calculated. The Commission proceeds from the assumption that the initial total cost of the project is simply an estimate that may well be exceeded during its implementation, so that the final cost of the completed project may in some cases be higher than the initial estimate. In the case of the Athens-Patras project, the fact that the maximum amount of ECU 4 million in financial support is equivalent to 27.58% of the initial cost estimate will have no impact on the final calculation of the financial support since the lower of two ceilings (ECU 4 million or 25% of the cost) will be applied.

The Somport tunnel project through the Pyrenees should be seen as a single project even though, for strictly legal reasons and regardless of the geographical location, there are two separate decisions, one for France and one for Spain. The total cost of the project when the French and Spanish shares are combined is ECU 126 million; the level of financial support at ECU 29 million, remains well below 25%. Having taken note of the decision of the Pau administrative tribunal of 2 December 1992 affecting the execution of the project, the Commission immediately requested the French government to inform it of its precise intentions.

3.21. The Commission notes the Court's opinion. In connection with the next proposal for legislation to implement the Maastricht Treaty, it will consider ways and means of clarifying the current ambiguity regarding the point at which the 25% ceiling for Community support should be calculated.

3.22 – 3.23. Regulation (EEC) No 3359/90 (much like the previous regulations) stipulates that Community budgetary support constitutes a portion of the total cost of the project [Article 5(4)]. The total cost of the project, on the basis of which the level of the Community subsidy is therefore determined, comprises all expenditure made in order to complete the project, from preliminary studies to actual execution of the work and including compulsory purchase of land. Consequently, all eligible expenditure (see point

3.18) means expenditure which relates to the project whenever it was incurred, be it before or after the Commission decision to grant financial support was taken. The sole purpose of including a timetable (dates of start and end of works) is to emphasise the recipient's commitment to complete the project within a specified timescale, it being in the Community's interest to see the project completed on time in view of its importance to the Community network.

The inspections carried out by the Commission must therefore focus on the relationship between the expenditure incurred and the project for which aid is granted, irrespective of the date of that expenditure. As regards the projects referred to by the Court in point 3.23, the inspections carried out showed that the expenditure incurred prior to the forecast commencement date did relate to the project financed.

3.24. In the Commission's view, Community aid has a genuine incentive value. More precisely, Regulation (EEC) No 3359/90 lays down that the total cost of the project constitutes the basis for calculating Community aid. This means that account can be taken of all related expenditure, which in turn makes it possible to speed up the payment of the second instalment and of the balance and therefore to make additional financial resources available for the project.

Expenditure incurred prior to the financing decision is taken into account only where the projects financed have already reached a certain stage. There are no instances of reimbursement of past expenditure. On the contrary, this mechanism makes it possible to make new resources more swiftly available for projects of Community interest and to accelerate their completion.

3.25. The Commission has introduced the various ways and means needed to monitor, inspect and coordinate transport infrastructure investments.

Evaluation

3.26 – 3.27. Each finance application is accompanied by indications concerning the socio-economic return on the project. Although carried out in some Member States, economic and impact surveys cannot be introduced everywhere owing to the application of different criteria. Furthermore, it should be borne in mind that the Commission has begun to carry out overall studies of the impact of entire networks (e.g. the high-speed rail network) in connection with the outline plans now being drawn up.

3.28. As regards the environmental impact assessment, compliance with Directive 85/337/EEC is a condition for Community support applications. Applications are examined in such a way that Community funds cannot be used to finance projects unless the relevant impact assessment has been duly made.

3.29 – 3.31. Provision for the *post facto* scrutiny of projects is made by Article 10(5) of Regulation No 3359/90, which stipulates that the Commission shall do this 'in due course, after the completion of projects'. Such scrutiny involves working closely with the Member States concerned, which must provide the necessary information.

Scrutiny of this type serves a genuine purpose only if it relates to projects which form part of a coherent multiannual programme such as the 1990-1992 programme and relate to the trans-European networks.

The Commission is planning an initial overall review of projects financed between 1982 and 1992 and will also endeavour to devise methods for the socio-economic analysis of infrastructure projects.

Furthermore, the production of outline plans as referred to in points 3.3–3.4 will provide a reliable reference framework for such evaluation work.

IV. ADDITIONALITY

4.4. In individual decisions granting financial support, the Commission stipulates that any portion of the Community subsidy which is used to meet expenditure other than on transport infrastructure will have to be refunded.

The Commission is thus prepared to allow recipient Member States a certain leeway on the internal level so as to ensure that Community financial support attains its objective.

Moreover, the Commission decisions stipulate that the authorities responsible are obliged to inform the public that the Community is giving financial support by posting notices on the site.

The Commission departments responsible for on-the-spot inspection always check compliance with this obligation.

V. COORDINATION AND THE GUIDELINES ENVISAGED

Coordination: general

5.1. The Commission agrees with the Court on the need for tighter coordination between the various Community instruments. It made this clear in COM(92) 231 (Transport Infrastructure).

Coordination between the instruments of Community policy

5.4. Coordination cannot be carried out without regard to the specific ways in which the authorities concerned operate. The ERDF approach is based on the individual operational programmes presented by the eligible regions, whereas the transport infrastructure programme concentrates on certain types of projects presented by the Member States.

In point 7.33 of its replies to the Court's report for 1990, the Commission stated that 'the fact that the programme-based approach excludes a specific examination of each project concerned sometimes makes it difficult to make the connection between structural measures and transport infrastructures.'

5.7. In Ireland, the majority of transport infrastructure projects do indeed fall within the operational programme arising from the Community support frameworks. The latter are drawn up by the Commission and do not suffer from a lack of consultation.

5.8 – 5.11. Every project, whether handled through the ERDF, the EIB or the transport infrastructure programme, rightly goes through a process of internal consultations. The Commission wishes to point out that decisions for the implementation of the action programme for transport infrastructure are taken after internal coordination. The TIC provided for in Article 9 of the Regulation is consulted. The Member States, of course, are represented on this committee, but so are the various Commission departments concerned and the EIB. After that, all the departments directly concerned by the projects (e.g. from the environmental angle) are asked for their opinions, which are then discussed in depth. Coordination with the EIB follows the usual procedure.

Coordination between the Commission and the Member States and among Member States

5.13 – 5.14. The guidelines for the networks, which will spell out the objectives, priorities and broad lines of measures and identify projects of common interest, will enable the TIC to play a greater coordinating role, particularly as it will also be involved in establishing the guidelines.

5.16. The future of the TIC is under review, and consideration will have to be given to its future methods of operation as the trans-European networks develop.

Coordination between the Commission and non-member countries

5.17 – 5.19. Coordination with non-member countries has to be continued. Bilateral consultations and collaboration with other supranational bodies should make it possible to identify the most effective measures. The conclusion with non-member countries of cooperation agreements relating specifically to transport will prepare the ground for effective coordination with these countries, especially as regards the development of trans-European networks.

Proposed guidelines

5.25. The draft regulation sets out the conditions governing the eligibility of projects which may be declared as being of European interest. These conditions include the presentation of all technical and economic feasibility studies and environmental impact assessments. Projects must also be consistent with the guidelines for transport networks. More detailed rules governing the application of this regulation will be issued once it has been adopted.

VI. CONCLUSIONS AND RECOMMENDATIONS

6.2. As a result of the work begun in 1989 on trans-European networks, especially in the field of transport, to which a specific Title is devoted in the Treaty on European Union, the Commission can now operate within a set of

permanent, coherent and binding rules and thus meet most of the Court's criticisms of its activities hitherto.

Furthermore, the Commission Communication of 2 December 1992 on the development of transport policy after 1992 sets infrastructure firmly within the broader framework of this policy with the aim of ensuring that measures taken in all sectors can combine to enhance the efficiency of transport systems.

In the Commission's view, these two factors can together underpin a coherent and, above all, more comprehensive policy for the future. They will also provide the other Community instruments — the ERDF, the future Cohesion Fund, the EIB and the ECSC lending instruments — with the sort of background references which are of capital importance for assessing the Community scope of the projects submitted to them through other channels.

6.3 – 6.5. An in-depth examination of individual projects presupposes the existence of a specific yardstick for assessing how a given project meshes with other projects and with the aims pursued. The outline plans and guidelines already mentioned will serve as a basis for this.

6.6. The Commission sees the Treaty of Maastricht as providing for a new form of complementarity between the Community instruments available for financing transport infrastructure. This is clear from the objectives enumerated in Title XII of the Treaty.

The new legislative framework should facilitate the coordination advocated by the Court. Such coordination will apply to support given by the ERDF as the relevant structural Fund, by the Cohesion Fund, by the EIB and by the other financial instruments that can support transport infrastructure of Community interest (e.g. the ECSC).

6.7. A continuous dynamic partnership involving all those concerned (Member States, EIB, Commission Directorates-General for the Environment, Regional Policy and Industrial Policy, industrialists, network operators etc) will be needed to prepare the outline plans and guidelines referred to at points 3.3 and 3.4. If they are all involved at an early stage, there will be a broader consensus on the guidelines and the measures subsequently taken on the basis of them will be more coherent.

6.8–6.9. The trend in trans-European transport networks is towards greater planning based on precise objectives and priorities and the identification of projects of common interest. A medium-term financial planning system is also to be introduced.

In performing its tasks, the Commission will exploit all available sources of information, especially the information yielded by the initiatives referred to in point 3.2.

6.10–6.12. At points 3.29–3.31, the Commission mentioned the initiatives which it has taken and intends to take to ensure better monitoring and *post facto* examination of funded projects.

In more practical terms, the Commission will have studies carried out and technical assistance provided for the monitoring of projects. Where appropriate, it will set up specialized monitoring committees in conjunction with the

Member States concerned. Consideration is also being given to the possibility of stepping up Commission audits in the Member States concerned and using specialist firms to perform and intensify the monitoring and verification of Community financing operations. The Commission will from time to time report to Parliament, the Council and, where appropriate, the circles concerned.

6.13. The Commission agrees that future regulations should contain clearer provisions in this respect; this ties in with its reply to point 3.21.

6.16. The proposal for amendment of Regulation (EEC) No 3359/90 represents a transitional arrangement between the current system (1990-1992 programme) and the new rules to be introduced after ratification of the Treaty on European Union. The progress called for by the Court should be achieved by implementation of this new legislation.

Table 2 — Position at 15.12.1992 concerning projects and studies which should have been completed by 31 December 1991

Member State	Number of projects or studies which should have been completed by 31.12.1991		Projects closed at 15.12.1992	Delayed projects and studies at 15.12.1992	% of projects delayed
	Projects (P)	Studies (S)			
Belgium	3	1	1 P	3	75 %
Germany	2	2	1 P	3	75 %
Denmark	3	2	2 P 1 S	2	40 %
Greece	17	0	7 P	10	59 %
Spain	5	1	4 P	2	33 %
France	13	1	7 P 1 S	6	42 %
Ireland	5	0	4 P	1	20 %
Italy	7	1	3 P 1 S	4	50 %
Luxembourg	3		2 P	1	33 %
Netherlands	4	1	2 P	3	60 %
Portugal	1	1	1 P	1	50 %
United Kingdom	9	1	8 P 1 S	1	10 %
Various organizations	—	4	0	4	100 %
TOTAL	72	15	46	41	47 %

Table 3 — Financial position at 15.12.1991 concerning projects and studies which should have been completed by 31 December 1991
(1 000 ECU)

Member State	Number of projects and studies which should have been completed by 31.12.1991	Community support	Amount paid	Amount outstanding	Amount outstanding as % of Community support
Belgium	4	8 800	4 110	4 690	53 %
Germany	4	9 350	8 660	690	7 %
Denmark	5	10 200	9 480	720	7 %
Greece	17	70 270	55 623	14 647	21 %
Spain	6	19 800	17 880	1 920	10 %
France	14	26 960	19 278	7 682	28 %
Ireland**	5	12 580	11 380	1 200	29 %
Italy	8	35 432	24 632	10 800	30 %
Luxembourg	3	6 570	5 688	882	13 %
Netherlands	5	7 150	3 980	3 170	44 %
Portugal	2	2 250	2 025	225	10 %
United Kingdom*	10	37 390	36 064	1 326	3 %
Others	4	900	570	330	37 %
TOTAL	87	247 652	199 370	48 282	19 %

* U.K.: The 1986 A120 Braintree bypass project completed but final payment (ECU 1 050 million) frozen pending outcome of ongoing infringement proceedings.

** Ireland: Final payments on the 3 completed projects (Wexford: 1984; Shankill Bray: 1985; Dublin ring road: 1987) will be made in January 1993.

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