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(Information)

COURT OF AUDITORS

SPECIAL REPORT No 4/99

**concerning financial aid to overseas countries and territories under the sixth and seventh EDF
accompanied by the replies of the Commission**

(pursuant to Article 248(4), second subparagraph, EC)

(1999/C 276/01)

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SUMMARY

Overseas countries and territories (OCTs) of a number of Member States associated with the then European Economic Community, receive financial and technical aid from the EDF in accordance with the provisions laid down in the relevant Council Decisions.

According to these provisions a total amount of ECU 240 million from EDF resources is available from the sixth and the seventh EDF. Of this amount ECU 149,5 million is reserved for programmable aid to be allocated to individual OCTs (20) by the Member States to which they are linked. Furthermore an amount of ECU 21,5 million is available for regional cooperation and ECU 69 million for so-called non-programmable aid (mainly risk capital, Stabex funds and interest subsidies). The amounts allocated to the OCTs per head of their population are much larger than those allocated to the ACP countries, although national income per head is in generally considerably higher in the OCTs than in the ACP countries.

In contrast to the ACP States, where the amounts for each state and the broad objectives of the programmes are agreed with the Commission, the financing for OCTs is allocated en bloc to the Member States concerned, whose responsibility it is to allocate the money to the individual territories. It is the latter's responsibility to prepare and communicate to the Commission an indicative programme which is consistent with their development plans and objectives and which provides an appropriate framework for the implementation of the aid to which the OCTs are entitled. For the seventh EDF provision is made for the Commission to be associated with the approval of these indicative programmes.

The implementation of individual projects has suffered from deficiencies in appraisal, preparation and monitoring and from delays in inputs and outputs which have considerably reduced their effectiveness. To a certain extent such deficiencies are due to the cumbersome management structure of this aid.

Moreover, the Commission's financial management information system does not provide readily available information on the allocation of programmable funds and on the use of regional funds.

The administrative burden in terms of human and material resources to manage a comparatively small amount of aid is high for both the services of the Commission and these of the local administration.

Consideration should be given to changing the management structure for aid to the OCTs so as to give the main responsibility for implementation and monitoring to the Member States concerned, perhaps by analogy with an other Community instrument. Equally should there be an examination of the aims of the aid and the way

it is implemented particularly in view of the important differences in national income per head between the OCTs and the ACP States.

INTRODUCTION**General**

1. The financial and technical aid to overseas countries and territories (OCTs) associated with the European Economic Community is based on the Treaty establishing the European Community (1957). The basic idea of the association as laid down in Part IV of the Treaty was 'to promote the economic and social development of these countries and territories and to establish close economic relations between them and the Community as a whole' ⁽¹⁾. When gradually more and more of the former overseas countries and territories became independent States, the basic idea of the association became the foundation for the European Union's development policy as set out in the Yaoundé and Lomé conventions with the ACP States. For those countries and territories which did not become independent for a variety of reasons, it was necessary to maintain a certain level of Community aid, financed through the EDF, using the same basic mechanisms and procedures as applied to the ACP States.

2. For the OCTs, details and characteristics of the association are given in decisions adopted by the Council ⁽²⁾ (hereinafter called 'Council Decisions') ⁽³⁾. The general aim indicated by these decisions is to promote and accelerate the economic, cultural and social development and to strengthen the economic structures of the OCTs (for more detailed objectives see Annex 1).

3. A particular aspect of the cooperation arrangements between the Commission, the EIB and the OCTs is the involvement of the EU Member States in question (Denmark, France, Netherlands and United Kingdom) notably in the allocation of funds to OCTs and the signing of Financing Agreements. In this context it is noted that the relevant Council Decision for the seventh EDF (Articles 234-236) also provides for a so-called 'partnership' for the implementation of Community action. This partnership includes the Commission, the EU Member State to which the OCTs are linked

⁽¹⁾ Article 131 of the EEC Treaty of Rome.

⁽²⁾ For Lomé III and IV these are: Council Decision 86/283/EEC of 30 June 1986 on the association of the overseas countries and territories with the EEC for Lomé III (OJ L 175, 1.7.1986) and Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the EEC for Lomé IV (OJ L 263, 19.9.1991).

⁽³⁾ Neither the Conventions nor the Decisions give further distinctive definitions of 'countries' and 'territories'; between these categories no differences of treatment are foreseen.

and the competent authorities of the OCTs and deals with the programming, financing, follow-up and evaluation of aid actions financed from Community funds. However, the Commission remains the authority with overall responsibility for the management of the EDF resources allocated to the OCTs.

4. At present there are 20 OCTs, which can be divided into four groups, i.e. British OCTs, French OCTs, Netherlands OCTs and Greenland ⁽⁴⁾ (see Annex 2). The total Community funds allocated to these OCTs amounted to ECU 100 million for the validity period of the sixth EDF and to ECU 140 million for the seventh EDF. The split of the amounts between the various instruments is given in Table 1. A summary of amounts committed and paid per OCT, split between programmable and non-programmable aid for both the sixth and seventh EDF (funds managed by the Commission only), is given in Annex 3.

Table 1

Allocation of amounts to types of EDF intervention

(ECU million).

	Sixth EDF	Seventh EDF
OCT F	26,5	35,3
OCT NL	26,5	35,3
OCT UK	10,5	15,4
Total indicative programmes ⁽¹⁾	63,5	86,0
Regional Cooperation ⁽²⁾	10,0	11,5
Total projects and programmes	73,5	97,5
Interest subsidies	2,5	6,0 ⁽³⁾
Emergency aid	3,0	2,5
Refugee aid	1,0	0,5
Risk capital	15,0 ⁽³⁾	25,0 ⁽³⁾
Stabex	5,0 ⁽³⁾	6,0 ⁽³⁾
Sysmin	p.m.	2,5 ⁽³⁾
Total allocation EDF	100,0 ⁽³⁾	140,0 ⁽³⁾

⁽¹⁾ For the sixth EDF this comprises grants and loans.

⁽²⁾ Including regional programmes for trade development.

⁽³⁾ Allocation already included in the Internal Agreement (IA) on the financing and administration of Community aid under the ACP-EEC Conventions.

Scope of the Court's audit

5. The audit concerned the regularity of the use of the funds supplied and the soundness of the financial management of development operations in OCTs financed under the sixth and seventh EDF. For this purpose the Court has examined a considerable range of aid operations in eight OCTs.

⁽⁴⁾ Greenland never received an allocation.

ALLOCATION OF FUNDS

Context of aid to OCTs

6. The general context of the aid operations to the OCTs differs from that for the ACP countries, due to a number of specific circumstances.

7. In the first place the level of economic development, expressed in per capita GDP, is rather high (see Annex 4). For a number of OCTs, it even exceeds that of some EU Member States. Since the conclusion of the Treaty establishing the European Community the economic situation of these OCTs and their level of development have considerably improved, partly as a result of intensive economic and social cooperation with the EU Member States with which the OCTs maintain a special relationship.

8. Although per capita GDP in the large majority of OCTs is higher than that of ACP States, the annual aid per capita figures for ACP States are ECU 4,32 compared to ECU 37,76 for OCTs ⁽⁵⁾. Per capita GDP and per capita aid for the OCTs visited and for a representative selection of ACP States are given in Annex 4.

9. Even where per capita GDP is relatively high in a number of OCTs, substantial differences in income and living standards exist within their populations. However, indicative programmes (IPs) ⁽⁶⁾ have not explicitly given priority to the poorer segments of the population.

10. Whereas the ACP States receive funds, other than EDF assistance from a multitude of bilateral and multilateral donors (e.g. World Bank) and from the Community budget, in principle OCTs receive financial aid neither from the Community budget nor from donors other than the Member States with which they maintain a special relationship and from which they receive significant if not exclusive development assistance. The total amounts of aid to individual OCTs given by the Member States over recent five-years periods are given in Annex 5.

The programming of aid

11. The programming of aid for the individual OCTs follows the following stages:

⁽⁵⁾ Figures presented by Commission in document 057545 of 15 November 1996 and derived from global aid figures for the eighth EDF.

⁽⁶⁾ Under the sixth EDF IPs had to be drawn up by the authorities of the OCTs whereas under the seventh EDF, OCTs and Commission had a joint responsibility for the preparation of these IPs.

Table 2

Allocation of programmable funds to groups of OCTs

	Sixth EDF						Seventh EDF			
	Commission proposal ⁽¹⁾		Council Decision 86/283/EEC		Final		Commission proposal ⁽²⁾		Council Decision 91/482/EEC	
	ECU million	%	ECU million	%	ECU million	%	ECU million	%	ECU million	%
France	27,00	42,80	26,50	41,70	28,327	41,97	35,30	41,00	40,20	47
NL	27,00	42,80	26,50	41,70	27,900	41,35	35,30	41,00	30,30	35
UK	9,00	14,40	10,50	16,60	11,245	16,18	15,40	18,00	15,50	18
Total	63,00	100,00	63,50	100,00	67,465	100,00	86,00	100,00	86,00	100

⁽¹⁾ Source: Document DG VIII 04158 of 12.2.1986.

⁽²⁾ Source: COM(91)141 Final of 19.4.1991.

- (a) fixing ⁽⁷⁾ of the total amount available for aid to OCTs, split into financial instruments;
- (b) allocation of the available funds (amounts reserved for programmable aid only) to the Member States by Council decision ⁽⁸⁾;
- (c) allocation of the funds to the individual OCTs, by the authorities of the Member State concerned, whereby the needs of the least-developed OCTs have to be particularly taken into account ⁽⁹⁾;
- (d) establishment of IPs by the authorities of the OCTs, from seventh EDF onwards with the Commission, along the lines laid down in the Council Decisions ⁽¹⁰⁾.

12. Of the total amounts available for aid to OCTs the amounts fixed for the various forms of non-programmable aid are deducted. The remainder constitutes the programmable aid, which amounts to ECU 63,5 million for the sixth EDF and ECU 86 million for the seventh EDF (see *Table 1*).

Allocation to groups of OCTs

13. The allocation as decided by the Council for the sixth and seventh EDF differs from the initial proposals of the Commission (see *Table 2*).

⁽⁷⁾ See Article 2(1)(b) of Internal Agreement (IA) for the sixth EDF (OJ L 86, 31.3.1986) and Article 2(1)(b) of the IA for the seventh EDF (OJ L 229, 17.8.1991).

⁽⁸⁾ See Article 128 of Council Decision for sixth EDF and article 154(2) of Council Decision for seventh EDF.

⁽⁹⁾ See Article 130(11) of Council Decision for sixth EDF and Articles 5 and 187(2) of Council Decision for the seventh EDF.

⁽¹⁰⁾ Article 147 of Council Decision for sixth EDF and Articles 187 to 190 of Council Decision for the seventh EDF.

14. For the sixth EDF, the Commission decided ⁽¹¹⁾ in accordance to Article 154 of the Council Decision for the seventh EDF (see Footnote ⁽²⁾) to transfer to the programmable funds of the French (ECU 1,4 million), Netherlands (ECU 1,4 million) and British OCTs (ECU 0,615 million) the unused funds initially earmarked for emergency and refugee aid. The Chief Authorising Officer of the EDF, with the relevant authorities of the countries and territories in question, was to undertake the programming procedures at the same time and in a manner complementary to those carried out for the seventh EDF. However, for all OCTs these amounts were included in the IPs of the seventh EDF, although they were accounted for under the sixth EDF, except for the British OCTs.

15. Similarly, the Netherlands OCTs wrongly included in the IPs of the sixth EDF an amount of ECU 1,1 million coming from unused fifth EDF Stabex amounts and reallocated to the programmable funds of the fifth EDF ⁽¹²⁾.

16. The allocation for the sixth EDF for St Pierre and Miquelon was increased by ECU 427 000 by a decision of the Commission (Chief Authorising Officer). Such a decision should have been taken by the Council in accordance with Article 147(4) of the Council Decision for the sixth EDF. IPs were not modified to include these amounts.

Allocation of funds to individual OCTs

17. Allocation of funds to individual OCTs is the responsibility of the Member States whereby the needs of the least-developed OCTs have to be particularly taken into account (see paragraph 11(c)). Although the Council Decision for the seventh EDF foresees that the Member States give the Commission a clear indication of the total programmable financial resources to be allocated

⁽¹¹⁾ Commission Decision 91/404/EEC of 19 July 1991 (OJ L 222, 10.8.1991).

⁽¹²⁾ Council Decision 86/285/EEC (OJ L 175, 1.7.1986).

to each OCT, this decision does not provide for any information to be given to the Commission about the parameters used by Member States for the allocation. At least for the seventh EDF the Commission should have used the partnership arrangements to obtain this information, so that it could satisfy itself that particular attention had been paid to the least-developed OCTs.

18. Upon the Court's request the British authorities indicated that the distribution of EDF funds to their OCTs was done on the basis of development needs of the territories concerned, paying due regard to the need to accord special treatment to the least-developed OCTs. The French authorities have indicated that the distribution of funds was based on two criteria (number of inhabitants and income per head) to be weighted to take account of considerations linked to the development strategies and priorities set by each of the OCTs. In the case of the Netherlands OCTs funds were allocated on the basis of the population of the two OCTs, which resulted in an arithmetical formula (75 % of available funds to the Netherlands Antilles and 25 % to Aruba).

19. The allocations of programmable funds to the individual OCTs as decided upon by the Member States in question and as entered in the EDF accounts are summarised in Annex 6. As shown in this annex there are differences between the allocations for individual OCTs as mentioned in the IPs and those mentioned in the EDF accounts due to the factors described under paragraphs 14 and 15. In addition, in the case of Turks and Caicos the amount mentioned in the IP for the sixth EDF was ECU 1,8 million instead of ECU 1,6 million, probably due to an oversight. These differences led in some cases to reconciliation problems between the EDF accounts and the IPs which adversely affected the transparency of the management information for the availability and use of these funds.

IMPLEMENTATION OF AID

Indicative programmes

20. Execution of the IPs as well as of non-programmable funds for the OCTs examined is summarised in Annex 3. Implementation of the IPs has been slow and sometimes cumbersome for both the sixth and seventh EDF, in particular in relation to the period mentioned in the Council Decisions in question ⁽¹³⁾.

⁽¹³⁾ Article 127 of Council Decision for the sixth EDF and Article 154(1) of the Council Decision for the seventh EDF: 'preferably for a period of five years...'

21. Though in the case of the sixth EDF commitment of programmable funds has been reasonably satisfactory with a 100 % commitment rate at the end of the year 1992 ⁽¹⁴⁾, the average disbursement rate at that time, six and a half years after the entry into force in 1986 of the relevant Council Decision, was only 65 % (90 % at the end of 1997).

22. For the seventh EDF, only five OCTs ⁽¹⁵⁾ had fully committed programmable funds six years after the entry into force of the relevant Council decision. For the others the commitments varied between 11 % and 93 % of the programmable funds (on average 49 %). The average disbursement rate for all OCTs amounted to 38 % of IPs ⁽¹⁶⁾.

23. This is particularly slow, especially for the seventh EDF, taking into account the introduction of the 'partnership' which should establish a wideranging dialogue between the Commission, the Member States and the territorial authorities with the objective of rendering development cooperation more effective.

24. Reasons for the slow implementation were:

- (a) for the Netherlands Antilles, Aruba and the British Virgin Islands, the IPs for the seventh EDF had been adopted more than one year (time scale specified in the Council Decision ⁽¹⁷⁾) after the entry into force of the Council Decision;
- (b) the complex structure of the Netherlands Antilles, both geographically and in terms of the distribution of competences between the main actors in the decision-making process, and the absence of an overall development concept for the different islands which gave rise to numerous projects scattered both financially and geographically;
- (c) shortcomings in the preparation of projects and a lack of expertise of local authorities, sometimes necessitating a redesign of the project's main components (British Virgin Islands and Turks and Caicos Islands);
- (d) heavy and complicated administrative project management with two and sometimes three Technical Assistance (TA) contracts in combination with cumbersome communication with Delegations located at a considerable distance from the OCT (Anguilla, British Virgin Islands and Turks and Caicos Islands);

⁽¹⁴⁾ Exceptions are French Polynesia and Aruba with commitment rates of 63 % and 8 % respectively. In the case of Aruba this was due to the fact that nearly all sixth EDF funds were to be used for one single project decided upon only in 1993.

⁽¹⁵⁾ Mayotte, St Pierre and Miquelon, Aruba, Turks and Caicos Islands and British Virgin Islands.

⁽¹⁶⁾ The average disbursement rate for non-programmable aid was 82 % for the sixth EDF and 54 % for the seventh EDF.

⁽¹⁷⁾ Article 189 of Council Decision for the seventh EDF.

Table 3

Allocation of regional funds and amounts committed and paid

	Sixth EDF						Seventh EDF					
	Allocation		Committed		Paid		Allocation		Committed		Paid	
	ECU million	%	ECU million	%	ECU million	%	ECU million	%	ECU million	%	ECU million	%
French OCTs	4,1	41	1,4	33	1,2	28	5,4	47	3,6	67	1,6	30
Netherlands OCTs	4,1	41	1,9	46	0,8	20	4,0	35	2,0	50	0,7	18
British OCTs	1,5	15	0,5	33	0,5	33	2,1	18	0,2	10	0,2	10
Reserve	0,3	3	N/A	—	N/A	—	N/A	—	—	—	—	—
All OCTs	N/A	—	1,3	—	1,1	—	N/A	—	3,3	—	3,1	—
Total	10,0	100	5,1	50	3,6	36	11,5	100	9,1	79	5,6	49

Source: OLAS-accounts by country, situation by 31.12.1997.

(e) heavy administrative EDF procedures and sometimes slow reactions of the Commission in respect of project appraisals and financing proposals; delays were exacerbated by the Commission's laborious procedural framework with its resident adviser, Delegation and central services.

Regional funds

25. The Council Decision for the seventh EDF highlights the particular importance and high priority which should be given to regional cooperation efforts and mentions the obligation to include in the IPs proposals for regional programmes and projects ⁽¹⁸⁾.

26. Funds for regional cooperation constitute programmable funds allocated by the Commission to the three groups of OCTs. In some cases the IPs include regional allocations, in others they do not.

27. Funds available for these purposes have increased from ECU 10 million for the sixth EDF to ECU 11,5 million for the seventh EDF and have been allocated, committed and disbursed as indicated in Table 3.

28. The intentions and expectations of the Commission and the Council in relation to regional cooperation were never sufficiently clarified. Funds were allocated without any of the parties concerned having a clear idea about the specific objectives to be pursued or the way in which the funds would be used.

29. As a result the intended priority for regional cooperation has proved very difficult to achieve as:

(a) commitment and disbursement rates for the sixth EDF and seventh EDF have been very low;

(b) no proposals have been made for focal sectors and for regional cooperation under the seventh EDF (French Polynesia and New Caledonia);

(c) no regional projects involving both British and Netherlands OCTs and neighbouring ACP countries in the Caribbean region nor between Mayotte and the ACP countries in the Indian Ocean region have been implemented;

(d) although the IPs for the Netherlands Antilles, Aruba, Anguilla, the British Virgin Islands and the Turks and Caicos Islands contained preliminary orientations for sub-regional and regional cooperation, neither a regional dimension for use of funds, nor a regional policy or strategy has been developed. This has led to a situation where most of the funds have been spent on trade promotion and tourism activities, mainly in the form of attendance/appearance at trade fairs and seminars. Similar activities were also financed from IP resources although regional funds were still available.

30. Particular reasons for the slow implementation of regional cooperation are insufficient knowledge and a lack of commitment at the level of the territorial authorities, as well as the generally complicated management structure of regional projects (too many partners often geographically separated). More specifically there is an apparent unwillingness of the two main Pacific OCTs to nominate a common regional authorising officer and a common regional coordinator. Neither is there an appropriate discussion forum for regional cooperation between Caribbean OCTs.

⁽¹⁸⁾ See Articles 4 and 188(2) (e).

31. Information on the use of regional funds is not readily accessible from the current financial system: the funds are allocated at the level of the three Member States, but the commitment of funds is recorded at the level of either individual OCTs or at a global level, or is recorded at the level of an ACP State if the funds are being used together with ACP regional funds for a regional project managed by the Delegation in that ACP State, or if activities for OCTs are organised in that State (e.g. seminars).

Non-programmable funds

32. In addition to the (national and regional) programmable funds, additional resources may be allocated to the OCTs by way of non-programmable funds managed exclusively by the Commission. The most important are: risk capital and interest subsidies⁽¹⁹⁾, Stabex resources and emergency aid. For Stabex and emergency aid the same procedures as for the ACP countries apply; i.e. in case certain events arrive (drop of export revenue or an emergency situation), the countries become eligible for aid under certain conditions, so that a request for aid can be made. As indicated in paragraphs 42 and 52 the utilisation of Stabex funds has been slow.

Implementation of individual projects and actions

33. The identification, preparation, appraisal, implementation and monitoring of projects and actions have been examined in detail as well as their contribution to the development objectives set by the OCTs.

34. The audit did not reveal any significant irregularities at the level of the payments for constructions, supplies and services for the projects. However, for the majority of projects, efficient and effective implementation has been hampered by deficiencies in the appraisal, preparation and monitoring of the aid operations. The most significant deficiencies are:

- (a) use of incomplete or unreliable data in project documentation;
- (b) absence of economic/social/financial indicators to measure the project's achievements and the extent to which the objectives have been met;
- (c) insufficient monitoring of project implementation;
- (d) absence of *ex post* evaluations.

⁽¹⁹⁾ The Court's examination of risk capital operations managed by the European Investment Bank focused on those implemented in New Caledonia. Related audit observations are given in the Court's Special report on risk capital operations (OJ C 389, 14.12.1998, p. 44).

35. These shortcomings have seriously reduced the effectiveness of the financial aid to OCTs and have resulted, *inter alia*, in delaying project inputs and outputs, and in total or partial failure to achieve objectives. Some projects have been abandoned or have undergone major changes. The following examples are given to illustrate the problems encountered.

36. In New Caledonia the implementation of projects has generally speaking been satisfactory, as they did fit into the concentration sectors of the IP, they contributed to the economic and social development of the OCT and their sustainability was ensured.

37. However, in this OCT a ECU 2,6 million project (20 % of the IP) to finance, mainly in the form of loans, the start-up of economically viable activities by young agricultural producers had failed, with only ECU 50 000 disbursed five years after the financing decision was taken. This was mainly due to an unrealistic project conception.

38. For an ECU 8 million project in French Polynesia (61 % of the IP) described as 'assainissement de la zone d'Outumaoro' the financing proposal could not be prepared until the end of 1997 because a number of issues concerning tariffs, real estate, water purification and the management structure of the project remained unsettled although these problems were scheduled to be resolved in the second half-year of 1992⁽²⁰⁾. Part of the delay was due to lengthy discussions between the Commission and the authorities of French Polynesia.

39. Also in French Polynesia five years after approval of a ECU 7 million project for the building of five fishing vessels, to which the EDF contributed ECU 3,16 million (24 % of the IP), only two vessels had been delivered. This was the result of a lack of experience of the shipbuilder, which was awarded the contract in spite of doubts⁽²¹⁾ about its technical and financial capacity.

40. For the same project the financing arrangements laid down in the Financing Agreement requested the territory to assure complementary financing: the initially foreseen loan to be contracted by the beneficiaries of the project was replaced by a lease contract between the beneficiaries and an investment company, thus leading to a change in the ownership of the vessels, contrary to the stipulations of the financing agreement.

⁽²⁰⁾ See indicative calendar annexed to the seventh EDF IP.

⁽²¹⁾ Expressed, *inter alia*, by the tender evaluation committee which had proposed a shipyard that had constructed fishing vessels under an earlier phase of the programme.

41. The main objective of a pearl research project in French Polynesia with an EDF subvention of ECU 1,15 million (8 % of the IP) is to improve the quality of the pearls. However, the Financing Agreement lacked an appropriate indicator for quality improvement. The local authorities could not indicate what has been the impact of the project on high-quality pearl production. Moreover the planned extension of improved cultivation techniques has been extremely limited as a result of logistical problems having been severely underestimated.

42. Also in French Polynesia, part of the non-programmable aid concerns the transfer of ECU 4,85 million of Stabex funds to compensate for the weakness of the copra market. Of this amount, ECU 900 000 made available in 1995 had not been used till the 'Framework of mutual obligations' presented by the territorial authorities to the Commission in 1993 was signed in March 1998.

43. In Mayotte, one of the least developed OCTs, the funds of the sixth and seventh EDF have been successfully used (rates for commitment and disbursement of funds above 95 % and 80 % respectively) for the upgrading of infrastructure in the electricity and water sectors which are of vital importance for the country's development.

44. In the Netherlands Antilles the use of funds is scattered both geographically and financially over more than 100 contracts which show immense differences in terms of contractual conditions and obligations, making financial management difficult. There is a tendency for contracts to be extended as long as there are funds available, without the need for such extensions being critically assessed by the territorial authorities and the services of the Commission.

45. Also in the Netherlands Antilles, the contractual provisions concerning progress reporting, accountant's reports to be produced and obligations in the area of administrative and financial management have generally not been respected by the contracting parties and not followed up by the Delegation.

46. Only 10 % of the available funds under the seventh EDF had been committed by the Netherlands Antilles in the concentration sectors at the end of 1997, whereas it was anticipated that they would absorb at least 70 % of the funds. This is due to one big cofinanced project ⁽²²⁾ that the Commission had to abandon, as after five years of negotiations no agreement could be reached between the Commission and the Netherlands.

47. On St Eustatius the EDF contributed to the extension of the airport's runway with ECU 2 million (10 % of the IP). The decision to extend the runway was based on unreliable and unrealistic forecasts, provided by the local authorities. Furthermore, the works were, in particular for the terminal, badly executed, which remained unnoticed by the Commission's Delegation, so that no remedial action has been taken.

48. For the Netherlands Antilles' Tourism Development Programme (ECU 19,15 million of which ECU 13,35 million is sixth EDF or 64 % of the IP) and its Business Development Scheme (BDS) (ECU 5,5 million or 26 % of the IP), it was not possible to assess to what extent the general objectives of the Financing Agreement had been achieved, because the necessary information to measure the impact of the projects had not been collected by any of the stakeholders. In cases where revenue was foreseen in the Tourism Project, the destination of revenues was not regulated by the contract. Moreover, the financial sustainability of the BDS was not ensured as the intended financial mechanism (revolving fund) was in reality not operational. Also for the BDS funds have been used for overheads which were not eligible according to the Financing Agreement. These funds should be recovered.

49. In Aruba the EDF aid under both the sixth and seventh EDF was concentrated on the airport extension (ECU 9,35 million) (90 % of IP for sixth EDF and 39 % of IP for seventh EDF). This project, for which the request was made in 1990, only started to be executed in 1994. Once started, it has been successfully implemented and well-monitored.

50. Implementation of EDF aid in Anguilla, British Virgin Islands and Turks and Caicos Islands has suffered from shortcomings such as unclear definition of project objectives, inaccurate data in project documentation, delays in implementation and absence of evaluations.

51. In the British Virgin Islands a ECU 2,5 million project (100 % of the IP) to finance the construction of a learning resource centre at the existing community college is being severely delayed because the locally recruited and financed consultant has performed inadequately as far as the design and tender documentation for the project are concerned and, in addition, there has been no proper consultation with the Commission.

52. In the years 1993 to 1996 the Falkland Islands, which did not benefit from any programmable funds under the seventh EDF, received an allocation of ECU 5 million of Stabex funds to compensate for the low return on the sales of wool. Of this amount

⁽²²⁾ Cofinancing by the EDF together with other donors is occasionally practiced. In by far the most EDF financed projects there is no other donor involved.

only ECU 1,5 million has been made available for use by the OCT and less than ECU 1 million has been disbursed. The inability of both the Falkland Islands Government and the Commission to ensure that the available funds were quickly used would appear to indicate that there was no urgent need for these funds ⁽²³⁾.

53. ECU 300 000 were allocated under the sixth and seventh EDF to the French Antarctic for ornithological research on an uninhabited island (St Paul Islands). As this aid had no development purpose the support has now been withdrawn.

54. Article 234 of the Council Decision for the seventh EDF introduced the notion of partnership between the Commission, the Member State responsible for a country or territory and the relevant local authorities. According to Article 235, 'Partnership shall cover the programming, preparation, financing, monitoring and evaluation of operations carried out by the Community under this Decision, and any problem arising in relations between the OCT and the Community'.

55. However, apart from two meetings related to the programming of aid actions in certain French OCTs, the (four) meetings held after the IPs had been established concentrated on expanding the scope of the financial, technical and commercial aid to OCTs and on the mid-term revision of the Association decision. In spite of the apparent problems in the implementation of the Territorial and Regional Indicative Programmes, the meetings did not deal with monitoring and evaluation of aid actions.

Monitoring and evaluation

56. Although Member States concerned are responsible for allocating the programmable EDF funds (see paragraph 3), the implementation of the programmes is the responsibility of the Commission and the OCTs jointly. The Member States having thus been relieved of responsibility for the implementation of the individual projects supported by the EDF had only very limited information available about their content and execution.

57. This situation leaves the Commission with a responsibility for monitoring the projects. This responsibility lies in first instance with its representatives in the OCTs (usually a resident adviser with an administrative assistant) working under the hierarchical responsibility of a Commission Delegate.

58. In most of the OCTs visited there have been shortcomings in the monitoring activities of the Commission. However, this can to a great extent be explained by the fact that in most cases a single Commission official with some administrative support is responsible for the implementation of projects and actions for a number of OCTs spread over a sometimes vast geographic area.

59. Central services have not played an active role. Information available in the Commission's files in respect of projects was limited and the Court has found little evidence of remedial action being initiated by these services in order to address problems related to the implementation of the aid operations.

60. The local administrations which are not used to the EDF environment have to use only occasionally the EDF rules which they find complicated (e.g. tender procedures). In respect of co-financing, the local rules and the EDF rules have to be applied simultaneously. The communication between the local administration and the Commission is cumbersome in the (justified) absence of an on-the-spot delegation or agency which otherwise could have assisted the local administration.

61. The present structure, based on the Lomé Conventions and the Council Decisions on the OCTs, leads obviously to a dilemma: adequate monitoring requires more resources to be devoted by the Commission but this would not be cost effective given the relatively small amounts of aid involved. This can be compared with the management of EDF aid in (certain) ACP states where much larger amounts have to be managed with comparatively fewer resources. A solution of this problem can only be found through a fundamental change of the management structure by allocating more responsibilities for the implementation and monitoring of the actions to the Member States concerned.

62. Both the Decisions ⁽²⁴⁾ for the sixth and seventh EDF state that evaluations are carried out in respect of the development operations in OCTs by both the authorities of the OCTs and the Community, with the objective of improving the effectiveness of the development operations in progress and those to be put in place in the future. No such evaluation activities appear to have been carried out.

CONCLUSION

63. In most of the OCTs the level of economic development is high and similar to that of some of the Member States of the European Union, and goes far beyond the level of the ACP States (paragraphs 7 and 8).

⁽²³⁾ See also the report of the UK National Audit Office on the Dependent Territories – 30 May 1997, page 65.

⁽²⁴⁾ Article 154 of the Council Decision for the sixth EDF and Articles 226 and 227 of the Council Decision for the seventh EDF.

64. The level of disbursements of programmable funds made available under the sixth (ECU 63,5 million) and seventh EDF (ECU 86 million) has been low in most of the OCTs visited, taken into account that intervention sectors and several projects had already been properly identified at the level of the IPs. The introduction of the 'partnership' with the seventh EDF has not led to a significant improvement (paragraphs 20 to 24).

65. A clear role should be identified for the Commission in the allocation of programmable funds to individual OCTs.

66. For programmable aid made available to the OCTs and that for regional projects the financial information system is not transparent and shows discrepancies between the EDF accounts and the IPs (paragraphs 14 to 16 and 31).

67. Funds were allocated for regional cooperation without the Council, the Commission and the authorities concerned having a clear idea about the specific objectives to be pursued or the way in which the funds would be used. Consequently, regional cooperation encountered serious problems to achieve its priorities. In the case of the Netherlands and British OCTs most of the limited regional funds spent have been used to finance the participation of individual OCTs in their trade promotion and tourism fairs (paragraphs 29 to 30).

68. The implementation of individual projects has been hampered by deficiencies in appraisal, preparation and monitoring as well as by procedures which are more focused on formalities than

on results. It also shows significant differences between OCTs, which reflect differences in the degree of commitment of the territorial authorities to the implementation of the IPs. Due to the absence of economic/social/financial indicators and *ex post* evaluations the effectiveness of the aid operations is difficult to measure. In a number of cases the contribution of the operation to the development of the OCT has been weak (paragraphs 34 to 53).

69. Monitoring activities and intervention by the Commission in both the OCTs and at central level have not been sufficient to lead to a more efficient and effective implementation of the aid operations (paragraphs 58, 59 and 62).

70. The administrative burden for the local administration is high: for comparatively small amounts procedures have to be applied which appear in certain cases (e.g. tender procedures in the OCT context) complicated and cumbersome for administrations which lack experience in these procedures as they are to be applied only occasionally. Moreover in many cases EDF projects form part of a wider programme, cofinanced with those Member States with which the respective OCTs have a special link, leading to different parallel procedures (paragraph 60).

71. Consideration should be given to changing the management structure for aid to the OCTs so as to give the main responsibility for implementation and monitoring to the Member States concerned, perhaps by analogy with another Community instrument. The main aims of the aid and the manner in which the aid is managed and executed should, in any case, be reviewed.

The present report was adopted by the Court of Auditors in Luxembourg at its meeting of 15 July 1999.

For the Court of Auditors

In the absence of Jan O. KARLSSON

President of the Court

Patrick EVERARD

Member of the Court

ANNEX 1

OBJECTIVES ON OCTs AS INCLUDED IN COUNCIL DECISIONS

Article 1 of the Council Decision for the sixth EDF stipulates:

'The aim of this Decision is to facilitate the economic, cultural and social development and to strengthen the economic structures of the countries and territories listed in Annex I, in particular by developing trade, economic relations and agricultural and industrial cooperation between the Community and those countries and territories, by helping to safeguard the interests of those among them whose economy depends to a considerable extent on the export of commodities and by affording financial aid and technical cooperation.'

The Council Decision for the seventh EDF stipulates the main objectives in its Articles 1 to 6 as follows:

Article 1

The aim of this Decision is to promote and accelerate the economic, cultural and social development and to strengthen the economic structures of the OCT listed in Annex I.

Article 2

The Community shall provide support for the OCT's efforts to achieve comprehensive development based on their cultural and social values, their human capacities, their natural resources and their economic potential in order to promote the OCT's social, cultural and economic progress and the well-being of their populations through the satisfaction of their basic needs, the recognition of the role of women and the enhancement of people's capacities, with respect for their dignity.

Such development shall be based on a sustainable balance between economic objectives, the rational management of the environment and the enhancement of natural and human resources.

Article 3

Cooperation shall be directed towards development centred on man, the main protagonist and beneficiary of development, which thus entails respect for, and promotion of, all human rights. Cooperation operations shall thus be conceived in accordance with the positive approach, where respect for human rights is recognised as a basic factor of real development and where cooperation is conceived as a contribution to the promotion of these rights.

The role and potential of initiatives taken by individuals and groups shall also be recognised and fostered in order to achieve in practice real participation of the population in the development process.

Article 4

The Community and the OCT shall give special importance and high priority to regional cooperation and integration. In this context, the Community shall offer effective support for the OCT's efforts to organise themselves into regional groupings and to step up their cooperation at regional and inter-regional level with a view to promoting a more just and more balanced international economic order.

Article 5

The Community acknowledges the need to accord special treatment to the least-developed OCT and to take account of the specific difficulties confronting them. It shall pay special attention to improving the living conditions of the poorest sections of the population.

Cooperation shall comprise, *inter alia*, special treatment when determining the volume of financial resources and the conditions attached thereto in order to enable the least-developed OCT to overcome structural and other obstacles to their development.

Article 6

Within the scope of their respective responsibilities, the authorities participating in the partnership framework referred to in Article 10 shall examine periodically the results of the implementation thereof and provide any necessary impetus and opinions for the attainment of the objectives of this Decision.

Any questions that might directly hamper the effective attainment of the objectives of this Decision may be raised in the context of this procedure.'

ANNEX 2

THE TWENTY OCTS

British OCTs

Anguilla
Cayman Islands
Falkland Islands
South Georgia and South Sandwich Islands
Montserrat
Pitcairn Island
St Helena and Dependencies
British Antarctic Territory
British Indian Ocean Territories
Turks and Caicos Islands
British Virgin Islands

French OCTs*Collectivities*

Mayotte
St Pierre and Miquelon

Territories

New Caledonia
French Polynesia
French Southern and Antarctic Lands
Wallis and Futuna Islands

Netherlands OCTs

Aruba
Netherlands Antilles (Bonaire, Curaçao, St Martin, Saba, St Eustatius)

Country with special relations with Denmark

Greenland

ANNEX 3

SUMMARY OF COMMITMENTS AND PAYMENTS PER OCT IN ECU MILLION AND AS A PERCENTAGE OF THE IP

	Sixth EDF								Seventh EDF			
	(at 31.12.1992)				(at 31.12.1997)				(at 31.12.1997)			
	Committed	%	Paid	%	Committed	%	Paid	%	Committed	%	Paid	%
<i>Mayotte</i>												
Programmable	4,25	100	3,86	91	4,49	95	4,47	94	6,63	99	5,44	81
Non-programmable					1,15	N/A	1,15	100	3,38	N/A	3,38	100
					5,64		5,62		10,01		8,82	
<i>New Caledonia</i>												
Programmable	7,84	100	6,01	77	7,83	100	7,81	99	8,99	73	7,53	60
Non-programmable					4,30	N/A	4,05	94	13,2	N/A	6,58	50
					12,13		11,86		22,19		14,11	
<i>French Polynesia</i>												
Programmable	5,22	63	3,17	39	7,55	92	5,51	67	4,67	35	3,56	27
Non-programmable					7,51	N/A	7,51	100	8,21	N/A	6,14	75
					15,06		13,02		12,88		9,70	
<i>St Pierre and Miquelon</i>												
Programmable	2,60	100	1,60	62	3,00	88	3,00	88	3,00	100	3,00	100
Non-programmable					0,03	N/A	—	0	0,03	N/A	—	0
					3,03		3,00		3,03		3,00	
<i>Southern and Antarctic lands</i>												
Programmable					0,30	100	0,27	90	0,03	11	0,03	1
Non-programmable					—	—	—	—	—	—	—	—
					0,30		0,27		0,03		0,03	
<i>Wallis and Futuna</i>												
Programmable	3,24	100	2,83	87	3,30	88	3,19	85	3,21	70	2,14	47
Non-programmable					—	—	—	—	0,09	N/A	0,09	100
					3,30		3,19		3,30		2,23	
<i>Aruba</i>												
Programmable	0,51	8	0,28	4	6,62	95	5,72	82	7,55	100	4,29	57
Non-programmable					3,29	N/A	3,29	100	0,34	N/A	0,09	26
					9,91		9,01		7,89		4,38	
<i>Netherlands Antilles</i>												
Programmable	19,59	92	5,02	24	20,29	97	13,18	63	10,24	45	3,90	17
Non-programmable					1,48	N/A	0,85	57	13,93	N/A	2,93	27
					21,77		14,03		24,17		6,83	
<i>Anguilla</i>												
Programmable	1,80	100	0,75	41	1,79	99	1,68	93	2,68	93	1,82	63
Non-programmable					1,50	N/A	1,50	100	0,23	N/A	—	0
					3,30		3,18		2,91		1,82	
<i>Cayman Islands</i>												
Programmable	1,50	100	1,489	99	1,49	99	1,49	100	—	N/A	—	N/A
Non-programmable					0,50	N/A	0,50	100	1,28	N/A	0,58	45
					1,99		1,99		1,28		0,58	
<i>Falkland Islands</i>												
Programmable	0,70	100	0,50	71	0,70	100	0,66	94	—	N/A	—	N/A
Non-programmable					0,49	N/A	0,49	100	5,69	N/A	5,69	100
					1,19		1,15		5,69		5,69	
<i>Montserrat</i>												
Programmable	2,00	100	1,34	67	2,00	100	2,00	100	0,66	17	0,017	0,4
Non-programmable					2,23	N/A	2,23	100	0,58	N/A	0,009	2
					4,23		4,23		1,24		0,019	
<i>St Helena</i>												
Programmable	1,40	100	1,28	91	1,40	100	1,39	99	1,21	50	0,85	36
Non-programmable					—	—	—	—	0,05	N/A	0,04	80
					1,40		1,39		1,26		0,89	
<i>Turks and Caicos</i>												
Programmable	1,60	100	1,59	100	1,70	98	1,65	95	3,89	100	0,32	8
Non-programmable					0,52	N/A	0,15	29	0,82	N/A	0,57	70
					2,22		1,80		4,71		0,89	
<i>British Virgin Islands</i>												
Programmable	1,50	100	0,88	58	1,50	100	1,50	100	2,40	100	0,04	1,7
Non-programmable					1,43	N/A	1,43	100	1,61	N/A	1,22	76
					2,93		2,93		4,01		1,26	

Source: DG VIII — OLAS — Livre des comptes par pays.

NB: (1) Non-programmable aid comprises aid given outside the IP, such as Stabex, Sysmin and Emergency aid.

(2) N/A: not applicable as there are no prior allocation of funds.

ANNEX 4

SUMMARY OF PER CAPITA GDP AND EDF AID FOR OCTS AND A NUMBER OF ACP STATES

	Population	GDP per capita/year (purchasing power parity) (in USD)	Amount of programmable aid (7th EDF) per capita/five year period (in ECU)
OCTs			
Cayman Islands	36 000	23 800	— ⁽¹⁾
Aruba	68 000	21 000	111,40
St Pierre and Miquelon	7 000	11 000	428,57
British Virgin Islands	13 000	10 200	184,62
Netherland Antilles	211 000	9 800	107,70
New Caledonia	191 000	8 000	65,45
French Polynesia	233 000	8 000	56,22
Anguilla	11 000	7 400	263,64
Turks and Caicos	15 000	6 400	260,00
Montserrat	13 000	4 360	300,00
Wallis and Futuna	15 000	2 000	306,67
Mayotte	105 000	600	63,81
St Helena	7 000	N/A	342,86
ACP States			
Barbados	258 000	10 300	21,31
Gabon	1 190 000	5 400	25,13
Papua New Guinea	4 496 000	2 400	10,28
Ivory Coast	15 000 000	1 620	7,45
Haiti	6 611 000	1 000	17,01
Madagascar	14 061 000	880	9,46
Angola	10 548 000	800	10,90
Burkina Faso	10 891 000	740	13,71
Mozambique	18 165 000	670	9,39
Tchad	7 166 000	600	15,39
Ethiopia	58 732 000	430	3,64

(¹) No allocation under the seventh EDF.

N/A: not available.

Source: ODCI-Gov/CIA-action/factbook: most of the data relate to 1995; sometimes 1996 information was given.

ANNEX 5

AMOUNTS OF AID TO OCTS GIVEN BY MEMBER STATES ⁽¹⁾

	<i>ECU million</i>		
	1991-1996	1993-1997	1994-1999
<i>British OCT</i> ⁽²⁾			
Anguilla	16,0		
Cayman Islands	0,4		
Falkland Islands	4,1		
South Georgia and South Sandwich Islands	—		
Montserrat	40,3		
Pitcairn Island	0,9		
St Helena and Dependencies	80,0		
British Antarctic Territory	—		
British Indian Ocean Territory	1,2		
Turks and Caicos Islands	56,6		
British Virgin Islands	8,8		
	208,3		
<i>French OCTs</i> ⁽³⁾			
Collectivities:			
Mayotte ⁽⁴⁾			76,7
St Pierre et Miquelon			16,5
Territoires:			
New Caledonia			284,3
French Polynesia			229,8
French Southern and Antarctic Lands			2,4
Wallis and Futuna Islands ⁽⁴⁾			8,8
			618,5
<i>Netherlands OCTs</i> ⁽⁵⁾			
Aruba		117,7	
Netherlands Antilles (Bonaire, Curaçao, St Martin, Saba, St Eustatius)		427,4	
		545,1	
<i>Country with special relations with Denmark</i>			
Greenland			

⁽¹⁾ It is not known what elements the different Member States include as 'aid' in the figures they presented to the Court. These figures may not be comparable between Member States.

⁽²⁾ Source: Report National Audit Office HC 13-30.5.1997.

⁽³⁾ Source: Cour des comptes française — Secrétariat d'État à l'Outre-Mer.

⁽⁴⁾ These OCTs receive further 293,36 Mio Euro over the period 1995-2000.

⁽⁵⁾ Source: *Algemene Rekenkamer* — OECD.

ANNEX 6

SUMMARY OF ALLOCATIONS OF PROGRAMMABLE FUNDS

(ECU million)

	Sixth EDF		Seventh EDF	
	Indicative programme	EDF accounts	Indicative programme	EDF accounts
<i>French OCTs</i>				
New Caledonia	7,85	7,85	12,50	12,50
Mayotte	4,25	4,75	7,20	6,70
French Polynesia	8,25	8,25	13,10	13,10
St Pierre and Miquelon	2,60	3,43	3,40	3,00
French Southern and Antarctic Lands	0,30	0,30	0,30	0,30
Wallis and Futuna	3,25	3,75	5,10	4,60
Sub-total	26,50	28,33	41,60	40,20
<i>Netherlands OCTs</i>				
Netherlands Antilles	20,70	20,93	23,77	22,72
Aruba	6,90	6,97	7,93	7,58
Sub-total	27,60	27,90	31,70	30,30
<i>British OCTs</i>				
Anguilla	1,80	1,80	3,02	3,02
Cayman Islands	1,50	1,50	—	—
Falkland Islands	0,70	0,70	—	—
South Georgia and South Sandwich Islands	—	—	—	—
Montserrat	2,00	2,00	4,03	4,03
Pitcairn	—	—	—	—
St Helena and Dependencies	1,40	1,40	2,52	2,52
British Antarctic Territory	—	—	—	—
British Indian Ocean Territory	—	—	—	—
Turks and Caicos	1,80	1,73	4,03	3,90
British Virgin Islands	1,50	1,50	2,52	2,52
Sub-total	10,70	10,63	16,12	15,99
Total	64,80	66,86	89,42	86,49

Note: Greenland not mentioned in the table as it did not receive any aid.

REPLIES OF THE COMMISSION

SUMMARY

Financial aid is granted to the overseas countries and territories (OCTs) under the sixth and seventh EDFs in accordance with the unanimously adopted Council Decisions of 30 June 1986 (OJ L 175, 1.7.1986) and 25 July 1991 (OJ L 263, 19.9.1991) on the association of the overseas countries and territories with the European Community (Association Decision).

As regards the OCTs' economic development, the Council, while favouring their special status with the Member State to which they are linked, has wanted them to benefit from the same instruments as the African, Caribbean and Pacific (ACP) States.

The French, British and Dutch OCTs, though not Greenland (a Danish OCT), receive EU financial aid which should be viewed in the light of the following considerations:

- the Association Decision setting out the rules for granting development aid must be approved **unanimously** by the Council;
- the OCT's status depends on the Member State to which it is linked: France, the Netherlands or the United Kingdom;
- the political relationship between the OCT and the State to which it is linked varies considerably;
- the OCTs receive more bilateral aid from the Member State to which they are linked than Community aid, which is considered additional; this sometimes explains why certain projects are selected in the indicative programmes;
- the OCTs are not sovereign entities, although some of them enjoy a certain degree of autonomy from the Member State to which they are linked;
- finally, the various OCTs are really diverse and have their individual features, especially as regards their stage of development.

The Council decides, unanimously, on the amount of aid to be allocated to the OCTs. Because of their status and special relationship with the European Union, the Council allocates more aid to them than to the ACP States. The Commission aims to be as impartial as possible and proposes to the Member States to which the OCTs are linked the total resources to be allocated. After a discussion, these Member States decide on the breakdown for each group of OCTs (French, British and Dutch). The allocation for each OCT is then determined by the Member State to which they are linked.

The Commission also ensures that the EDF's requirements as regards programming and the preparation of projects or programmes are strictly applied. These requirements may sometimes lead to further delays. Moreover, the programming rules for the seventh EDF include provisions for the Commission to be directly involved in the preparation of the indicative programmes. These provisions also stipulate that all the Member States are parties to the decision-making process following the signature of the indicative programme. However, the Commission does its best in administering the aid to the OCTs, given the limited funds and resources available and the remote and insular location of the OCTs.

The Commission considers that its financial management information system provides all the necessary information. The method of accounting for regional funds under the sixth and seventh EDFs for OCTs is similar to that used for other regional funds under those EDFs.

Comparison between ACP States and the OCTs is neither appropriate nor desired either by the Commission or by the OCTs themselves. The successive Association decisions differ appreciably from the corresponding Lomé Conventions. The criterion of per capita revenue is certainly not the only one to be taken into consideration.

The Commission has also initiated a review procedure with the OCTs and the Member States which could lead to a change in the 'OCT 2000' management methods ⁽¹⁾. The main responsibility for management and implementation could be entrusted increasingly to local operators.

⁽¹⁾ The status of OCTs associated with the EC and options for 'OCT 2000' (COM (1999) 163 final).

INTRODUCTION

General

3. At a more general level, the fifteen Member States of the European Union are fully involved in the programming of OCT funds and the project decisions through the EDF committee, which examines each financing proposal and gives its opinion.

ALLOCATION OF FUNDS

Context of aid to OCTs

6, 7, 8. The status of the OCTs as regards cooperation and other fields covered by their association with the EU is not comparable to that of the ACP countries. This difference in status is reflected in the successive Association decisions adopted by the Council. Moreover, it is a political demand of the OCTs themselves.

9. The amounts to be allocated to the indicative programmes are decided in a more general framework than on the basis of the GNP criterion alone. According to the Council decision, they must serve these territories' economic, cultural and social development.

The programming of aid

Allocation to groups of OCTs

13. The discrepancy noted by the Court between the Council's decisions on the EDF and the Commission's proposals is due to the special procedure followed for allocating funds to the OCTs. The Council decides on the total budget. After making a distinction between programmable and non-programmable funds, the Commission proposes a breakdown by group of OCTs on the basis of various parameters agreed with the three Member States concerned. The three Member States may adjust these proposals for each group of OCTs. The final decision is taken by the Council. Finally each of the Member States concerned distributes the previously negotiated amount between its OCTs in accordance with its own criteria and priorities.

14. The Commission's decision to transfer ECU 3,415 million of unused funds under the sixth EDF to the OCTs has been reflected in the accounts. Reference is made to these amounts in the IPs setting up the programming of the seventh EDF. The amounts have, however, never been transferred from the sixth to the seventh EDF in the accounts, since there has been no Council decision to do so.

15. Council Decision 86/285/EEC adopted in June 1986 reallocated the unexpended balance of the fifth EDF/Stabex to the fifth EDF. ECU 1,1 million was allocated to the Dutch OCTs. These extra funds were added to the indicative programme of the sixth EDF for the Netherlands Antilles and Aruba.

16. The decision to increase the allocation for Saint-Pierre and Miquelon was taken in order to help this territory to overcome the serious economic problem resulting from the fishing areas dispute with Canada. After the local economy collapsed, the Commission, at the request of France, did all it could to mobilise the unused balances from previous EDFs. The urgency and gravity of the situation called for special procedures which would bring effective and rapid relief to a devastated economy.

Allocation of funds to individual OCTs

17. The Commission proposes to the three Member States that the overall allocation be divided into three in line with various objective criteria. The three Member States negotiate amongst themselves and the Council takes the final decision; each Member State then distributes its funds in line with its specific criteria. The Member States inform the Commission of their decision on the breakdown of funds between the OCTs, but do not have to give reasons. The Commission has no control over this process. Up to now, the partnership has above all provided a forum for debating common problems of general interest.

19. Unlike the Court, the Commission is of the opinion that the accounting arrangements for these operations is transparent as regards the use of the funds. It does not consider that there is a need for any reconciliation between the EDF accounts and the indicative programmes since the indicative programme is not an account but a document describing in general terms the way it is proposed to use the EDF.

The transcription error of ECU 0,2 million noted by the Court (Turks and Caicos) did not have any financial repercussions for the European Union.

IMPLEMENTATION OF AID

Indicative programmes

20 to 23. The rules of implementation set out in the Association decisions (Part Two, Title III, Chapter IV (sixth EDF) and Part Three, Title III, Chapter V (seventh EDF)) must be observed. The Commission is obliged to comply. The Commission is aware of certain delays and has already made a number of adjustments to such aspects as the starting and closing dates for projects now contained in the financing agreements. The commitment rates

also depend on the recipients' absorption capacity. Differences between the OCTs as well as between groups of OCTs must be taken into account.

24. The Commission would provide the following explanations for the five cases noted by the Court in which procedures were slow:

- (a) the Commission treats the programming exercise strictly and seriously; this explains the length of negotiations with the OCTs;
- (b) the Commission has often deplored this lack of an overall strategic vision; however, these are local constraints which have to be taken into account;
- (c) because of the requirements laid down in the association decision for preparation and documentation, the recipients often find it difficult to reply, leading to delays; the Commission recognises that the procedures are long and complex and is endeavouring to simplify them;
- (d) because of the low level of EDF funds available, some projects do indeed have to be cofinanced (with a contribution from the recipient or the Member State concerned); this explains the large number of intermediaries;
- (e) delays may arise because of the actual structure of the delegations or offices in charge. However, the Commission often faces limitations as regards human resources, the administrative budgets of the delegations or offices and the mission budgets. The current structure of the delegations and offices in the Caribbean, which are still subject to restrictions, is a good example in this respect. Despite that, every step is taken to ensure that potential beneficiaries can make full use of the aid schemes proposed.

Regional funds

25. The Commission makes a point of generating synergy between territorial and regional programmes even though these programmes are negotiated separately. The programming of the territorial funds is a priority for the OCTs. The regional funds are considered afterwards.

28. Generally speaking, regional cooperation merely reflects the degree to which participants wish to cooperate. Regional cooperation is extremely difficult to introduce. Apart from the fact that being an island does not promote a culture of cooperation, there are other explanations such as the geographical isolation of the recipients, differences of language and culture and sometimes a certain reluctance outside or even within these territories.

Despite these difficulties, the Commission endeavours to establish a dialogue and promote cooperation between OCTs, overseas departments and the ACP; projects are only one means to this end.

29. The Commission would point out the following:

- (a) Regional cooperation is extremely difficult to introduce for the reasons set out at 28.
- (b) Generally speaking, differences in status and in the development objectives of OCTs in the same region, regardless of whether they belong to the same group, do not facilitate regional cooperation.
In the Pacific in particular, the considerable physical distance between the two French territories means that the sense of belonging to the same regional entity is very relative. The political sense of belonging to a regional grouping may extend beyond the Community framework to regional organisations such as the Pacific Forum or the South Pacific Community.
- (c) The Commission does all it can to develop regional cooperation between the ACP and the OCTs. However, it takes time to break down reluctance in the OCTs themselves, misunderstandings and cultural and language barriers. The OCTs are not sovereign states, while the ACP States are. In the case of the OCTs, only the Member State to which they are linked is authorised to handle cooperation of this type.
- (d) To develop a strategy, the Commission and the OCTs must share an overall vision; the Commission can hardly impose its own. The only unifying factor seems to be the promotion of regional tourism.

30. The Commission is of the opinion that regional cooperation has advanced; however, this is a vast project which must be gauged over the long term in relation to the initial situation.

31. The method of accounting for regional funds under the sixth and seventh EDF for OCTs is similar to that for other regional funds within those EDFs.

The total allocation for OCT regional projects is indeed booked globally (plan 2 class 1). However, separate memorandum accounts in plan 0 class 3 and 4 are used to record the breakdown by region of the total OCT regional funds.

The commitment for a regional project is recorded as any other primary commitment (plan 2 class 2). The association of the project to an individual OCT or to a region depends on the nature

of the project. In the case of a regional OCT project the accounting system automatically creates additional entries in plan 0 class 4 and 3 to reflect the drawing-down of lines of credit made available on a regional basis. Information on the use of regional funds is hence readily available.

Non-programmable funds

32. The utilisation of Stabex funds has indeed been relatively slow because of the desire for sound management and efficiency or difficulties resulting from the geographical position of the OCTs receiving the aid (see paragraphs 42 and 52 below).

Implementation of individual projects and actions

34. The Commission welcomes the Court's positive assessment of the absence of irregularities in the management of Community funds by the OCTs. As for the four specific comments, the following constraints should be borne in mind:

- (a) the inadequacy of resources available on the spot (local or other), the absence of data in other institutions (IMF, World Bank, etc.) and the special relationship between the OCTs and the Member State to which they are linked; the Commission uses the data available, which are usually provided by the recipient;
- (b) in some cases, the proportion of Community finance is small as the project is cofinanced;
- (c) and (d) an excessive workload and insufficient staff and funds may also affect the projects.

36 and 37. Like the Court, the Commission recognises the usefulness and effectiveness of the projects in New Caledonia even if one of them (1/5 of the indicative programme) suffered from planning faults.

38. The delays in preparing the Outoumaoro/French Polynesia project are due to the slowness of the local authorities to satisfy the Commission's conditions and quality requirements. This financing proposal is now being finalised.

39. It should be pointed out that, when awarding contracts, the Commission insists that the general terms are strictly observed. The local tender committee had planned to award the contract to a Polynesian shipyard on the basis of criteria which were not laid down in the call for tender.

The choice of the Fiji shipyard was strictly in line with EDF procedures. The last two ships will be delivered to the territory in May and June 1999.

40. The Court is right to point out that the territory of French Polynesia has not complied with its obligations as regards the provision of additional financing laid down in the financing agreement.

41. The objective of the project in French Polynesia was to improve the quality of the pearls. Nevertheless, it is very tricky to determine indicators in the financing agreement for this research project objective. However, an *ex post* evaluation of the impact and the results is planned.

42. The Framework of Mutual Obligations was signed in March 1998 despite being presented in 1993. The time-lag between presentation and signature of the document was due to a request by the French Polynesian authorities for an audit of previous operations before finalising the Framework's provisions. This audit was not completed until November 1997.

43. The Commission appreciates the Court's positive assessment of the management of funds in Mayotte.

44. The Commission is trying to concentrate aid on a maximum of two sectors in the Netherlands Antilles. It is also trying to persuade the OCTs to concentrate this aid geographically even though the geographic dispersion of the islands is one of the features of the Netherlands Antilles and has an appreciable impact. The volume of bilateral aid should also be taken into account. As regards the extension of contracts, the Commission will ensure that a stricter examination takes place first.

46. The Court is referring to the abandonment of the technical school project in Sint Maarten (ECU 8 000 000). This project was abandoned at the Commission's initiative, to the great displeasure of the island and federal authorities, because, after more than five years of repeated contacts and reminders from the Commission, the OCT concerned had not managed to provide the minimum level of information required to allow the project to start (actual intentions of the local authorities, choice of language for tuition, sectoral studies, etc.). Moreover, it was increasingly evident to the Commission that the basic data put forward in support of this project had changed (in particular the population data).

47. As regards the extension of the airport runway at St Eustatius, the forecasts were imprecise and had been difficult to produce. The Commission therefore admits that it was over-optimistic in this case.

As regards the terminal, the project was indeed badly executed (by the Netherlands Antilles authorities).

The Commission representatives have since pointed out these shortcomings to the local authorities. Solutions have now been applied to remedy the situation.

48. As regards the Business Development Scheme (BDS), some of the stipulations contained in the financing agreement lacked precision. The Commission ordered an additional support mission during execution of the project. After this mission, recommendations were made to the parties concerned which concluded that some administrative costs should be met by the project.

The Commission does not therefore consider that the costs incurred need to be recovered.

49. The Commission appreciates the Court's favourable comments about the project in Aruba.

51. The problems encountered with the local consultant are typical of the difficulties facing the Commission when implementing aid in accordance with the provisions of the Association decision on the use of local resources.

52. There is a need for compensation to offset the low prices fetched by wool produced in the Falkland Islands. The local authorities too wanted this aid badly. The geographical and socio-economic background makes achievement of the project tricky since it is very difficult to launch a project, and respect EDF rules during implementation, with local authorities with limited means, communication difficulties due to the distance involved and a relatively slack local market.

53. The French authorities exercised their powers to distribute EDF OCT funds by allocating ECU 300 000 to the French Southern and Antarctic Territories. In view of the problems which this caused the EDF Committee, the Commission has asked the French authorities not to allocate EDF funds to this OCT when the 8th EDF is distributed.

54 and 55. So far, the partnership meetings have been used to discuss common problems of general interest (commercial aspects, for example, and the implementation of programmes in general). As regards the programming, only the formal side has been carried out (signature of the Territorial Indicative Programme).

The Commission has bilateral contacts with the OCTs through the delegations or offices. The problems of bilateral cooperation are addressed within this framework alone and not multilaterally.

Monitoring and evaluation

56 to 59. Primary responsibility for development, including the use of EC aid, lies with the beneficiary. This is a basic principle of the agreements with the OCTs. It is accurate to state that limited staff resources made it difficult for the Commission to monitor and readjust the aid actions, although it would not be correct to conclude that no such work was done; on the contrary, the Commission departments have done considerable work to facilitate and improve implementation.

61. The Commission wishes to continue to devolve more responsibility and apply the principle of subsidiarity. However, it wishes to assign responsibility to the OCTs rather than to the Member States to which they are linked. Issues such as the transfer of responsibility to the OCTs have been addressed in the deliberations about the Commission's discussion paper on the next Association decision, commonly referred to as OCT 2000. The approach advocated by the Commission would certainly tend towards greater decentralisation and subsidiarity.

62. As the Court points out, the Commission and the OCTs are jointly responsible for evaluation. For the Commission's part, because of competing priorities for human resources, it has not been possible to ensure that the systematic evaluation envisaged by the Council Decisions is undertaken.

CONCLUSION

63. The status of the OCTs as regards cooperation and EU aid schemes is not comparable to that of the ACP countries. This difference in status is reflected in the Association Decisions adopted by the Council.

64. The utilisation rate for appropriations may be low, but it is closely linked to the recipients' absorption capacity and the bilateral aid granted by the Member State concerned. Nevertheless, the Commission does all it can to ensure that beneficiaries can make full use of the aid schemes proposed, taking account of the constraints of the Association decision and the human resources available.

65. A new type of Commission involvement in the distribution of funds as suggested by the Court must be examined in the light of the following: the principle of subsidiarity, the additionality of Community aid and the cofinancing of projects for a greater consistency of operations. In future, the Commission, in agreement with the recipients and the Member States concerned, intends to propose a number of criteria to lead to a more objective distribution of funds between the OCTs. The Commission discussion paper OCT 2000 has dealt with these proposals.

66. The Commission considers that its financial management information system provides the necessary information. The method of accounting for regional funds under the sixth and seventh EDF for OCTs is similar to that used for other regional funds under those EDFs. As to supposed discrepancies between the EDF accounts and the indicative programme (IP), the Commission does not consider there is a need for any reconciliation since the IP is not an account but a document describing in general terms the way it is proposed to use the EDF.

67. Regional cooperation is difficult to put into effect (see paragraphs 25 to 30), but the Commission tries to generate synergies between its various operations in the areas concerned. For example, the regional programme for Caribbean OCTs has been carefully coordinated with the regional programme for Caribbean ACP States. One project in the tourism sector also aimed for regional cooperation between the Dutch OCTs (Netherlands Antilles and Aruba), with some success.

68. The Commission has strict quality requirements for the preparation of projects and appraisals are usually demanded at the end of the project. Commitment rates in the territories depend to a large extent on the recipient's absorption capacity, which differs from territory to territory.

The contribution which a project makes to the development of a territory or country is relative to the recipients degree of development.

69. As the Court itself recognises, the human resource implications of monitoring projects and actions over a sometimes vast geographic area, whether by Commission staff on the spot or at central level, are considerable. The reflection launched by the Commission (see paragraph 71 below) has taken this into account in advocating an approach based on the principles of partnership and ownership. This type of decentralisation could be implemented through first reaching a global agreement on the development of the OCT, then day-to-day project management at the local level, followed up by *ex post* evaluation.

70. The Commission recognises that the local authorities will find some of the administrative procedures cumbersome; in its OCT 2000 discussion paper, it undertakes to remedy this state of affairs.

71. The Commission, the OCTs and the Member States to which they are linked have begun a general review (OCT 2000) of cooperation links between the three partners. A number of future policy options will be set out in a Commission communication, which, as a basis for discussion, will identify the principles to be contained in a Commission proposal in the next few months.
