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EN

I

(Information)

COURT OF AUDITORS

SPECIAL REPORT No 6/97

concerning TACIS subsidies allocated to the Ukraine together with the Commission's replies

(submitted pursuant to Article 188C, paragraph 4, indent 2, of the EC Treaty)

(97/C 171/01)

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1. EUROPEAN UNION COOPERATION WITH THE UKRAINE

The Court's audit

1.1. The Court audited non-repayable European Union (EU) aid to the Ukraine, with particular attention to the efficiency of the TACIS cooperation implementing system. Individual projects in the sectors of nuclear safety, human resources, agriculture and support for the restructuring of enterprises were audited in June 1996. In addition to examining current projects, the auditors also visited four completed projects which the Court had already inspected in 1993. In financial terms these projects (listed in *Table 1*) represented 46,5% of the contracts and 61% of the payments in favour of Ukraine since the start of the TACIS programme in 1991.

1.2. The main object of the observations contained in this report was to provide an appraisal of the efficiency of the assistance supplied to the Ukraine by the EU under the TACIS programme. The observations, which concern the manner in which technical assistance has been employed, have been presented in the form of a special

report in view of the importance of the findings (especially in the nuclear sector), so that they can be drawn to the budgetary authority's attention more quickly. The comments have been grouped according to the main aspects of project execution, rather than by project, in order to give a better picture of the problems associated with the utilization of TACIS aid to Ukraine. In this way, it was possible to make an overall appraisal of the Commission's running of the programme.

1.3. The Ukraine is the second largest TACIS beneficiary, after Russia. Its population numbers more than 52 million people, 68% of whom live in towns. The country covers a total area of approximately 600 000 km², 57% of it cultivated. Ukraine's GNP for 1995 was reported to be around 36 000 million USD, but a World Bank survey indicated that the real level could be twice as high if the black economy was taken into account. Agriculture accounted for 23% of GNP in 1996, mining 8%, industry 25% and services 43%. In 1995 the per capita GNP was equal to USD 1 400, compared with USD 2 600 in Russia⁽¹⁾

⁽¹⁾ Sources: Atlaseco 1997 and The Economist Intelligence Unit, 1st quarter 1996.

TABLE 1
PROJECTS INSPECTED BY THE COURT OF AUDITORS IN JUNE 1996

Project name	(Mio ECU)	
	Contracts	Payments
Agricultural sector		
Meat, milk, fresh produce and animal feed sector in Kiev	2,5	2,1
Meat, milk, fresh produce and animal feed sector in Odessa	2,1	1,9
Improvement to the wholesale and retail trade sector in Odessa	0,7	0,5
Feasibility study for the privatization of sovkhozes in the Odessa region	0,6	0,6
Policy advice and support services	5,4	3,2
Farming support services in Zaporozhie	1,9	1,0
Pilot projects in agriculture restructuring	4,8	1,4
TOTAL:	18,0	10,7
Human resources sector		
Retraining of officers	7,3	2,0
Public administration reform	1,5	0,8
Employment services	1,6	1,3
IMI Business School	2,6	2,2
TOTAL:	13,0	6,3
Nuclear sector		
Rovno on-site technical assistance	4,8	4,2
Equipment for the Rovno site	13,5	10,4
Zaporozhie on-site technical assistance	1,8	0,8
Equipment for the Zaporozhie site	8,0	4,6
Development plan for the creation of a regional training centre for maintenance	1,1	0,3
Support to the Zaporozhie 6, Rovno 4 and Kmelnitski 2 NPPS	3,0	0,9
TOTAL:	32,2	21,2
Business sector		
Implementation of post-privatization (SPF)	4,0	2,9
Post-privatization support	3,3	1,2
Privatization of difficult cases	1,0	0,3
Business communication centre Kiev	3,1	1,9
Development agency Zaporozhie	1,2	0,7
Reconversion of military enterprises	2,9	1,2
TOTAL:	15,5	8,2
Grand total	78,7	46,4

General context

1.4. Since 1994, Ukraine has been implementing an economic stabilization programme with the help of the International Monetary Fund (IMF), the World Bank and

the EU. The programme aims to restore overall macroeconomic balance and to steer the country towards a market economy. Considerable progress has been achieved in these areas but the structural reforms, on the other hand, have made little progress since 1995.

The privatization process, particularly in the agricultural sector, is at a virtual standstill, and there are still significant obstacles to foreign investment⁽²⁾.

1.5. In the Council's Common Position of November 1994, the Member States committed themselves to establishing strong political relations with Ukraine and supporting its independence, the development of democracy, economic reform and the country's entry into the world economy. This commitment was renewed in the Rome political declaration of May 1996.

EU financial assistance

1.6. The Commission estimates that aid from the EU and its Member States for the 1991—1995 period

amounted to some 2 747 Mio ECU. By way of comparison, United States aid for the same period is estimated to have been around 1 052 Mio ECU. The 1 158 Mio ECU granted by the EU comprised non-repayable aid amounting to 343 Mio ECU and loans totalling 815 Mio ECU. Over the same period the Member States provided 1 589 Mio ECU of bilateral aid, 1 033 Mio ECU of it in the form of loans.

Loans granted by the EU to the Ukraine

1.7. The position, as of 30 June 1996, for loans granted to Ukraine by the EU since 1992 is shown in the table below.

TABLE 2

LOANS GRANTED TO UKRAINE BY THE EU AS AT 30 JUNE 1996

<i>(Mio ECU)</i>				
Date	Object	Decision amount	Amount released	Balance repayable at 30. 6. 1996.
1992	Food and medicines	130	130	—
1994	Balance of payments	85	85	?
1994	Euratom	400	— ⁽²⁾	—
1995	Balance of payments	200 ⁽¹⁾	— ⁽²⁾	—

(¹) A first instalment of 50 Mio ECU was released on 29 August 1996. A second instalment of 50 Mio ECU was disbursed in October 1996.

(²) These loans will not be released until Ukraine meets certain conditions concerning the nuclear sector and the continuation of reforms.

The Ukraine's financing requirement for 1996 was estimated at around 1 550 Mio ECU. The IMF, which has granted Ukraine loans amounting to some 1 475 Mio ECU since 1994, made 1 181 Mio ECU available in 1996.

TACIS programme subsidies

1.8. The TACIS programme provides technical assistance in favour of economic reform and recovery in the newly independent States of the former Soviet Union (NIS) and Mongolia. The technical assistance covers a very broad spread of operations, ranging from large sectoral economic restructuring programmes down to special support for small and medium-sized enterprises.

The basic Regulations⁽³⁾ provide for assistance to be concentrated in selected sectors (and, in some cases, geographical areas) where it can play a central role and serve as an example of support for the reform process. The level and intensity of the assistance must also take the extent and progress of reforms into account.

1.9. Between 1991 and 1995 the subsidies allocated to the Ukraine under TACIS, excluding regional programmes (see Table 3), amounted to 343 Mio ECU, of which 164,7 Mio ECU was for nuclear safety (48%). At the end of 1995 aid to Ukraine represented 18% of all appropriations committed under the TACIS programme. As of 30 June 1996, 79% of these funds was covered by contracts and payments accounted for 40% of the budgetary commitments.

(²) Source: Indicative Programme 1996—1999 of the EU TACIS programme for Ukraine (4 July 1996).

(³) Council Regulation (EEC, Euratom) No 2157/91 of 15 July 1991 (OJ L 201, 24. 7. 1991) and Council Regulation (Euratom, EEC) No 2053/93 of 19 July 1993 (OJ L 187, 29. 7. 1993).

TABLE 3

TACIS AID EARMARKED FOR UKRAINE AS AT 30 JUNE 1996

(Mio ECU)

Programmes	Budget committed	Contracts	% of budget	Pay-ments	% of budget
Agriculture & distribution of foodstuffs	39,5	35,5	89,9	21,8	55,2
Energy	38,3	35,5	92,9	14,4	37,5
Transport/telecommunications	16,7	16,5	98,8	12,8	76,6
Enterprise support	45,5	40,7	89,4	23,8	52,3
Human resources	26,2	22,8	87,0	8,8	33,6
Monitoring & evaluation	7,4	3,6	48,6	2,8	37,9
TEMPUS	3,0	3,0	100,0	2,2	73,3
BISTRO ⁽¹⁾	1,5	1,5	100,0	0	0
Total national programmes	178,1	159,1	89,3	86,6	48,6
Nuclear safety programmes	164,52	89,1	54,2	42,0	25,5
Total TACIS programmes	342,62	248,2	72,4	128,6	37,5

Source: EC Commission, information not included in the accounts.

The reliability of the data is uncertain because the Commission's central accounting system (SINCOM) does not allow operations to be analysed by beneficiary country.

⁽¹⁾ Decentralized management facility reserved for local projects of less than 100 000 ECU in value.

Special situation in the nuclear sector

1.10. Nuclear safety is an EU priority and forms part of an overall reform of the energy sector in Ukraine. As of mid-1996, contracts had been signed for 112 Mio ECU (68 %) of the 165,7 Mio ECU committed for programmes devoted to nuclear safety measures and payments amounted to 52,7 Mio ECU (32 %) (see Table 4). The Commission ought to devote greater attention to the prospects for mobilizing the aid it grants when appraising projects (see paragraph 3.1).

1.11. The EU is party to the G7 plan that was adopted in Naples in July 1994 and which provides for joint action to restructure the nuclear sector including, in particular, the closure of the Chernobyl power station before the year 2000. At the Corfu summit in June 1994, the EU undertook to allocate an amount of 500 Mio ECU to the plan over a period of three years (100 Mio ECU in TACIS subsidies and 400 Mio ECU in Euratom loans). As of mid-1996, the Commission had committed 62,5 Mio ECU against the TACIS appropriations. As of the same date, Euratom, like the international financial institutions (and the EBRD in particular), had still not granted any loans (see Table 2, note⁽²⁾).

1.12. The nuclear safety programmes are grouped thematically around 'basic projects' which then govern the choice of programmes for subsequent years, but with the overriding objective of improving safety in nuclear

power stations. The Commission attaches particular importance to the transfer of operational know-how and expertise, mainly through on-site assistance. At the end of 1995, the commitments for projects of this type amounted to 44,5 Mio ECU, or 27 % of all assistance supplied in the field of nuclear safety.

1.13. At the time of the Court's audit visit in June 1996, the situation regarding nuclear safety in the Ukraine was giving cause for concern. In fact, in the context of the budgetary restraint measures adopted by the Ukrainian authorities in agreement with the IMF, the staff of the nuclear power stations (24 500 people), like many other public sector employees, had not been paid for three months. Staff in the power stations were poorly motivated and social problems, and alcoholism in particular⁽⁴⁾, were felt by the authorities to pose a series of additional risks to the sound running of the sector. At the end of its audit visit the Court alerted the Commission to the seriousness of the situation, without waiting for the publication of this special report.

1.14. Similarly, the nuclear power stations' lack of financial resources forced them to postpone their routine maintenance plans and cut their budgets for the renewal of equipment that had reached the end of its useful life.

⁽⁴⁾ At the Zaporozhie power station, the management considered the problem sufficiently serious for it to merit the creation of a permanent specialist counselling service to provide psychological help for the worst cases.

TABLE 4

SITUATION OF TACIS APPROPRIATIONS EARMARKED FOR THE NUCLEAR SECTOR IN UKRAINE AS OF 23 JULY 1996

(Mio ECU)

Programme	Budget committed	Contracts	Payments
1991	7,02	5,76	5,35
1992	22,00	22,02	16,56
1993	30,50	23,12	10,79
1994	24,50	16,18	2,29
1995	18,00	0,96	0,24
TOTAL (excl. G7)	102,02	68,04	35,23
G-7 Action plan⁽²⁾			
1993	1,50	1,12	0,40
1994	23,50	15,52	6,36
1995	37,50	4,23	0,00
TOTAL G7	62,50	21,05	6,76
Sector total	164,52⁽¹⁾	89,09	41,99

Source: EC Commission.

⁽¹⁾ The amount does not include 12 Mio ECU of regional programmes because the breakdown for some of the projects in these programmes is by type of power station, rather than country.

⁽²⁾ EU contribution to the G7 plan for Chernobyl.

2. THE ADMINISTRATIVE SYSTEM FOR THE TACIS PROGRAMME

2.1. The Commission is responsible for management of the TACIS programme and in some beneficiary countries is represented by a Delegation. Within the TACIS Management Committee⁽¹⁾, the Member States monitor the progress of the programme and are consulted at various stages of the aid programming process. The TACIS programme differs from the PHARE programme in that routine project management continues to be the responsibility of the Commission in Brussels and is not devolved to public departments in the beneficiary countries.

2.2. Each beneficiary country has a national coordinator and a coordination unit. The national coordinator (usually a senior government official) and the coordination unit are required to ensure that TACIS operations are in accordance with national reform priorities.

⁽¹⁾ Article 8 of Regulation 2053/93 of 19 July 1993 (OJ L 187, 29. 7. 1993) states, 'the Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission'.

Procedures for the implementation of TACIS programmes

2.3. For the 1991—1995 period, neither the basic TACIS Regulation, nor the financial perspective for the general budget specified in advance the volume of appropriations earmarked for the TACIS programme. TACIS budgets were thus adopted within the framework of the annual budgetary procedure and the overall allocation was not divided between the various beneficiary countries at this stage.

2.4. The aid was programmed on a country-by-country basis at the beginning of each financial year by the Commission and the authorities in the beneficiary countries. After 1993 the Commission endeavoured to draw up indicative multi-annual programmes and it was at this stage that the priority areas for cooperation with each country were laid down.

2.5. With the Commission's help, the national authorities prepare action programmes on the basis of the indicative programmes. The action programmes are then submitted for the TACIS Committee's opinion. Once the

Committee's opinion has been obtained, the Commission concludes a financing agreement with the beneficiary State, setting out the action programme objectives, laying down the budget and identifying the relevant partner in the beneficiary State. Each action programme comprises one or more projects. When the project specifications are drawn up the partner is, in each case, required to sign a statement of endorsement confirming that he accepts responsibility for the operations.

2.6. The projects are led by technical assistants whose terms of reference are laid down by joint agreement between the Commission and the project partner. Once the terms of reference have been defined, the Commission in Brussels starts the procedures for restricted invitations to tender which terminate in the selection of technical assistants. The Commission is also responsible for opening the bids and selecting the contractors. Since 1994, a representative of the national partner has participated in the evaluation of bids.

2.7. Once the technical assistance contracts between the Commission and the consultants have been concluded, the latter are required to submit an initial report during their first months on the spot. The report must either confirm the objectives and procedures for the implementation of the projects or propose modifications. It is the Commission in Brussels that decides on the follow-up to these initial reports.

2.8. The progress of the projects is monitored by the Commission Delegation and by the staff based in Brussels. The latter have sole power to rule on any project modifications. The coordination units (see paragraph 2.2) set up by beneficiary countries monitor projects on behalf of their national authorities. The technical assistants send to the Commission and the coordination unit periodic (quarterly or half-yearly) progress reports and, at the end of the project, a final report for acceptance by the Commission in Brussels.

2.9. The TACIS programme finances a monitoring and assessment team, similarly composed of technical assistants. These technical assistants carry out external supervision of project implementation on the Commission's behalf and submit reports to the Commission and the coordination unit (theoretically on a twice-yearly basis) throughout the duration of projects.

Application of the system in the Ukraine

Commission headquarters

2.10. With the exception of the nuclear measures, which are managed by a separate department, five

members of the Commission's staff⁽⁶⁾ in Brussels are responsible for management of TACIS projects, not only in Ukraine (178 Mio ECU), but also in Belarus (48 Mio ECU) and Moldova (27 Mio ECU).

The Commission Delegation in the Ukraine

2.11. The Delegation was set up in Kiev at the end of 1993. It has only one official, assisted by four local employees, to monitor the TACIS projects. The coordination unit proved to be unable to perform the task of project coordination and monitoring (even though it has back-up from three Western experts) (see paragraph 2.13) and the Delegation was therefore obliged to take over part of the unit's work. The Commission therefore decided to increase the size of the Delegation by adding a technical bureau comprising two Western consultants financed from TACIS operating appropriations⁽⁷⁾.

2.12. At the Delegation, one local member of staff is responsible for monitoring the nuclear safety projects. There are over a hundred such projects, which account for nearly half the TACIS funds granted to Ukraine (see Table 2). The same employee is also responsible for monitoring the military retraining projects. Given the numbers involved, it is physically impossible for him to deal with more than 30% of the projects for which he is responsible. The effectiveness of the post is also impaired by the fact that the documentation available is incomplete because the administrators at the Commission in Brussels do not systematically forward all the documents needed for monitoring the projects to the employee in question.

Coordination unit

2.13. In September 1992, a TACIS coordination unit was set up at the coordination agency responsible for monitoring international technical assistance⁽⁸⁾. The agency was restructured four times between 1992 and 1996. During a visit in 1993 the Court's auditors noted that the five technical assistants allocated to this agency and financed by TACIS lacked the material resources to carry out their work and were not sufficiently integrated for them to be able to offer worthwhile support to the

⁽⁶⁾ One for each of the five priority sectors: enterprises, energy, agri-foodstuffs, communications and development of human resources.

⁽⁷⁾ The budgetary authority did not authorize this until September 1996, in the letter rectifying the 1996 budget (comments on Article B7—520).

⁽⁸⁾ This agency reports to the Deputy Prime Minister responsible for financial matters.

coordination unit. In 1996, the consultants⁽⁹⁾ (now three in number) were still not in a position to cooperate efficiently with their six Ukrainian partners. The latter were reluctant to accept their presence and the conditions under which the consultants were housed were particularly insecure.

2.14. Since March 1996 one member of the coordination unit's staff has been responsible for coordinating TACIS nuclear safety projects. His role is a purely passive one, with only partial access to information, because the ministries and other national bodies concerned prefer direct contact with the Commission and other donors. The organizations dealing with questions of nuclear safety are used to a tradition of managerial confidentiality and are reluctant to provide other partners with information about their activities, so that the coordination between the parties at national level is practically non-existent.

2.15. Only the Commission and the Netherlands agreed to cooperate with the international technical assistance coordination agency. Germany maintains only a limited dialogue with it, whilst the other donors (USA, United Kingdom and World Bank) refused to work with the agency because it imposed the financing of its own activities as a prerequisite. In 1994, on the basis of a technical assistance contract in favour of the coordination unit, TACIS agreed to pay a salary supplement to the agency's Ukrainian staff. At the beginning of 1995, this practice was suspended by the new management of the agency. However, TACIS continued to finance secretaries and drivers who theoretically worked for technical assistance, but in fact worked for the agency as a whole⁽¹⁰⁾. As a TACIS project partner, the latter also received cars and computers financed under these projects.

Monitoring and assessment team

2.16. The monitoring team covers not only Ukraine, but also Belarus, Moldova, Armenia, Azerbaijan and Georgia. Its experts have on average only three days in which to examine each project twice yearly, carry out on-the-spot monitoring and study the various reports submitted by technical assistants. The limited time available for each project may explain why reports are sometimes superficial. These experts should concentrate more on investigating the causes of the difficulties found

⁽⁹⁾ Austroplan, Vienna. The contract is for 12 months, renewable once (1,77 Mio ECU) for the Belarus, Ukraine and Moldova coordination units.

⁽¹⁰⁾ In July 1996 a Presidential Decree replaced the Coordination Agency with a 'National Agency for Reconstruction and Development'.

and, together with the projects' technical assistants, look at possible solutions.

2.17. Within the monitoring team, two Western experts, backed up by two local employees, have been responsible for the supervision of nuclear safety projects since September 1995. Their input is restricted to reporting on project progress on the basis of technical assistants' reports and discussions with the various project partners. As the experts do not assess project results themselves, their reports are of limited value. Furthermore they cease to monitor projects once the contracts have expired.

Division of responsibilities

2.18. Although the division of responsibilities between the various parties (Commission headquarters, Delegation, coordination unit, technical bureau and monitoring team) is clear in theory, in practice it is confused because the various parties involved are all active in all fields. According to the terms of its brief, the technical bureau which assists the Delegation was set up because the size of the TACIS programme in the Ukraine required the presence of a 'technical capability' in Kiev to prepare and monitor programmes. The staff of the office were also supposed to have special skills related to the identification, preparation and evaluation of technical assistance projects. However, the tasks of identifying and preparing projects, are, in principle, the responsibility of the coordination unit. As regards project monitoring, the work of the special team set up at Kiev solely for this purpose partly overlaps with the work of the technical bureau (see paragraphs 2.16 — 2.17). Furthermore, for all these tasks, the systematic involvement of the Delegation and Commission headquarters gives rise to further overlaps.

2.19. The Commission developed this system mainly as a way of making up for the shortcomings of the TACIS unit of the international technical assistance coordination agency (see paragraphs 2.13 — 2.15). Thus, even though the human resources available to it were particularly limited, the Commission set up a system which:

- (a) has led to overlaps between the back-up given to the Ukrainian authorities and that provided for the Commission departments;
- (b) delays the transmission of management information;
- (c) makes the whole chain of command non-transparent and even deprives it of responsibility (see paragraphs 3.42 — 3.49).

Administrative time-lags within DG I A

2.20. The implementation rate for TACIS programmes in the Ukraine (see paragraph 1.9) prompted the Court to review the time taken to carry out the administrative procedures concerning the programmes for the Ukraine and to compare them with TACIS operations as a whole.

2.21. The aim of the comparison was to evaluate the efficiency of the Commission's administrative procedures and the rate of programme implementation. The evaluation was based, on the one hand, on the six main financing agreements for 1994 and 1995 and, on the other hand, a sample of 23 contracts and 55 payments from the first half of 1996.

Financing agreements

2.22. After the annual tranches of appropriations have been committed, the first stage in implementing the programmes is the signing of the financing agreements between the Commission and the beneficiary country (see paragraph 2.5).

2.23. Table 5 shows, in the case of Ukraine, that approval of the annual agreements requires considerable time. On average, the financing agreements for 1994 and 1995 programmes were not signed until more than a year after the beginning of the budgetary year to which they were related, against an average of ten months for the whole TACIS programme — which is already a long time.

TABLE 5

TIME REQUIRED FOR SIGNING OF FINANCING AGREEMENTS FOR 1994 AND 1995 PROGRAMMES IN UKRAINE

(in calendar days)

Programme	Approval by TACIS management committee ⁽¹⁾	Financing decision by Commission (accounting commitment)	Signing of financing agreement	Total time
UK9401 — national multi-sectoral	28. 7. 1994 209	6. 10. 1994 70	28. 12. 1994 73	352
UK9402 — national nuclear safety	2. 12. 1994 336	16. 12. 1994 14	10. 5. 1995 145	495
UK9501 — national multi-sectoral	29. 6. 1995 179	27. 7. 1995 29	5. 9. 1995 40	248
UK9502 — national nuclear safety	23. 11. 1995 326	1. 12. 1995 9	23. 4. 1996 143	478
WW9406-02 — regional nuclear safety	28. 7. 1994 209	28. 9. 1994 62	22. 12. 1994 85	356
WW9508-02 — regional nuclear safety	29. 9. 1995 272	19. 10. 1995 20	12. 12. 1995 64	356
Average time — Ukraine	255	34	92	381
Average time TACIS 1995	157	45	108	310

⁽¹⁾ The time required is the time interval between the start of the budget year (1 January) and the approval date.

2.24. The principal component of this interval of more than one year is the period between the start of the programme reference year and the TACIS Management Committee's opinion on the financing proposal. With an average duration of 255 days, it exceeded the average for the TACIS programme as a whole by 100 days and was

attributable to the various stages preceding the signing of the financing agreements⁽¹¹⁾ and to the problems encountered in negotiations with the Ukrainian

⁽¹¹⁾ Indicative programmes, action plans and financing proposals.

authorities. The particularly sensitive nature of nuclear safety in Ukraine prolonged the time taken to draw up financing agreements still more.

Award of contracts

2.25. A second significant source of delays was the procedure for the award of contracts, despite the systematic use of restricted tendering procedures⁽¹²⁾. The various stages are presented in *Table 6*.

TABLE 6

TIME REQUIRED FOR AWARD OF CONTRACTS AFTER RESTRICTED INVITATIONS TO TENDER

(in days)

	Stage	Ukraine 1996 average	TACIS 1995 average
1	From issue of invitation to tender to deadline for submission of tenders	50	50
2	From deadline for submission of tenders to opening of bids	6	8
3	From opening of bids to evaluation of bids	23	28
4	From evaluation of bids to registration of contract in the accounts	66	65
5	From registration of contract in the accounts to manager's approval	16	12
6	From manager's approval to notification of award of contract to contractor	2	8
	Total	163	171

2.26. For Ukraine, the time needed for the conclusion of a contract was comparable to the average for the TACIS countries (163 days for Ukraine and 171 for TACIS). In both cases, it would be possible to achieve a bigger reduction in the case of this particular delay than in the case of the others by modifying working methods at the Commission so as to reduce the period of around 65 days between the evaluation of bids and registration of the contract in the computerized accounts.

Payment of invoices

2.27. The third task that took a considerable amount of time was the processing of contractors' invoices. *Table 7* shows that payments concerning Ukraine

⁽¹²⁾ Private treaty contracts represented about one third of all contracts in 1994 and 1995.

required approximately 30% more time than those for the TACIS programme in general.

TABLE 7

AVERAGE TIME TAKEN TO PROCESS INVOICES (INCLUDING ADVANCES)

(in days)

	Stage	Ukraine 1996 (January to July)	TACIS 1995
1	From date of invoicing to registration at Commission	30	23
2	From registration to approval by manager	82	64
3	From approval by manager to approval by Financial Controller (DG XX)	10	10
4	From approval by Financial Controller to payment order (DG XIX)	7	2
	Total	129	99

2.28. Of the 55 payments in the sample, 11 were advances, which, by their nature, can be dealt with more quickly. Excluding these advances, the average processing time was 148 days, which is considerably more than the contractual payment deadline of 60 days. Moreover, the 30 extra days of processing time for Ukraine as compared with TACIS operations as a whole are difficult to explain. Delays of this sort are likely to discourage consultants who do not have a sound financial base. Indirectly, they give rise to a situation where the conditions of competition between consultants are distorted and they are no longer on an equal footing.

2.29. The TACIS financial department believes that the length of time taken in 1996 was partly due to a change of computer system, which interrupted the registration of payments for a month (from 22 April to 20 May 1996). This situation should not have occurred: it would have been good management practice for the old system to have been retained until the new one had become completely operational.

2.30. In conclusion, it would be possible to reduce two of the delays in processing invoices:

- (a) the delay between the billing date and the date when the Commission registers the invoice (30 days);
- (b) the delay between the registration of the invoice and its approval by the programme's authorizing officer. This one delay of 82 days is longer than the payment period of 60 days laid down in the Regulation.

3. OBSERVATIONS COVERING SEVERAL SECTORS

Project selection and preparation

3.1. In the area of restructuring industry and services, the projects were generally well received by the Ukrainian partners. In the field of nuclear safety and the agricultural and human resources sectors, on the other hand, this was not always the case. This is indicative of decisions being taken without adequate regard to the constraints that are characteristic of each of these sectors.

The agricultural sector

3.2. In June 1996, the question of privatization in the agriculture and agro-industry sectors was still much debated. Less than 2% of the land had been privatized⁽¹³⁾. The absence of clear-cut reform in this sector, combined with political uncertainty, seriously affected the efficacy of the 5,4 Mio ECU project that was to provide aid to the Ukrainian authorities for the adaptation of their agricultural and agro-industry legislation to the principles and constraints of a market economy. The project, which started in October 1994, had had little tangible effect on the legislation after 20 months, despite payments of 3,2 Mio ECU. The scope of this project turned out to be too broad. It concerned, at one and the same time, production, transport, storage, produce processing, land reform, prices policy and the training of farmers so as to make them independent of State structures. The project, which had a planned duration of 30 months and involved some ten experts on a long term-basis, turned out to be ill-suited to a volatile institutional situation in which the legislature and the executive had conflicting priorities. It was a typical example of an operation that had been inadequately researched and prematurely adopted. When measures are in preparation, the volatility of the political and economic situation must be taken into account, since it can result equally well in either a speeding up or a slowing down of reforms. Any projects carried out under these circumstances must allow for a certain amount of flexibility.

3.3. The central authorities' involvement in the monitoring of agricultural projects remained limited. As

⁽¹³⁾ The country's 34 800 private farmers had an average of 23 hectares of land each. The population of Ukraine is about 52 million and agriculture accounts for 19% of the working population.

of the end of June 1996, one year after the signing of the technical assistance contract, the Ministry of Agriculture had still not appointed a representative to the national steering committee for the three agricultural restructuring pilot projects. In Zaporozhie the regional administration declared itself to be in favour of creating agricultural advisory services, but at the same time it prevented the district agronomists from taking part in a training seminar. In all these cases it was impossible for the technical assistants in charge of projects to require their partner authorities to enter into binding commitments because of the positions which they themselves held. This should be the task of the coordination unit and, failing that, the Commission Delegation. Closer coordination between partners right from the preparation stage would have brought about a convergence of opinion as to the desired objectives and would have allowed the constraints of the sector to be taken into consideration to a much greater extent.

3.4. In the case of pilot projects in the field of agricultural restructuring, when the TACIS experts arrived on the spot they had to devote a substantial part of their time to explaining to the regional authorities what they could expect of TACIS assistance. In Autumn 1995, after one year of activity, the consultants for the project on the improvement of services in support of sunflower production in the Zaporozhie region had to re-explain the basic principles of TACIS to the new regional authorities. As the same problem occurs regularly in the various newly independent States (NIS), the Commission should distribute a brochure in the local language to all partners, with a simple explanation of the objectives of TACIS, before the regional authorities sign the statement of endorsement (see paragraph 2.5). The brochure could give some examples of TACIS projects to demonstrate how important the participation of the regional authorities is for the success of these projects. The coordination unit (see paragraph 2.13) should play a leading role in this information system for TACIS aid beneficiaries.

3.5. Agri-foodstuffs programmes developed in partnership with the regional or local authorities or other bodies were well received by beneficiaries, who were either already in favour of the reforms or had been persuaded of their necessity by the TACIS experts. This was especially so in Odessa, where there were projects concerning the feasibility of privatizing collective farms, the development of small private bakeries (TACIS 1991), the sunflower project in Zaporozhie (TACIS 1993) and a pilot project for restructuring the agricultural sector at Kirovograd (TACIS 1994). However, the fact that the projects often came up to beneficiaries' expectations does not mean that they always received the support of the authorities or the old local organizations. More often than not, these authorities expected that TACIS would provide them with aid for setting up an investment plan

involving the old production or processing structures and did not understand the need for a prior, thoroughgoing reorganization of the way in which these enterprises were managed. In this case too, the activities of the coordination unit could be useful in explaining the policy being carried out by the central authorities.

The nuclear safety sector

3.6. In the difficult economic climate prevailing in the Ukraine, many enterprises are unable to pay for their electricity consumption. Their debts to the electricity producers amounted to 1 438 Mio ECU as of June 1996. This debt burden, which affected each of the five nuclear power stations in Ukraine for sums of between 120 and 200 Mio ECU, also affected the conditions under which the projects in the nuclear safety sector were executed. The substantial amounts owed to the nuclear power stations by their customers, and by public undertakings in particular, was jeopardising the power stations' planned maintenance schemes. In this respect the Commission has not made sufficient effort to ensure compliance with its own 1993 recommendation, which stated that 'assistance programmes cannot be fully effective if nuclear power plants in the recipient countries lack the financial means to procure, for example, basic spare parts and are forced to reduce maintenance and other relevant safety measures for economic reasons'⁽¹⁴⁾.

3.7. During the selection of measures to be supported in the nuclear sector, differences emerged between, on the one hand, the priorities of the Western experts (whose primary concern is the improvement of operational safety — i.e. working methods) and, on the other, those of the Ukrainian partners, who prefer supplies of equipment. In actual fact, the nuclear power station operators are attracted by projects related to the improvement of safety at the plant design level because they lead to the renewal of equipment and the supply of spare parts. They seek to limit operational safety improvement projects that are more concerned with the general organization of work, staff training and operational procedures. This preference is largely due to the inadequacy of the power stations' financial resources (see paragraph 3.6). However, the Chernobyl accident and subsequent incidents in Ukrainian power stations have more frequently been due to inadequate organization and staff training than to

faulty equipment⁽¹⁵⁾. This reluctance as regards the content of projects has resulted in delays in the definition of priorities, the drafting of technical specifications, certification of the equipment delivered and the mobilization of appropriations (see paragraph 1.10).

3.8. The fact that Western aid donors and the Ukrainian authorities had differing views as to how to improve operational safety in the nuclear power stations largely explains the coordination difficulties in this field.

3.9. Moreover, Goskomatom's priorities (Goskomatom is the authority responsible for all the nuclear power stations and the only negotiating partner as far as donors are concerned) did not always coincide with the wishes expressed by the managements of the nuclear power stations. This also created serious tension, which delayed the preparation of the programmes. Furthermore, projects in the nuclear safety sector were not always selected on the basis of the priorities put forward by the consultants or the International Atomic Energy Agency (IAEA). Selection has broadly reflected the nuclear power stations' lack of financial resources (see paragraph 3.6). Similarly the order of priority for the measures proposed by on-site assistance experts was not always acceptable to the authorities responsible for the power stations. For example, the local authorities caused a project concerning the emergency plan for Zaporozhie power station and the physical protection of the site, which the Commission and the local consultants considered to be of primary importance, to be delayed by a year as a result of their prevarications.

3.10. Lastly, the choice of projects adopted by the Commission in agreement with Goskomatom was based more on the financing packages adopted by the Commission for each station (i.e. 4 Mio ECU) than on real needs. There is a risk that this may affect the effectiveness of the measures taken.

Human resources

3.11. In this area too, the quality of the preparatory work for the action plan is essential to the success of

⁽¹⁴⁾ Communication from the Commission to the Council and the European Parliament — 'Nuclear safety in the context of the electricity sector in central and eastern Europe and in the CIS' — doc. COM(93) 635 final.

⁽¹⁵⁾ In the case of Chernobyl there were a number of breaches of safety instructions, including the voluntary shutdown, by operators, of the automatic protection facilities on the reactor, in addition to the structural defects of RBMK reactors. (Source: François Cogné, director of Institut de protection et de sûreté nucléaire, in *Annales des Mines*, special edition, November 1986.)

projects. The lack of a predefined strategy and an unfortunate choice of partners were the main reasons for the failure of the retraining of military personnel and administrative reform projects.

3.12. The choice of local partners plays a decisive role in the successful implementation of projects. Given the shortcomings in the coordination unit, the Delegation should have played a more active role in identifying partners. As it did not have adequate local knowledge, the Commission sometimes accepted the partner put forward by the national authorities without checking whether it was really suitable. Moreover, to try to create new organizations in a generally unstable climate when the planned duration of the projects is only one or two years is a debatable option. Where the Commission took this route, for example for projects concerning the reform of public administration or the retraining of military personnel, the operations did not, overall, produce convincing results. These projects were either forced to look for new local partners or did not receive the political, administrative and logistical support necessary to their success.

3.13. In June 1996, after 16 months and expenditure amounting to 1,9 Mio ECU, the officer retraining project (7,2 Mio ECU) had still not trained any military personnel. In fact, instead of using existing institutions, as other donors had done with a certain amount of success, the Commission set up a special organization for retraining military personnel. It concentrated its efforts on setting up a new training organization, not on the retraining of military personnel. Over the same period an American-Ukrainian non-governmental organization (the Renaissance Foundation) had trained 26 000 servicemen with more limited funds than those available for the TACIS project.

3.14. On the other hand, the project in support of the International Management Institute in Kiev (2,6 Mio ECU) can be viewed as a success. In this case the Commission selected the beneficiary well and gave its support to an existing organization.

3.15. The project to assist the reform of public administration (1,5 Mio ECU) did not achieve its objectives because the Commission had no coherent predefined strategy and because of the unfortunate choice of a project leader who ultimately had to be replaced.

3.16. The project in aid of the national employment agency (1,6 Mio ECU) was useful. However, the part concerning the retraining of Chernobyl employees was called into question by the opposition of the local authorities, who were of the opinion that the power station would not be closed down, despite the

international agreement signed by Ukraine in December 1995. This latent conflict between the project and the authorities was brought to light during the ICEM conference in March 1996⁽¹⁶⁾ and is mentioned in the report filed by the technical assistant in June 1996⁽¹⁷⁾.

Industry and services

3.17. In this sector, the implementation timetables were sometimes unrealistic. For example, it was not possible to meet the deadlines on the one-year project for the sale of difficult-to-privatize enterprises, in view of the conditions that had to be fulfilled before it got underway. At the time, one of the two companies selected in agreement with the Ukrainian authorities was not yet on the same authorities' list of enterprises that were open to privatization. This has delayed these operations and will make it necessary to prolong the duration of the project.

3.18. The Commission set up 'Business Communication Centres' (BCCs) and SME Development Agencies (SMEDA) to promote the development of SMEs in Ukraine. Organizations of this sort were set up in Kiev and Zaporozhie for 3,1 Mio ECU and 1,2 Mio ECU respectively. Although the activities of these organizations were complementary, the Commission wanted two separate legal entities to be established, because of the partners selected to set up the two networks. Each network has its own objects: the BCC deal with links to be established with Western enterprises, whereas the SMEDA are to help SMEs find a place in local markets. In Kiev, this separation was an obstacle to cooperation between the two networks.

Delays in carrying out measures

Nuclear safety

3.19. In order to speed up measures in an area where speed is of primary importance, the Commission decided to conclude contracts for on-site assistance in the nuclear sector by private treaty. Despite this provision, the periods separating successive contracts of on-site assistants were still very long. Thus the contracts for the second phase of a project at the Rovno power station were not signed until June 1994, instead of before the first phase, at the end of 1993. This would have led to a suspension of activity if the contractor had not borne the

⁽¹⁶⁾ ICEM: International Federation of Chemical, Energy, Mine and General Workers' Unions.

⁽¹⁷⁾ Bernard Brunhes consultants.

necessary expenditure for the six months' work not covered by the TACIS contract. A similar situation occurred in June 1996.

3.20. Numerous delays occurred in the nuclear sector. In one case, the Commission signed a contract backdated for more than two months. Whereas on-site technical assistance at the Rovno power station began in April 1994, the contract for it was not, in fact, signed until June 1994. The late signing of contracts is usually due to procrastination on the part of the Ukrainian partners, but it was also the result of the slowness of the Commission's procedures. For example, the fireproof paint for a unit of the Zaporozhie power station could not be applied within the specified time limits because the Commission had not approved the extension of the subcontract for the purchase of materials. This delayed the progress of work in this new unit considerably.

3.21. In the nuclear safety sector, because of the differing priorities of the Western experts and the Ukrainian authorities, the Commission often had to carry out lengthy negotiations before reaching agreement on the projects to be financed. Thus, it took a year to adopt the 1995 action programme for the Zaporozhie power station.

Agricultural sector

3.22. The coordination unit, which, in theory, is supposed to facilitate customs formalities, in practice proved powerless to overcome the administrative delays caused by the customs service. Time was lost on many occasions, thus hindering progress on the projects. In one case, customs clearance problems meant that seeds imported for crop demonstrations arrived too late for the 1995 sowing period. Similar customs clearance problems occurred in 1996 with imports of materials for another agricultural project. In view of the shortcomings of the coordination unit and the frequent amendments to customs clearance rules, the Delegation was obliged to issue projects with guidelines on the procedure to be followed in order to clear imported goods through customs, in addition to approaching the central authorities to persuade them to take steps to facilitate the delivery of foreign aid.

Industry and services

3.23. Execution of the project for the conversion of six enterprises in the military/industrial sector (2,9 Mio ECU) was delayed because the bids received in response to the call for tenders were not felt to be sufficiently attractive. Moreover, the impact of technical assistance on the management and restructuring of the two enterprises visited was still barely noticeable after 16 months of intervention.

Inadequacy of the contractual and accounting framework of the projects

3.24. In 1995 the Commission concluded an agreement with the Ukrainian authorities whereby experts working under EU contracts in nuclear power plants were exempted from liability in the event of a nuclear accident. On a number of occasions the experts ceased to be covered by their contracts because the Commission had not renewed them in time (see paragraph 3.20). In these circumstances the consultants remaining on-site were no longer covered by the liability-exemption agreement, which could have had serious financial repercussions on them had there been a nuclear accident that might have been attributed to an error on their part.

3.25. Some consultants were using their own funds to finance complementary support programmes in nuclear power plants, alongside the measures that were financed by TACIS. These parallel operations were a source of problems not only at the level of responsibility, but also as regards the auditing of expenditure chargeable to the TACIS programme.

3.26. In the case of the Rovno power station, the Commission had not established a rigorous system of financial monitoring for operations carried out by procurement agencies. Interest on the advances paid by the Commission to these two agencies amounted to 415 806 ECU and 140 227 ECU respectively on 31 March 1996. Whereas for one of the contracts the interest of 140 227 ECU was to revert to the Commission, according to Article 6 of the contract, the Commission had not established the relevant recovery order by mid-1996.

The utility of the resources employed

3.27. The two procurement agencies employed by the Commission to purchase equipment for the Rovno nuclear power plant charged a commission of 4,7% of the value of the purchases (0,7 Mio ECU). The involvement of these procurement agencies at a purely logistical level is justified neither by specialist know-how in the nuclear field nor a particularly high number of service contracts. The Commission has nuclear safety specialists in some of its own departments⁽¹⁸⁾ and, by redeploying its own human resources (to the Delegation, for instance), could arrange to supervise purchases of equipment itself from a technical point of view, on the basis of proper knowledge of the field (see paragraph 2.12).

3.28. The 'Policy Advice' agricultural project is a case in point. As a result of the lack of adequately defined objectives and the absence of any real desire for reform on the part of the Ukrainian authorities, the Commission

⁽¹⁸⁾ DG XII, Joint Research Centre.

paid some ten experts on a long-term basis an average monthly fee of 11 900 ECU⁽¹⁹⁾ for 20 months, even though it was difficult for some of them to justify their presence on the spot. In order to improve efficiency, some of the experts looked for more cooperative partners, such as the Ministry for the Economy, the Anti-monopoly Commission and the State Property Fund, whilst others undertook pilot measures in regions that were in favour of reform. One notable example of this was the expert who was briefed to provide backup support to the association of collective farms but was unable to carry out his brief at the association's headquarters without clashing with its chairman, who was against the reforms advocated by TACIS.

3.29. In the case of one project in the 1991 programme, which provided, in particular, for the supply of fittings for two pilot shops in the Kiev region (250 245 ECU), the only shop to be fitted out in June 1996 was in no way a model for the distribution sector. It was badly located and, furthermore, it had neither financial nor commercial autonomy and the management was practically the same as in other traditional shops of the region. However, similar projects were really successful in Odessa. The pilot shops were well located and the managers, who had been well chosen, made good use of the advice provided by technical assistance. These shops can be taken as models and also provide tangible evidence of EU intervention. Their management practice has been modified and to a large extent their methods already largely reflect market economy criteria. Similarly, following the setting-up of two private bakeries and the practical help supplied to an association of independent bakers, numerous private bakeries have sprung up in the Odessa region.

Coordination between the various Community programmes and other external aid

The nuclear sector

3.30. As far as the macro-financial aid given to the Ukraine is concerned, the Commission did not give enough attention to the effect of the financial constraints imposed by the government on the situation of the nuclear power stations. At the beginning of 1996, as agreed with the IMF, DG II made available an initial tranche of the 200 Mio ECU loan granted by the Council in October 1995 on condition that Ukraine fulfilled certain requirements concerning the reduction of the State's budgetary expenditure. In view of the adverse effects that this reduction of budgetary expenditure was to have on the payment of staff salaries in the nuclear power stations, and on plant operation and safety as well as (see paragraphs 1.13 — 1.14), DG II should have

brought it to the attention of the other Commission departments responsible for implementation of safety improvement programmes in these nuclear plants so that compensatory measures could be applied in their favour.

3.31. Unlike the Commission, most of the other donors do not work with the international technical assistance coordination agency, with the result that the agency is likewise unable to do much by way of coordination. The ministries and organizations concerned with energy and nuclear safety matters lacked the will to establish the minimum of coordination between them and the Delegation did not take over this role either (see paragraph 2.14).

Human resources

3.32. The Commission does not always ensure that the various TACIS projects are coordinated and cohesive. Under the military retraining project, Western experts were sent to Ukraine to survey the labour market while similar studies were being carried out simultaneously by the ministry of employment with the support of the TACIS employment programme. These ministry surveys proved less expensive than the short-term missions of Western consultants, since they were carried out by national experts who had good knowledge of local conditions. Coordination of these two studies would have been desirable.

3.33. Two studies were carried out in 1993 and 1994 in the context of a TACIS project which was intended to prepare the way for administrative reforms. These studies, which cost 528 000 ECU, set out guidelines for the reform and restructuring of the administration and the financial and budgetary structures for local administrations. They were not mentioned in the project for the reform of public administration and were unknown to the Delegation in June 1996.

The agricultural sector

3.34. The Ministry of Agriculture did not put in place any systematic coordination between the programmes being supported by various donors in the agri-foodstuffs sector. The Ministry in fact maintained that foreign aid had not yet reached such volumes that there was any risk of duplication, but this was not the case. In order to alleviate this shortcoming coordination meetings have been organized since 1995, at the instigation of the Commission Delegation, between those responsible for the various donors' agricultural projects.

3.35. The Commission does not supply enough information to heads of TACIS projects about the opportunities for cooperation with other TACIS

⁽¹⁹⁾ Or about 2,4 Mio ECU.

projects or other EU programmes. In the context of the project to relaunch the production of sunflowers in Zaporozhie, an audit was carried out on the energy consumption of an oil mill. The head of the project did not know that an organization carrying out this type of analysis had been created in Kiev under TACIS and was cooperating with the Thermie programme (DG XVII). No information had been sent to him, whether by Commission headquarters, the delegation, or the monitoring team.

3.36. The Commission does not monitor developments after its projects have been completed. For example, the Institute of Food Industry Technology in Odessa, which profited from technical assistance under TACIS, has acquired a certain expertise and now supplies technical assistance, in its turn, to agri-foodstuffs enterprises in the region. This institute took part in the Copernicus⁽²⁰⁾ and INTAS⁽²¹⁾ programmes and was considering participation in Tempus. However, it was not informed of the recent activities of TACIS in Ukraine, although they were certainly of interest to the institute. It is participating in a programme of training for experts in energy saving but was not aware of the existence of the Energy Centre set up by TACIS in Kiev (see paragraph 3.35) or of the activities of Thermie. It was researching improvements to animal feedstuffs, providing advice on opening small dairies or small-scale bakeries, but did not know about TACIS' activities in these sectors. At the same time, experts working on TACIS projects were not aware of activities that were similar or complementary to those carried out by this institute.

Industry and services

3.37. As far as privatization measures are concerned, coordination has improved since 1995 but would benefit from being strengthened further, especially in the case of the World Bank. The Commission had not been informed of the latter's intentions, even though the two institutions were together supporting the 'Centre for Post-Privatization Support'.

Impact of projects and lessons learnt

3.38. As far as can be judged from the first results obtained, the agricultural pilot projects and the project for the improvement of support services for sunflower production in the region of Zaporozhie meet a demand

among private farmers and can serve as models for the restructuring of the agricultural sector. The beneficiaries of these two programmes were well-chosen and were particularly well-motivated. Although to a large extent the enterprises which controlled the sources of supply and the agro-industrial sector were still in a monopoly position, and despite the obstacles presented by the authorities, the beneficiaries of both these programmes were able to expand, whereas the old structures were in a state of collapse.

3.39. The fact that the majority of studies and recommendations of the 'Policy Advice' programme in the agricultural sector have not yet had any effect in no way diminishes their usefulness or their relevance (see paragraph 3.43). However, the project will end in April 1997, and unless it employs more Ukrainian experts in the long term (in June 1996 there were two involved in consultancy activities), the transfer of know-how achieved by the project at that date will not be sufficient to enable the Ukrainian partners to develop strategies and formulate recommendations in a market-economy context without assistance.

3.40. By contrast, the inclusion of Ukrainian experts in the projects relating to large-scale privatization and assistance in the restructuring of privatized enterprises made a significant contribution to the success of these two projects. However, even for these successful projects, as for the Business Communication Centre project, the question of the viability of the organizations that have been set up should be considered well in advance of the final months of the experts' presence on the spot. The advisory centres for SMEs and private farmers especially should be better prepared to operate autonomously after termination of TACIS support.

Operation of early warning systems

3.41. During the first months of work by the technical assistants on the spot the initial reports should provide confirmation that the approach adopted for the projects defined in the financing agreements is correct or, alternatively, that it needs to be modified (see paragraph 2.7). The Commission does not always ask for these reports in good time so as to be able to decide on any reorientation of the projects. Whereas the contract for a one-year nuclear safety project was signed in May 1995, the initial report was not sent to the manager until January 1996. In addition, the Commission must respond rapidly once these reports have been received, so that the experts can continue their work if their terms of reference have to be changed. Too often the Commission adopted its opinion too slowly. For example, for the mass privatization project, the Commission took more than four months to take a decision (initial report filed on 20 September 1994, contract amended on 27 January 1995). In the case of the project concerning the

⁽²⁰⁾ Copernicus = Community of Pan-European Research Networks of Interdisciplinary Centres and Universities in Sciences.

⁽²¹⁾ INTAS = International Association for the Promotion of the Scientists from the new independent States of the former Soviet Union.

restructuring of privatized enterprises, begun in June 1995, the Commission had still not amended the project by June 1996. In the meantime the organization which the project was intended to create had already been set up.

3.42. When the consultants believe that redirection is in a project's interest, there is a temptation for them to go ahead without agreeing changes with the Commission beforehand and before the changes in remit have been confirmed in amendments to their contracts, since this procedure can take up to six months. In order to ensure that these consultants do not place the Commission in a position that is at variance with some of its own goals, the Commission Delegation should insist that prior authorization is necessary.

3.43. For the 'Policy Advice' project in the agricultural sector, the national authorities' doubts were clear from the moment the initial report was submitted by the contractor. The Commission repeatedly requested the latter to reformulate his approach but did not itself take the initiative of reviewing the project's terms of reference with the Ukrainian partner. The studies produced had no effect and the waste of effort continued. In July 1996, six months after the contractor sent the initial request and after 20 months of activity, the cost of which came to almost 3,2 Mio ECU, the Commission signed a new clause to the contract refocusing the project on a limited number of tasks. Continuing a project which is no longer relevant should not be allowed by the Commission.

3.44. Elsewhere, a 1991 project, begun in January 1993, was to fit out two pilot stores for the distribution of foodstuffs in Kiev. It was not until February 1995, after the monitoring team had submitted its final report, that the Commission reminded the contractor that the two pilot stores had still not been fitted out, even though the contract had expired in October 1994. In February 1996, the Delegation informed the Commission that part of the fittings had been installed in one of the stores in May 1995 and recommended that the Commission block any future payments until all the fittings had been found. The Delegation made inquiries, without the help of the coordination unit (although this was part of the latter's functions), and in the spring of 1996 found where the missing fittings (27 000 ECU) had been stored. The monitoring team stopped supervising this project in December 1994, though the equipment had still not been installed at that time.

3.45. Although the Commission-funded monitoring team (see paragraph 2.9) visited nuclear power plants in

the spring of 1996, none of the auditors informed the Commission that the power stations' employees were no longer being paid. However, this could have affected their motivation and, hence, the safe operation of the plants, since human error represents a major risk factor (see paragraph 1.13). The auditors who were on the spot in Ukraine did not seek to discover the reasons why the military conversion programmes developed by other donors were more successful than those initiated by TACIS (see paragraph 3.13). They were also slow to realise that this project, just like the project for the reform of public administration, had taken the wrong direction.

3.46. In a report of February 1996, this same monitoring team asked a technical assistant, responsible for pilot restructuring projects in the agricultural sector, to look for lines of credit. In doing so it was backing up beneficiaries in their protests, instead of explaining to them that the objectives of TACIS in general, and of the project in particular, were intended to change management methods rather than renew equipment. In fact, financing new equipment without reforming management methods cannot resolve the fundamental problems of agricultural enterprises and farms. One would have expected that TACIS experts would be better acquainted with the basic principles governing the programme they are supposed to audit. The Commission should assess a new monitoring team's results at the end of the first year's work and, if need be, review its mandates (see paragraphs 2.16 — 2.17).

3.47. Generally, the system of preparation, implementation and monitoring of projects and the chain of command put in place by the Commission do not guarantee a rapid and adequate supply of information for the managers at Commission headquarters. Here again the nuclear sector illustrates the breakdowns that occur at various stages in the chain of responsibility. Although they are financed by the Commission, neither the consultants working in the power plants, the team of independent auditors, the staff of the technical bureau based at Kiev, the coordination unit in Ukraine, the Delegation, nor the regional and technical units at Commission headquarters thought it necessary to warn their superiors of the alarming situation in the nuclear power stations. Lack of financial resources led to wages not being paid for several months and made it impossible to obtain the replacement parts needed for the maintenance of the installations (see paragraphs 1.13 — 1.14). However, this was not brought to the Commission's attention by the members of staff responsible for the surveillance of this sector which nevertheless gives considerable cause for concern. Clarification of the respective responsibilities of the various people involved and a strengthening of the role of the Commission Delegation are necessary (see paragraphs 2.11 — 2.12).

3.48. In Odessa, a project for the restructuring of collective farms obtained good results, both from the point of view of the studies produced and of the actual assistance given in the restructuring of the collective farm used as a pilot project. Although the Commission made full use of the results of this project, notably in a brochure about the restructuring of collective farms, it did not receive any information about the project after the final monitoring report, dated December 1994. This project, which offers a good example of what a TACIS measure can achieve, even if it has only limited resources at its disposal (less than 611 000 ECU), should be given wider publicity in the country.

4. CONCLUSION

4.1. In June 1996 the situation in the Ukraine in three of the four sectors examined by the Court gave cause for concern. In the nuclear sector, the lack of financial resources was accentuated by a policy of budgetary austerity introduced with the agreement of the International Monetary Fund. Like employees in other public sectors, workers in the nuclear power stations had not received any wages for three months. The maintenance and renewal plans for the installations could no longer be carried out in full. All these constraints meant additional risks for the safety of the country's nuclear installations. In the agricultural sector, the extent of land privatization was limited because of political tensions, fears of speculation and the administration's strong resistance to change. In these circumstances the reform of the system of production had slowed and agricultural production was falling⁽²²⁾. In the human resources sector, 500 000 military personnel had to be demobilized in a very short time. Their reintegration into civilian life was making no progress, with a risk of straining even further an already tense social situation⁽²³⁾.

4.2. The implementation of TACIS appropriations for the Ukraine is particularly slow in view of the need for reform, especially in the field of nuclear safety (see paragraphs 1.10 — 1.11). Although, to a considerable extent, this slowness is the result of difficult negotiations with the Ukrainian authorities, some of the delays originated at the Commission (see paragraphs 3.19 — 3.21). The Commission Delegation should have at least one full-time nuclear expert to take responsibility for monitoring and coordinating measures in this sector (see paragraph 2.12).

4.3. The agency coordinating foreign aid, which acts as the TACIS coordination unit for Ukraine, is still not

⁽²²⁾ Cereal production: 1990 = 53 Mio tonnes; 1995 = 34 Mio tonnes.

⁽²³⁾ Per capita GNP fell from 2 360 USD in 1992 to 1 400 USD in 1995, a decrease of more than 40%.

able to perform its role effectively, even though TACIS technical assistance staff have been working alongside it since 1992. The same observation was made as a result of a previous audit visit by the Court in 1993 (see paragraphs 2.13 — 2.16). For example, projects financed by TACIS are still not adequately researched and do not always respond to actual needs (see paragraphs 3.1 — 3.18). Many of them do not take local constraints into account, or they rely on badly-chosen Ukrainian partners. Furthermore, the coordination agency does not, in practice, fulfil the official role of intermediary between the Commission and the project beneficiaries, in addition to which the authorities do not always recognize their priorities, particularly in the nuclear (see paragraph 3.7) and agricultural (see paragraphs 3.2 — 3.3) sectors. In the nuclear sector, the Ukrainian authorities prefer supplies of equipment, rather than measures to improve operational safety.

4.4. Faced with the shortcomings of the coordination unit, the Commission increased project support and monitoring activities indiscriminately. Apart from the technical assistance attached to each project, the following were also involved in preparing and monitoring operations: Commission headquarters, the Commission Delegation, the technical bureau and the monitoring and assessment teams. This mass of participants gave rise not only to confusion and duplication of work but also to administrative delays and an ill-defined chain of command, resulting in dilution of responsibilities (see paragraphs 2.18 — 2.19).

4.5. In the matter of assessment and monitoring the Commission delegated too much responsibility to consultants, without providing adequate supervision. Especially in the nuclear sector, the Commission should make more use of the experts who are already employed in some of its own departments to assist beneficiaries with the drafting of technical assistants' terms of reference (see paragraphs 2.12 and 3.27).

4.6. The dilution of responsibilities is reflected in a weakening of early-warning systems, as the parties involved usually believe that, in the final resort, it is not their duty to identify the constraints and obstacles suffered by projects and to refer them to the highest authorities in Ukraine and at the Commission so that obstacles and risks can be eliminated (see paragraphs 3.41 — 3.49). The situations encountered in the nuclear field and in the field of human resources are particularly eloquent examples. Improved early-warning systems would also prevent instances of funds being mobilized to no purpose, such as those that were found on a number of occasions (see paragraphs 3.27 — 3.29).

4.7. The pragmatic approach followed by TACIS in the various regions in implementing programmes for restructuring agricultural holdings and providing support for private farmers provided tangible evidence of the feasibility of the restructuring process and identified the legislative changes needed for consolidation of the reforms. Intervention over a limited period, in specific areas, in line with precise expectations on the part of the authorities, generally proves to be effective and offers better chances of success than large-scale reform programmes (see paragraphs 3.38 — 3.40).

4.8. One factor which contributed to the sluggishness of the administrative processes was the result of concentrating management functions at Commission headquarters (see paragraphs 2.6 — 2.8). A redeployment of Commission staff appears desirable, so that the Delegation, which has the benefit of proximity, will be in a better position to take decisions regarding the administrative and financial management of projects (see paragraph 3.47).

4.9. More rapid administrative procedures (see paragraphs 2.20 — 2.30) and a strengthening of the Delegation's part in on-the-spot monitoring are necessary. This is even more necessary in the case of the nuclear safety programmes, where the procedures are particularly badly adapted to the rapid response requirements which characterize this sector (see paragraphs 3.20 — 3.21).

4.10. In order to mobilize funds under the best conditions possible, it would appear desirable to encourage coordination not only between the activities of the various donors (see paragraphs 3.32, 3.34 and 3.37) but also between those of the various European Union

programmes (see paragraphs 3.31 — 3.37). Mobilization of the support provided by the various donors should also be more dependent on the level of progress actually achieved in introducing the reforms promised by the Ukrainian authorities. In this respect, the Court applauds the initiative taken by the Commission in bringing together at regular intervals, in the Ukraine, all the donors that are active in the agricultural sector (see paragraph 3.34). Similar initiatives would be useful in an area such as human resources.

4.11. On a general level, the audit in Ukraine showed that the supervisory mechanisms which are supposed to ensure that the expenditure commitments for TACIS achieve their maximum impact, were not, in fact, operating effectively. There was found to be a lack of quantified objectives, as well as an absence of project monitoring and scanty evaluation of the progress achieved in the various sectors. In addition, the assessment and monitoring teams concentrate their activities on projects which are still in progress, without evaluating the results properly and without seeking to assess the impact of projects beyond the period during which they are receiving finance. One of the goals of TACIS, however, is to promote new approaches in the framework of a market economy. A number of projects are pilot projects and they must be reproducible (see paragraph 3.48). In order to draw lessons from the TACIS programmes and to have a record of successful operations which could be repeated, it is essential that projects continue to be monitored beyond the end of the financing period, so as to derive maximum benefit from the experience acquired. Those cases examined by the Court in the Odessa region demonstrated the value of such records. In consequence, the terms of reference of the assessment and monitoring teams should be reviewed (see paragraph 3.46).

This report was adopted by the Court of Auditors in Luxembourg at the Court meeting of 10 April 1997.

For the Court of Auditors

Bernhard FRIEDMANN

President

COMMISSION REPLY

1. EUROPEAN UNION COOPERATION WITH THE UKRAINE

EU financial assistance

Tacis programme subsidies

1.9 The Commission admits that there was some slippage between commitments, contracts being concluded and payments. This was due to the delay in getting the Tacis programme under way in 1991. In 1996 the Commission took the first steps to reduce the number of technical assistance contracts concluded and to focus resources on a few key areas in the interests of more efficient management.

Special situation in the nuclear sector

1.10 In the nuclear sector implementation of contracts was hampered by the technical complexity of the problems involved, the general economic situation, the organization of the nuclear sector in the partner country in question and the involvement of other financial institutions. The delay in deploying Tacis resources earmarked for the G7 action plan for Ukraine was due to the signing of an agreement between the EBRD (for the Nuclear Safety Account (NSA) multilateral fund) and Ukraine on the construction of decommissioning facilities at Chernobyl.

1.11 The Euratom loans reflect a political pledge by the Corfu European Council and were not subject to the same timetable as Tacis resources. This political commitment was transposed into practical action under the G7 programme with the European Union for Ukraine to close down the Chernobyl power station.

1.13 & 1.14 On 27 June 1996 the Commission approached Goskatom⁽¹⁾ on this matter which, as the Court points out, has had a deleterious impact on the staff in the power stations, their motivation, compliance with nuclear safety imperatives and, as a result, on the proper implementation of financial projects under the Tacis programme. According to recent information from the delegation in Kiev there has been some improvement but the problem is still far from resolved. The Head of Goskatom and the Prime Minister himself are giving their full attention to this matter.

⁽¹⁾ Ukrainian State Committee on Nuclear Power Utilization (State body responsible for operating nuclear power stations in Ukraine).

2. THE ADMINISTRATIVE SYSTEM FOR THE TACIS PROGRAMME

Implementation of the system in Ukraine

Commission headquarters

2.10 As the Court points out, the Commission had only limited human resources and this has had serious consequences for project monitoring. A restructuring of Commission departments and gradual increase in the staff complement at the delegation in Kiev should help to improve transparency.

Commission delegation in Ukraine

2.11 The flexibility provided by the remarks to budget heading B7-520 has been used to transfer experts from the technical office to the delegation.

2.12 The Commission has made arrangements for an official to be seconded from the JRC to the delegation to improve the monitoring of nuclear safety projects. It will do its best to ensure a better flow of information between the delegation and project managers.

Coordination unit

2.13 The situation has improved considerably since the Court's visit. There has been a further restructuring of the Agency (ACITA) which has become the National Agency for the Reconstruction and Development of Ukraine (ANRD). Its mandate was defined by presidential decree of 13 July 1996. Its function is to promote external public and private investment and to coordinate bilateral and multilateral donors' activities. The expatriate and local staff in the former Tacis coordination unit have been transferred to the Agency. This brought about an immediate improvement in day-to-day working conditions and management and should have a positive impact on staff motivation.

2.14 Given the nature and technical specificity of the programme, the role of the CU in nuclear sector activities differs substantially from their role in the other sectors supported by the Tacis programme. However, in principle, coordination of the nuclear safety programme at the national level does exist.

2.15 See point 2.13.

Monitoring and assessment team

2.16 The services to be provided by monitoring and evaluation teams are to be changed this year under the terms of Tacis Regulation No 1279/96 of 25 June 1996, which provides that technical assistance will also cover project auditing and evaluation.

2.17 Since the Court's mission, more emphasis has been put on analytical assessment after on-site visits. The western experts in the team have also been changed.

Division of responsibilities

2.18 The coordination unit's role has been clarified since the creation of a technical assistance section in the delegation and absorption of the technical office (see point 2.11). The division of technical responsibilities is now clearly delineated and complementary (see point 2.19 on overlapping).

2.19 As far as relations with headquarters are concerned, directives on the chain of command defining the division of responsibilities between headquarters and delegations for the Phare and Tacis programmes were sent out to delegations in 1996. The technical office will be closed and its staff transferred to the delegation in Kiev as a result of the flexibility provided by the remarks in the 1997 budget. This should improve the transmission of management information and ensure closer supervision of project implementation.

*Administrative delays within DG IA**Financing agreements*

2.23 As was explained above (see point 1.10), implementation of the Tacis programme in Ukraine has been dogged by problems in the nuclear safety sector. This is reflected in the table on the time required for the signing of financing agreements.

Award of contracts

2.26 A period of 65 days between evaluation of bids and recording of contracts in the accounts is not considered unreasonable given the operations involved:

- preparation of an evaluation report;
- approval of the report;

- consultation with future contractors to clarify points raised by the Evaluation Committee;

- preparation of the contract;

- approval and signing of the contract.

Payment of invoices

2.27 to 2.30 The table given calls for a number of comments. Stage 1 is not the Commission's direct responsibility. As regards stage 2, the Commission would point out that the delays are often due to the fact that the invoices received are incomplete and have to be returned to the beneficiary for clarification before they can be approved by the manager. At the stage for which the Commission does have responsibility measures were taken in the second half of 1996 to reduce the time required for payment.

3. OBSERVATIONS COVERING SEVERAL SECTORS*Project selection and preparation*

3.1 General and sectoral political uncertainty was one of the main problems encountered. This major and unpredictable constraint is an unavoidable risk factor in project implementation. What has been accepted and signed by one person is not necessarily taken over by his successor. Every time there is a change of staff, the role potential and constraints of Tacis have to be explained again in detail and, in some cases, project terms of reference have to be renegotiated.

The agricultural sector

3.2 The uncertainty surrounding future political choices in 1994 was still present in 1996. A project involving the giving of policy advice, particularly in a country where personalities and authorities are constantly changing, obviously needs a considerable lead time to build up trust, get across its message and have it accepted. This was why the project was of fairly long duration and a degree of flexibility was built into its implementation. This approach enabled the project to be refocused on two occasions: in the start-up report, when some areas were given greater priority than others which were already covered; and when it was endorsed by the new Deputy Prime Minister in July 1996, having been redefined around four priority areas: (1) land reform and farm restructuring processes, (2) privatization of agri-industries and agri-services and their restructuring

processes, (3) broadened market-cleared prices of agricultural and food products and inputs and (4) restructured and strengthened institutions with market-oriented intervention in the sector's reforms.

3.3 Partner authorities will be given a greater role and be more closely involved as a result of the coordination unit's staff being integrated into the ANRD (see point 2.13).

3.4 There is nothing unusual in the fact that following a change in the Zaporozhye project beneficiary, Tacis experts had to explain the project and the benefits and constraints of the Tacis programme (with the assistance of the delegation in Kiev, which visited the region for this purpose). Explanatory brochures on the Tacis programme are distributed free of charge in Russian and Ukrainian. They cannot, however, replace direct contacts and explanations, particularly where there has to be negotiation.

The ANRD's coordination capabilities need to be strengthened as it plays an extremely important role. Its information dissemination and coordination capacity should be improved as a result of the planned reorganization and development of its branch offices in key areas. The Agency will be looking at their reorganization and relocation early this year. Their development will largely depend on the availability of government funds.

3.5 The feasibility of farm restructuring has been demonstrated and legislative improvements to consolidate reforms identified. Nevertheless, the bulk of these legislative changes have not yet been made by the Ukrainian authorities and this has hampered restructuring and reduced the usefulness of support measures in this area.

Nuclear safety

3.6 In conjunction with international financial institutions the Commission has supported Ukraine's efforts to reform the energy sector, in particular with a view to ensuring that electricity producers have an income in line with their production costs. These reforms are still under way and have therefore not yet had the impact anticipated at all levels.

3.7 — 3.8 It is quite true that there are differences of view between the European Union and Ukraine on the needs and resources required to improve the safety of nuclear plants. There is nothing surprising in this and is

one of the reasons why the technical assistance programme was mounted. The Commission considers that these differences in emphasis are lessening over time and that this is one of the European Union's successes in this area.

3.9 The selection of the projects is sometimes very difficult because of the urgency of some proposed needs which are not always in conformity with the recommendations of the IAEA. Furthermore, in the case of Zaporozhye, the recommendations of IAEA are more of generic type which should be solved for all VVER-type reactors and not in the framework of the on-site assistance programme. As far as the physical protection project is concerned, it was one of the projects foreseen in the original 1995 Nuclear Safety Ukraine programme. After the final adoption of this programme, by all decision making committees, it turned out that because of a misunderstanding of the programming procedures, some of the persons responsible for Zaporozhye NPP had transmitted a programme proposal to Goskomatom, the official interlocutor of the Commission, which was not in accordance with that of the Commission's on-site assistance consultant. A satisfactory solution for all parties was found and in fact finally accepted one year later.

3.10 The projects chosen to date have achieved the desired objective: to overcome safety problems and to transfer know-how to Ukrainian operators.

Human resources

3.11 It was because no potential partners for the project to reform public administration could be identified that the Academy for Public Administration, which at the time was the only dynamic institution with a progressive management, was chosen. The situation has changed considerably since then and new bodies have been set up with which the Commission is working. These include the Directorate-General for Public Administration, which was set up in 1995.

3.12 The military retraining project is barely at its half way stage and is now beginning to bear fruit. As to the public administration project, as illustrated in point 3.15, there has been a positive outcome of certain key components. It should be noted that at the time of identification of both projects, the establishment of the Commission Delegation had only just been decided (second half of 1993). Lengthy identification missions were carried out and, as regards the military project, the State Committee in question was the only body responsible for these issues. However, the Commission did act speedily on ascertaining the problems of maintaining this partner and, after a lengthy and

difficult process, has now placed the project at the level of the First Vice Prime Minister, thereby assuring the necessary political support. A Steering Committee composed of all key Ministries has been set up to oversee the project activity.

3.13 At the time of the report, no officer had as yet been retrained because the emphasis of Tacis project is on a 'train the trainer' approach. This involves labour market analysis and identification and training of teachers, before officer training activities may commence. Some 250 teachers have now received training and are able to teach a basic four month general management course, on a sustainable future basis. Over 200 officers were undergoing retraining as of January 1997. Regional centres for re-employment are now being set up to guide officers to the training and jobs on offer.

No new structures for retraining have been created as such, rather existing higher education bodies were re-modelled and reinforced in 10 regions, with the specific goal of retraining the officers. As to the special re-employment efforts, it should be noted that the Ukrainian public employment services are embryonic, having only been established in 1992, and are not yet efficient enough for such a task.

The goal of the Tacis project is broader than that of the Renaissance Foundation, namely to strengthen overall re-training capacity, build re-employment capacity and also make serious efforts to retrain and re-employ a significant number of officers during the project. To the best of the Commission's knowledge, no comprehensive evaluation of the impact of the training programme run by the Renaissance Foundation has been carried out to date. According to their annual report, of 26 000 officers who received training, just 7 000 found jobs and there is no comment on the quality or duration of such employment. The Foundation, which lacks an institutional basis, is limited financially and the cost per training reflects the ceiling imposed rather than the real needs. Nonetheless, the Tacis project is indeed examining area of mutual complementarity and cooperation with the programme.

3.15 The project strategy was to promote a coordinated approach to public sector management to underpin civil servant training. Although a specific institution, the Academy for Public Administration, was mandated and appointed by the central authorities to train senior civil servants, suitable partners for the strategic management component of the project could not be found. This imbalance was pointed out and the requisite body — the Directorate-General for Public Administration — set up with the approval of the relevant Ukrainian authorities. However, it was not operational in time to be able to play a role in the project (see point 3.11). The Commission nevertheless decided to

continue the project and to continue developing the training side.

The situation has now improved (see points 3.11 and 3.12). The project's training component proved useful. The large number of manuals produced which were tailored to local conditions were distributed throughout Ukraine. All this material will be used in the new public administration reform project under the 1996 action programme.

Industry and services

3.17 The following three comments are called for:

- The Commission had always planned for the project to run for a longer period (18 months) but agreed to limit it to twelve months at the beneficiary's request in order to maintain pressure on decision-makers at the State Property Fund (SPF) and on enterprises themselves.
- The project had to be extended mainly because of the slow and laborious nature of the process to select companies for privatization. However, the company in question has been on the list of candidates for privatization since July 1996.
- The initial resources allocated to the project will be spread over the whole lifetime of the project and extra funds will not therefore be required.

3.18 In Ukraine the Commission took the necessary steps to integrate the Business Communication Centre (BCC) and the Small and Medium Development Agency (SMEDA) in July 1996. The representatives of these two organizations signed a Memorandum of Understanding to give their organizations greater viability.

Delays in carrying out measures

Nuclear safety

3.19 For the continuation of on-site activities started by EU utilities, in this case by EDF at Rovno, it has appeared that the definition of the tasks to be undertaken and the negotiation of acceptable contracts takes in general much more time than could be reasonably estimated. The Commission is particularly concerned to negotiate carefully terms for these contracts as they are Direct Agreement contracts.

Moreover, in the case of EDF (for Rovno NPP), the mixture of Tacis projects and EDF bilateral projects was one reason for delay. At the end of phase 2, the Commission decided not to accept anymore the

intermingling of these two types of projects, as the programme started by EDF was exceeding the capacity of the plant staff.

Concerning the contract negotiation for phase 3 the first proposal from EDF arrived on 9 May (combined Tacis/EDF programme), commented by the Commission on 14 May. The next draft from EDF arrived one day after the contract of phase 2 had expired (18 June 1996) and was signed on 15 August.

3.20 Backdated contracts were signed in the past because their administrative preparation had taken too long. Measures have been taken to prevent a recurrence of this problem in the future.

Agricultural sector

3.22 On 28 December 1994 the Commission and the Ukrainian Government signed the General Rules relating to Financing Memoranda. These are the administrative and legal rules applying to Tacis projects. Despite the clause which gives effect to these rules on their signature, the Ukrainian Government has not yet applied them in full because they have not been ratified by Parliament. Negotiations are being held to resolve the matter. This situation is also affecting customs clearance of equipment for projects.

Industry and services

3.23 The project has brought about a significant transfer of know-how in certain enterprises and many company managers have expressed their appreciation of the assistance Tacis has provided. In the two cases cited by the Court, the Commission required the contractors to fulfil their duties defined in the terms of reference before final invoices were paid.

The contractual and accounting framework of the projects

3.24 The Commission never requires experts to carry out work other than that under an approved contractual framework. There may be many reasons for the time lag between contracts and in such circumstances contractors are informed that the Commission is responsible only for work undertaken under their contracts with the Commission.

3.25 EDF (Electricité de France) financed a bilateral project from its own resources at the Rovno power station. As the new contract between the Commission and EDF concerns only the Tacis project, expenditure chargeable to the Tacis programme can be clearly identified.

3.26 The standard version of the service contract for procurement services prescribes in Article 6, item 3 that interest accruing to the Account has to be returned to the Commission at the end of the project. Following an extension agreed at the end of 1996, the project in question is forecast to end in mid-1988.

The utility of the resources employed

3.27 The Commission will take a closer look at all the resources which can be mobilized by the JRC to help implement the programme.

3.28 When the policy formulation project was starting up there was a real commitment to reform. As the reform process presented by the government speeded up, a number of experts were deployed simultaneously to work with several partners. When it became evident that the reforms were not being effectively implemented the Commission refocused the project, and a number of experts were replaced.

The fees paid to the consultants are within the average range of fees under the Phare and Tacis programmes.

Coordination between the various Community programmes and other external aid

Nuclear sector

3.30 To observe the overall fiscal targets, the Ukrainian authorities agreed, in policy discussions with both the Commission and the IMF, to cut subsidies to loss making state enterprises and speed up the privatisation efforts in order to make new resources available in the economy.

Commission services became particularly aware of the build-up of wage arrears in all sectors of the economy in connection with their mission to Ukraine in the first half of May 1996. Despite the fact that, immediately after the mission, information was provided by the IMF (on 21. 5. 1996) that steps were already taken for the reduction of wage arrears and that the President of Ukraine had instructed the payment of the remaining arrears in the near future, DG II services addressed a note to other Commission services and the Delegation in Kiev (29. 5. 1996) in which attention to the problem was drawn. Since the problem of wage arrears was a general one in the Ukrainian economy, DG II's note did not make an explicit reference to any particular sector.

When it became clear during the Court's visit to Ukraine in June 1996, that the problem of wage arrears in the nuclear sector had become particularly acute, the Commission immediately sent a letter (see points 1.13 — 1.14.) to the relevant Ukrainian authorities to express its concern and invite them to take the necessary measures

to resolve it. Finally, the Commission was also aware of the intention of the IMF to revise with the Ukrainian authorities the monthly budget deficit targets upwards in order to allow for the successive reduction of all arrears by the end of 1996.

3.31 The number of Ukrainian ministries and organizations in the nuclear sector is very small. They are all involved in the definition of programmes and setting of priorities. The fact that the Agency did not play a major role in coordinating international technical assistance was not therefore detrimental (see points 2.13 to 2.19).

Human resources

3.32 The small activity carried out on labour market analysis by the Employment services project was to meet the specific needs of the Ministry of Labour, in order to illustrate labour market analysis tools and to help develop further employment policy on a global level. Moreover, this exercise was carried out only over a tiny geographical area. It was a laborious effort as the initial support of the Ministry of Statistics was not forthcoming, and it took a great deal of time and persuasion to make this Ministry perceive the value of such an exercise. Only once the results were known did this Ministry join in with its support for such an activity. Moreover, the analysis carried out by the military project covered ten regions and was on a much larger scale. In conclusion, both the different scale and goals of each activity and acknowledgement of the reluctance to cooperate between Ukrainian Ministries must be the reality behind the critique that these two projects duplicated efforts. It should be noted that the analysis carried out by the military project did indeed also make heavy recourse to local expertise.

3.33 The delegation is setting up an archive of all studies and other documentation relating to Tacis projects and this will resolve the communication problems raised by the Court.

Agricultural sector

3.35 A list of addresses of all Tacis projects in Ukraine is given to project leaders on their arrival in Ukraine and is distributed at the three-monthly meetings covering all Tacis projects. Efforts will have to be made to provide more information about other Community programmes. This should include systematic instructions to all Directorates-General responsible for these programmes to inform the Commission delegation of their projects. Fairly effective coordination of donors' programmes has also been established in Kiev on an *ad*

hoc basis, enabling the delegation to inform Tacis projects about other projects and put them in contact with each other.

3.36 Partners in projects already concluded are kept informed, as all partners in the agricultural programme are put on the mailing lists of (a) the communication unit of the policy formulation project, (b) the technical dissemination project and (c) the delegation's information section. Tacis projects include dissemination of information about project activities, so not only have publications been sent out but a wider spectrum of opinion in Ukraine has also been reached.

Industry and services

3.37 The World Bank was aware of Tacis support to the Centre since the beginning of the project and World Bank local representative and headquarter's missions were kept informed on progress by the Delegation on a regular basis.

Impact of projects and lessons learnt

3.38 Beneficiaries who are motivated to undertake restructuring and learn new working methods are indeed crucial to the success of agricultural projects. Unfortunately in Ukraine they are not many in number and this has led to some delay in their identification and in the implementation of projects.

3.39 Three new young Ukrainian experts were taken on at the end of 1996 to improve the transfer of know-how at the highest level and to amplify the impact of projects already running through the deployment of appropriate analytical methods and formulation of market-economy oriented strategies.

3.40 Commission Services were informed that, according to its business plan, the Centre would not be self sustainable before end 1997, and received a request for extending the assistance until then. After investigation, and consultation with the Monitoring team and the Delegation, Commission Services accepted to extend the project since reasonable guarantees were given that the Centre could indeed become sustainable.

Operation of early-warning systems

3.41 The mass privatization project commenced officially on 29 June 1994. A Commission representative was sent to Kiev on 18 July 1994 to discuss its start-up

with the beneficiary organization and consultants. As a result of this visit, which was crucial to the project's preparation, the inception report was not received until 20 September 1994. The Commission commented on the content of the report on 6 October of the same year.

3.42 Consultants are required to base their work programmes on the mandate given to them by the Commission. If a project has to be refocused this mandate also has to be reviewed and updated by the Commission. Consultants are always asked to seek prior authorization in the form of side letters or addenda drawn up by Commission headquarters before entering into any commitments.

3.43 The manager of the project in question had several meetings with the team of European and Ukrainian consultants in Kiev and also met all the beneficiaries with the delegation's assistance. This initiative involved much lengthier negotiations than had been originally planned and resulted in the project being completely restructured.

3.44 The Commission recognizes that there was not sufficient monitoring until the delegation intervened at the beginning of 1995. Some of the equipment was transferred to another pilot warehouse in the Kiev region. The contractor did not always provide the details requested by the Commission about operations or equipment transferred to beneficiaries. The accounts for this project will not be closed until the supporting documents requested by the Commission have been received.

3.45 The Commission was informed about the delays in paying wages in nuclear power stations in Ukraine, and also in Russia. This is a problem which goes beyond the confines of the Tacis programme. The Commission has voiced its concern about this matter and supported the efforts of the Ukrainian authorities to reform the energy sector, encouraging them to pay a fair price for the energy they consume (see point 3.6).

3.46 In the first report on pilot projects in the agricultural sector the monitoring team echoed the calls by beneficiaries in the Chernivitsi region for the project to focus on help in obtaining (national or international) credit, as this was their top priority (to enable them to produce). The Commission's response was to give priority to changing management methods for the assistance and to evaluate and review the mandate of the project monitoring team, which in any case did not provide for any decision-making clauses.

3.47 The non-payment of wages and lack of spare parts were reported to the Commission. An emergency programme to supply spare parts was consequently adopted in 1994—95 and implemented in 1996—97 for the plants most concerned. However, there are clearly not sufficient resources to meet demands (see points 1.13, 1.14 and 3.6). As far as weaknesses in the 'chain of command' are concerned, the extra staff given to the delegation (see points 2.11, 2.18 and 2.19) should help improve monitoring and policing of operations and enable the project managers at headquarters to be kept more closely informed.

3.48 The Commission has used the experience it gained in this project to programme pilot restructuring projects. The project beneficiaries were also contacted to see whether they wished to participate in the 1995 'assistance to marketing and trade structures' programme to set up an agro-business centre in Odessa. Since mid-1996 the delegation's mailing list has been updated on a monthly basis and the results of Tacis projects used more effectively through the Tacis technical dissemination project (TDP). The TDP has a list of beneficiaries of Tacis projects and regularly consults managers about the most successful projects to compile appropriate information in the form of brochures and a computerized database.

4. CONCLUSION

4.1 The Commission has supported the reforms as far as it can through the Tacis projects. The non-payment of wages, for example, which has had a serious impact on staff at power stations, their motivation and compliance with nuclear safety criteria could jeopardize the implementation and results of projects financed by the Tacis programme. The Commission alerted the Ukrainian authorities to this problem by sending a letter to Goskomatom but has not received a reply.

4.2 Implementation of appropriations has also been hampered by the technical complexity of the problems involved, the economic situation and sectoral organization, particularly in the nuclear sector. The delays to which the Court refers were due to the fact that Tacis projects were dependent on progress being made in other bilateral projects in the case of the Rovno power station. The Commission took steps to remedy the situation in 1996 by eliminating this link for projects financed from Tacis resources.

The Commission has been hampered by lack of staff. Since the remarks to the Tacis heading (B7-5200) in the 1997 budget have been altered, it should be possible to find more staff for the delegation to monitor and coordinate projects particularly in the nuclear sector (see points 2.10 and 2.11). Measures have already been taken to implement the programme in Ukraine more quickly. The tendering procedure for the 1996 action programme is under way and the 1997 action programme will be submitted to the Tacis Management Committee in March.

4.3 The Coordination Agency was restructured on four occasions and is now called the National Agency for the Reconstruction and Development of Ukraine (ANRD). This change of name has been accompanied by a radical restructuring of working conditions (premises and equipment) and management. However, the coordination unit which has been transferred to it cannot assume the Commission's responsibilities for supervision and monitoring of these programmes.

The general political and sectoral uncertainty is a major constraint; its unpredictability hampers the conduct of a project from design to implementation and often requires renegotiation of what has already been decided. In the nuclear sector there are also differences of views between western experts and the Ukrainian authorities on the requirements and the methods to be used to improve the safety of nuclear power stations. This is not surprising and is one of the reasons why the technical assistance programme was introduced. It should, however, be noted that these differences of emphasis are lessening and that this is one of the successes of the EU's input.

4.4 and 4.8 The different bodies relevant to the implementation of the Tacis programme were created to improve the efficiency and transparency of the Tacis programme. They were not created as a consequence of the deficiencies of the Coordinating Unit and, in the opinion of the Commission, they were not indiscriminately multiplied. They were however created within the context of the administrative and budgetary

constraints imposed upon the Commission. This has resulted in a certain risk of overlap. This situation will be improved in 1997 by applying the 1997 budgetary comments for B7-5200 line and by implementing the division of responsibilities agreed by the Commission in 1996.

4.5 The Commission intends to make better use of the resources at its disposal, including the Joint Research Centre.

4.6 The Commission is studying ways of ensuring a better division of responsibilities between the Commission and the delegation for project monitoring in the nuclear sector. As regards the 'chain of command', the extra staff being given to the delegation (see points 2.11, 2.18 and 2.19) should improve monitoring and surveillance of operations and enable project managers at headquarters to be more quickly alerted about any problems.

4.9 Application of the newly defined division of responsibilities between Headquarters and Delegation will speed up administrative procedures. The need for additional staff has, in principle, been accepted by the Commission and further staff (including the staff functions of the Technical Office) will be recruited for the Delegation in the course of 1997. Regarding the nuclear safety sector, DGIA has approached the JRC and appropriate action has also been taken to ensure that the relevant expert presently employed by the Delegation is assigned full time to the nuclear safety sector.

4.10 The Commission shares the Court's views. Regular meetings are held with donors in Kiev and Brussels whenever possible to coordinate their respective activities in the light of available resources.

4.11 The Commission is intending to undertake an evaluation of projects already implemented in the course of the year in order to assess their impact and draw any lessons which may be useful for future projects.

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