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(Information)

COURT OF AUDITORS

SPECIAL REPORT No 9/99

concerning research activities in the field of agriculture and fisheries (FAIR programme — Fisheries, Agriculture and Agro-Industrial Research), together with the Commission's replies

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

(2000/C 92/01)

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INTRODUCTION

Research activities in the field of agriculture and fisheries

1. Agriculture has always constituted a traditional field for research, owing to its social and economic importance within the European Union. This field received the first grants of Community finance, on the basis of Article 41 of the Treaty establishing the European Economic Community (EEC), long before a Community research policy was established. Subsequently, work in this field has only increased in intensity, thanks to the diversification of Community research activities made possible by Article 235 of the Treaty and, above all, following the entry into force of the Single Act in July 1987, thanks to the incorporation of a new budget heading reserved for research and technological development (RTD) activities. For example, between 1987 and 1991 agricultural research formed part of five specific programmes ⁽¹⁾ under the EEC's second research framework programme ⁽²⁾ and received a total budget of ECU 205 million. These small-scale programmes were subsequently replaced, under the third framework programme (1990 to 1994) ⁽³⁾, by a single specific agricultural and agro-industrial research programme called AIR ⁽⁴⁾, which was granted a budget of ECU 377 million.

⁽¹⁾ Council Decision 87/516/EEC, Euratom of 28 September 1987 concerning the framework programme for Community activities (1987 to 1991), OJ L 302, 24.10.1987, as amended by Decision 88/193/EEC, Euratom of 28 March 1988, OJ L 89, 6.4.1988.

⁽²⁾ Council Decision 90/84/EEC of 26 February 1990 adopting a specific Community research and technological development programme in the field of competitiveness of agriculture and management of agricultural resources (1989 to 1993), OJ L 58, 7.3.1990 (CAMAR).

Council Decision 89/160/EEC of 23 February 1989 on a first multi-annual programme for biotechnology-based agro-industrial research and technology development (1988 to 1993), OJ L 60, 3.3.1989 (ECLAIR).

Council Decision 89/411/EEC of 20 June 1989 adopting a specific research and technological development programme in the field of food science and technology (1989 to 1993), OJ L 200, 13.7.1989 (FLAIR).

Council Decision 87/534/EEC of 19 October 1987 adopting Community research and coordination programmes in the fisheries sector (1988 to 1992), OJ L 314, 4.11.1987 (FAR).

Council Decision 89/626/EEC adopting a research and technological development programme in the field of forestry (1990 to 1992), OJ L 359, 8.12.1989 (FOREST).

⁽³⁾ Council Decision 90/221/EEC, Euratom of 23 April 1990 concerning the framework programme of Community activities in the field of research and technological development (1990 to 1994), OJ L 117, 8.5.1990, as amended by Decision 93/167/EEC, Euratom of 15 March 1993, OJ L 69, 20.3.1993.

⁽⁴⁾ Council Decision 91/504/EEC of 9 September 1991 adopting a specific research and technological development and demonstration programme for the European Economic Community in the field of agriculture and agro-industry, including fisheries (1990 to 1994), OJ L 265, 21.9.1991 (AIR).

2. The fourth framework programme ⁽⁵⁾ (fourth FP), which was adopted for the 1994 to 1998 period with a total of ECU 11 879 million, comprises four large-scale measures. Community research activities in the field of agriculture and fisheries are covered mainly by the first of these activities and receive a total budget of ECU 739,5 million. They are intended to improve production, promote the development of modern agricultural holdings and render agriculture and forestry less intensive, more environment-friendly and more compliant with end-users' demands for quality and safety. Table 1 shows the proportion of the fourth FP budget allocated to each.

The Court's audit

3. The Court's audit was focused on examining the procedures for managing and monitoring these activities. As the audit was focused more specifically on the FAIR ⁽⁶⁾ specific Community research programme, attention was paid to analysing the rules, procedures and methods implemented by the Commission, both within the Directorates-General (DGs) managing the programme and on the basis of a sample of beneficiaries and/or research contracts. To this end, nine on-the-spot audits were carried out in seven Community countries, during the course of which 27 programme beneficiaries, coordinators or partners involved in 44 research contracts were audited. For the purposes of the investigation, the audit field was extended to checking other files in specific isolated cases. Table 2 provides a summary of the number and value of the projects audited on the spot.

4. The audit commenced at the end of March 1998, following the initial enquiry, and was completed by a draft special report adopted by the Court in July 1999. The observations contained in this report are based mainly on four sector letters addressed to the Commission in December 1998 and February 1999 respectively. The Court received the replies to them in June and July 1999.

SUMMARY OF THE PRINCIPAL OBSERVATIONS

5. The FAIR specific research programme is a continuation of several previous experiments. Although it was granted more appropriations and implemented by means of formally more varied activities, its structure and management methods were not adapted sufficiently. The fact that there are no quantified objectives, either pre-defined or based on previous activities, also makes it difficult to measure the results and check how far it is suited to the strategy it is supposed to promote (see paragraphs 1 and 13 to 19).

⁽⁵⁾ Decision No 1110/94/EC of the European Parliament and of the Council of 26 April 1994 concerning the fourth framework programme of the European Community activities in the field of the research and technological development and demonstration (1994 to 1998), OJ L 126, 18.5.1994. Decision No 2535/97/EC of 1 December 1997 amending Decision No 1110/94/EC for the second time, OJ L 347, 18.12.1997.

⁽⁶⁾ Council Decision 94/805/EC of 23 November 1994 adopting a specific programme of research, technological development and demonstration in the field of agriculture and fisheries, including agro-industry, food technologies, forestry, aquaculture and rural development (1994 to 1998), OJ L 334, 22.12.1994 (FAIR).

Table 1
Breakdown by measure of the fourth framework programme's budget

(in million ECU)

Fourth framework programme							
	Measure 1			Measure 2	Measure 3	Measure 4	Total for fourth FP
	Agriculture and fisheries	Life sciences and technologies	RTD and demonstration programme				
A. Information technologies			3 668,0				
B. Industrial technologies			2 140,0				
C. Environment			1 157,0				
D. Life sciences and technologies			1 709,0				
- Biotechnology		595,5					
- Biomedicine and health		374,0					
- Agriculture and fisheries		739,5					
- FAIR specific programme	658,0						
- Institutional activities (*)	50,0						
- Competitive activities (*)	31,5						
E. Non-nuclear energy			1 076,0				
F. Transport			263,0				
G. Finalised socioeconomic research			147,0				
Cooperation with third countries and international organisations				575,0			
Dissemination and exploitation of the results					352,0		
Researchers' training and mobility						792,0	
Total			10 160,0	575,0	352,0	792,0	11 879,0

(*) To provide scientific and technical support to Community policies.

Source: Commission.

Table 2

Summary by type of the number and value of FAIR programme projects audited on the spot

Types of projects audited on the spot	Value (in million ECU)	Number
Shared-cost research projects	35,0	31
Demonstration projects	3,1	2
Concerted actions (including networks)	3,2	7
SME cooperative research projects	0,9	2
Supporting measures	0,4	1
Grants	0,1	1
Total	42,7	44

6. Certain rules for implementing the programme were not applied correctly, as a result of lack of clarification or insufficient detail. For example, apart from the scientific and technical selection criteria, selection criteria concerning the compliance of projects with common agricultural policy (CAP) objectives were applied. In the case of the FAIR1 call, they were not clarified beforehand. The order of priority of the projects selected as it resulted from the external scientific evaluation, was changed considerably. The principle that financing decreases in proportion to the proximity to the market of the proposals submitted was also rarely applied as a means of fixing the amounts of financial contributions (see paragraphs 20 to 30).

7. As there was no joint selection and evaluation procedure under the fourth FP, the managing departments drew up procedures specific to the FAIR programme. These procedures, which were inadequate and, in some cases, poorly applied, did not fully ensure that the selections made were transparent. As for final evaluation, the obligations resulting from the four previous specific programmes were not fulfilled. The Commission interpreted the fourth FP's new provisions concerning final evaluation in such a way that, in practice, this exercise is no longer carried out (see paragraphs 31 to 39).

8. Some agricultural research projects were also financed by other Community instruments or forms of intervention. The Commission's lack of familiarity with the former meant that they were not coordinated with those of the FAIR programme. The Commission's management tools do not enable complementarity to be assessed or the risk of redundant aspects to be eliminated (see paragraphs 53 to 55).

9. As with the previous programme, measures under the FAIR programme were co-managed by three DGs. This shared management was the result of historical and organisational considerations. As the DGs' respective responsibilities and powers had not been formalised, the management of the programme lacked clarity and homogeneity. Optimum use was not made of the staff and technical resources available (see paragraphs 43 to 51).

10. The fact that there was no coordinated policy concerning information systems that was applicable to all the DGs managing the fourth FP resulted in separate computer applications being developed, which hindered coordinated management of the activities and effective exploitation and dissemination of the information available. Not only did these applications deprive the Commission of comprehensive data, but they also gave rise to additional costs (see paragraph 52).

11. The Court's audits revealed cases where the regulatory or contractual provisions had not been adhered to. Shortcomings and weaknesses were also detected in the manner in which the management, monitoring and control procedures were implemented (see paragraphs 56 to 110).

12. The standard contract in force for research projects contains defects that are likely to affect European Community interests. For example, there is no requirement for contractors to be jointly and severally liable. Their obligations as regards justifying declared expenditure are unsatisfactory. Lastly, the conditions governing the application of penalties are too restrictive (see paragraphs 40 to 42).

GENERAL FEATURES OF AGRICULTURAL RESEARCH MEASURES

Legal framework and objectives

13. Under the fourth FP, agricultural research receives contributions from two specific programmes via three types of measures: indirect, direct and competitive. Indirect measures are implemented under the 'agriculture and fisheries' specific research programme, generally termed the FAIR programme, which has a budget of ECU 658 million. Its field of disciplines ranges from

agro-industry to food technologies, and includes forestry, aquaculture and rural development ⁽¹⁾. Direct measures and competitive activities, with budgets of ECU 50 million and ECU 31,5 million respectively, come under the specific programme for 'RTD, including demonstration ⁽²⁾, to be carried out for the EC, on the one hand, by the JRC and, on the other, by means of activities within the framework of a competitive approach and intended for scientific and technical support to Community policies'. Direct measures are assigned directly to the JRC for implementation, and competitive activities are implemented within the framework of a competitive approach.

14. Whilst these research measures are the continuation of previous experiences, they also crystallise changes that have gradually taken place within the programmes. They incorporate, *inter alia*, new research topics to take account, in the light of the CAP and the common fisheries policy (CFP), of new concerns relating to quality, safety and environmental protection. The 'mad cow' crisis also obliged them to respond to the urgent need for research in the field of transmissible spongiform encephalopathies (TSE). In so doing, these measures have anticipated the new directions taken by the fifth FP, two of whose key activities, with a budget of some ECU 810 million, are devoted to agricultural research: 'Food, nutrition and health' and 'Sustainable management of agriculture, fisheries and forestry'.

Special features

15. The distinctive feature of the agricultural research area is that it benefits from the sizeable contribution made by other types of Community intervention and policies outside the scope of the fourth FP that are directly or indirectly oriented towards agriculture and fisheries. It is difficult to draw up an accurate quantitative and qualitative list of the above, however, as the most that is known, in financial terms, is that 5,6 % ⁽³⁾ of the budget for structural measures (i.e. ECU 8 518 million) is allocated to RTD.

16. Competitive activities comprised an innovation under the fourth FP. They were, however, initiated in the absence of any

clear organisation of the terms of their implementation and the procedures for monitoring them. Against this background, the JRC often helped to prepare specifications for the various calls for proposals. In the meantime, the specific nature of the research areas was such that the market was not always in a position to respond. As a result, although the JRC was not allowed to tender, some projects were allocated to it in the end for the simple reason that it was the only body that was at all competent in the areas concerned.

17. Over the past decade, activities of the type supported by the FAIR programme have been marked by a large increase in appropriations and greater diversity in the measures financed. They are co-managed by three DGs and relate to 68 subareas grouped into six main areas ⁽⁴⁾. The diversity of the measures and the scope of the programme have given rise to important links with other fourth FP activities or Community instruments.

Financial data

18. On 31 December 1998, the commitment appropriations allocated to the FAIR programme amounted to ECU 595 million, ECU 565 million of which was set aside for operational measures. *Tables 3 and 4* provide a breakdown of the related contracts by area and project type.

19. Of the programme's six areas of intervention, the first five require a concentration of resources. The sixth, which covers consultation activities and has an indicative budget of 8 % of the programme's appropriations, is aimed at setting up European networks. On 31 December 1998, only seven contracts were being financed directly by this area. The related Community contribution amounted to ECU 3,6 million, accounting for hardly 0,55 % of the appropriations. Until the fourth of the scheduled six calls it was still difficult to determine its content, owing to the lack of clear definition.

ORGANISATION OF THE FAIR PROGRAMME

20. The agricultural research measures carried out under the FAIR programme have the benefit of the many previous experiences on which they are based, their diversity of form and scope, and the growing interest they generate. However, in the absence of reforms, the increase in the funds allocated has taken its toll on the management of the programme as far as its implementation and the mechanism and methods for managing the activities are concerned.

⁽¹⁾ General objectives of the FAIR programme: (a) increase undertakings' competitiveness in the agriculture and fisheries sectors by developing new methods and integrated production and processing lines; (b) improve the management of rural and forest areas as a contribution to the reformed common agricultural policy (CAP) and Community rural-development policy; (c) ensure environmental and health protection in the fisheries and aquaculture sectors by way of support to the common fisheries policy (CFP) objectives.

⁽²⁾ Council Decision 94/918/EC of 15 December 1994 adopting a specific programme for research and technological development, including demonstration, to be carried out for the European Community, on the one hand, by the JRC and, on the other, by means of activities within the framework of a competitive approach and intended for scientific and technical support to Community policies (1995 to 1998), OJ L 361, 31.12.1994.

⁽³⁾ Commission Communication to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions 'Reinforcing cohesion and competitiveness through research, technological development and innovation', COM(98) 275 (final), 27.5.1998.

⁽⁴⁾ Area 1: integrated production and processing chains; area 2: scaling-up and processing methodologies; area 3: generic science and advanced technologies for nutritious foods; area 4: agriculture, forestry and rural development; area 5: fisheries and aquaculture; area 6: other activities, mainly implemented by concertation.

Table 3

Financial implementation by area

Areas	Implementation as at 31.12.1998	
	Value of contracts (in million ECU)	Number of contracts
1. Integrated production and processing chains		
2. Scaling-up and processing methodologies	265,9	555
3. Generic science and advanced technologies for nutritious foods		
4. Agriculture, forestry and rural development	179,1	350
5. Fisheries and aquaculture	95,4	239
6. Objectives achieved by concertation	3,6	7
Total for projects	544,0	1 151
Supporting measures	21,0	177
Total number of programme operations	565,0	1 328

Source: Commission data as at 11.6.1999.

Table 4

Financial implementation by type of FAIR programme projects

Types of projects	Implementation as at 31.12.1998			
	Value (in million ECU)		Number of contracts	
<i>Shared-cost projects</i>		438,5		450
- of which specific TSE calls	8,8		8	
- of which joint TSE calls	2,1		1	
<i>Concerted actions</i>		38,6		114
- of which TSE	0,6		1	
<i>Demonstration projects</i>		5,1		6
<i>Thematic networks</i>		0,9		2
<i>SMEs</i>		34,5		256
- feasibility awards	6,7		177	
- cooperative research	27,9		28	
<i>Grants</i>		26,4		323
<i>Supporting measures</i>		21,0		177
Total		565,0		1 328

Source: Commission data as at 11.6.1999.

Implementation framework

21. The weaknesses described in the paragraphs below are the result of certain features specific to the FAIR programme, as well as of lack of precision in the regulatory framework and management structure.

Definitions and rules

Strategy and objectives

22. The FAIR programme fits in with the research strategy laid down for the fourth FP: it reflects its guidelines and specifies its scientific and technological objectives in the field of agriculture and fisheries. The economic sectors involved, the strategic and general objectives targeted, and the methods proposed for meeting them are thus set out in its first Annex. However, its implementation and scientific and technological content are described in general terms. The description of the objectives would have benefited from being accompanied by quantitative indicators. It would similarly have been useful to place greater emphasis on the link with the outcome of previous Community research.

Types of activities

23. In accordance with the specific rules laid down in Annex III to the FAIR programme, the latter is based on a broad range of measures. Although 84 % of the appropriations continue to be devoted to shared-cost research projects, 16 % are set aside for less traditional measures. The latter include, more particularly, researchers' training and mobility grants and measures to promote SMEs. These thematic measures, which had already been tested under other specific programmes or the previous programme, but on a small scale, were not new. For the Commission, integrating the thematic measures into the existing decision-making and implementation procedure has, nevertheless, created considerable extra work because of their particular rules and the fact that the management of these measures is shared by several departments.

24. The sum of the training and mobility grants awarded under the FAIR programme accounted for a total Community contribution of ECU 26,4 million in respect of 323 contracts at the end of December 1998. They are all processed in a standard manner, as laid down in the specific 'Researchers' training and mobility' programme. The files, which are high in number but low in unit value, are subject to complex management procedures, in which different managing directorates are involved at different times. Beneficiaries also have to cope with a selection, evaluation and decision-making mechanism that is incompatible with the rapid processing of applications. The instrument's effectiveness is diminished by the length of the delays and frequent withdrawals. The value of this measure within the programme is moreover difficult to measure when beneficiaries are not followed up on a regular basis, once the training contract has ended, given that the most recent details concerning their situation are already historic. A specific provision should be laid down in the contract so that the risk of repeat financing of study subjects previously financed by Community funds is avoided.

25. The scientific, administrative and financial management of the measures to promote SMEs is itself complex, owing to the specific nature of the related rules of application and the particular attention that needs to be paid to beneficiaries. During the course of the programme, the DG for Science, Research and Development's Unit for the Coordination of SMEs had to make belated adjustments (in April 1998). Despite the efforts made and the support activities undertaken under the FAIR programme, notably by establishing special information networks, only 5,5 % of the appropriations were used, instead of the 10 % maximum laid down by the Council Decision adopting the FAIR programme.

26. In order to promote dissemination, the Commission took the initiative of financing the FAIR network activities or focal points, which were aimed more particularly at providing information to SMEs in the agro-industrial sector. At the end of the programme, 34 projects had received a total subsidy of ECU 1,2 million. Although the latter had played their part in helping to improve notification of the targeted undertakings, the audits highlighted the weaknesses of the methods used to implement them, which were due principally to the failure clearly to demarcate these projects, which were sectoral by nature, so as to distinguish them from those managed by similar bodies already established in the Member States that were financed exclusively from national funds. The subsidies were also granted on the basis of a contract that did not formally incorporate the content and terms governing the implementation of the work financed.

Selection criteria and financial contribution

27. The selection criteria and financial-contribution rules selected under the FAIR programme are based on rules common to RTD activities, which are laid down in the fourth FP and the related Council Decisions⁽¹⁾. As the Council Decision adopting the programme did not lay down distinctive criteria, the FAIR research projects had to be selected on the basis of their scientific and technical qualities. In some areas, however, particularly in area 4 for 'Agriculture, forestry and rural development', which links research with CAP and rural-development requirements, additional selection criteria were applied. As far as the abovementioned area is concerned, these criteria, such as the priority given to agricultural-policy aspects in the selection procedure, were not clarified beforehand. When the first call was issued, they were poorly understood by the potential beneficiaries of the research measures.

28. The global control of the proposals submitted in response to the first call revealed that, after the proposals had been evaluated, 13 projects that had been rated scientifically excellent by independent experts and 47 very good proposals awarded marks of A+

⁽¹⁾ Council Decision 94/762/EC of 21 November 1994 concerning the rules for the dissemination of the research results from the specific programmes of research, technological development and demonstration of the European Community, OJ L 306, 30.11.1994, and Council Decision 94/763/EC of 21 November 1994 concerning the rules for the participation of undertakings, research centres and universities in research, technological development and demonstration activities of the European Community, OJ L 306, 30.11.1994.

and A respectively were not selected for inclusion in the list of activities to be financed. The reason given was that these projects did not meet the evaluation criteria applied to area 4 concerning, *inter alia*, project conformity with CAP objectives. The Commission was, however, prevailed upon to review its list of projects in order to comply more strictly with the selection rules agreed for the programme. For example, 10 proposals that had been awarded a B by the experts and were selected because of the benefits they offered in respect of CAP objectives were replaced by projects of a higher scientific quality. This readjustment of the selection criteria in favour of the projects' higher scientific and technical quality was only partial, however: an examination of the Commission's review revealed that the 10 B proposals rejected had all been transferred to a reserve list, and five of them were financed in the end.

29. Where appropriate provisions authorise the use of selection criteria other than the traditional ones of scientific and technical excellence, prior explanations concerning their nature, import and combination are essential. Failing this, the transparency of the procedure for selecting proposals cannot be guaranteed.

30. Other general provisions of the fourth FP or of the above-mentioned Council Decisions were unclear. For example, Community financing of RTD projects has rarely been decreased in proportion to the proximity to the market. The Commission failed to define either the rules for application or the terms for fixing the corresponding sliding-scale rates.

Procedures

Programme evaluation

31. In order to meet the obligations arising from the fourth FP and specific programmes, in 1995 the Commission introduced a new approach to following up and evaluating Community research activities which involved two separate procedures: annual follow-up and five-year evaluation of research programmes.

32. The five-year evaluation is a three-fold exercise which involves incorporating the final evaluation of the previous FP, evaluating all specific programmes under way and carrying out an *ex ante* evaluation in preparation for the next FP. Within this approach, however, the scope and content of the final evaluations, as described in the specific programmes' legal provisions, are not specified. The final evaluation exercise has not been actually been carried in the case of some specific programmes.

33. Although the specific agricultural research programmes under the second FP have come to an end, the Commission has not yet adopted the provisions needed to carry out the final evalua-

tion of three of them ⁽¹⁾. To date it has merely referred back to the reports concerning the most recent five-year evaluation of the research programmes, for which the objective of the evaluation exercise is different. The report on the evaluation of the specific programmes of agricultural research measures has produced few developments as regards the real nature of the final evaluation of completed programmes, even though it proposed to incorporate this aspect. The report on framework programmes, drawn up in February 1997 by the group of experts appointed by the Commission, states that 'given the time available, the group decided to concentrate essentially on the future, rather than linger over the past'.

34. Up until July 1997, when the Commission published a call for applications ⁽²⁾ in order to draw up a list of experts, the criteria for selecting expert programme assessors had not been specified clearly. In the absence of provision to the contrary, the selection of an expert who had sat or was sitting on the FAIR Programme Committee (see paragraph 69) was not precluded. Thus, a Member State representative, whose term of office had ended in July 1995, was selected to draw up the 1995 annual follow-up report by the DGs managing the programme. The possibility of selecting candidates with previous experience in following up programmes was confirmed, but without enabling one and the same group of experts to be used, as was the case with the 1995 and 1996 follow-up exercises.

Proposal evaluation

35. The procedure introduced to evaluate proposals provides no assurance as to either its transparency or the strictness of monitoring, even though a tangible improvement was detected during the course of the FAIR programme.

36. The procedure provides for two successive stages: scientific evaluation of the proposals and preparation of the list of activities proposed for Community financing that is submitted to the FAIR Programme Committee and for a Commission Decision.

37. The task of scientific evaluation is entrusted to groups of independent experts who are asked to grade the scientific and technical value of the proposals submitted on the basis of questionnaires drawn up beforehand, and to decide on a summary analysis. However, this system for marking proposals does not in itself enable the final mark awarded to be justified completely. For example, in the case of some of the proposals examined, the marking scheme did not establish an acceptable degree of consistency between, on the one hand, the experts' individual evaluations and the global evaluation submitted by their group and, on

⁽¹⁾ CAMAR, FOREST and FAR.

⁽²⁾ OJ C 232, 31.7.1997.

the other, the global evaluations in relation to each other. With regard to the FAIR programme demonstration projects, there was greater assurance of such consistency, as the evaluation tied a point-based marking system in with the experts' comments, based on a combination already used for many programmes managed by the DG for Science, Research and Development.

38. Although the selection of the independent proposal evaluation experts called for care, few rules were established at the level of either the fourth FP or the FAIR programme to ensure its transparency. The evaluation guide drawn up for the programme did, however, provide some precise details and impose certain restrictions. It emphasised, *inter alia*, the private, independent and confidential nature of the service to be provided. It also precluded the selection of any expert whose organisation would be a partner to the proposal submitted for evaluation by the person concerned. Nevertheless, the lack of a specific procedure and legal framework did not give these provisions the force they deserved. In some cases, the links that were found between the expert assessors and the organisations presented in the research proposals examined confirmed this.

Decision-making procedures

39. After RTD proposals have been evaluated and a favourable opinion has been received from the Programme Committee, the Commission decides on the finance to be granted using the written procedure. This decision, which determines the estimated amount required for each measure presented, is subsequently binding on the Directors-General, who, when negotiating contracts, are free to adjust the amounts only within the fixed limits of more than 5 % and less than 20 % of the contributions decided upon. The smooth running of this delegation mechanism is, however, dependent on the quality of the preliminary analytical work carried out by the managing departments, but these departments, which frequently experience difficulties in adhering to the tight timetable imposed, are not subject to any specific obligation as regards the scope and form of this analysis. A contract was thus concluded in which the amount of the initial contribution had been adjusted to bring it within the regulatory ceiling limits in order to obviate the need for a new decision and the resultant delay.

Contractual provisions

40. Some of the standard-contract provisions, notably those concerning the definition and extent of beneficiaries' obligations, have continued to be defective. According to the terms of Article 1, the contractors' overriding obligation is to implement the project so that the targeted results are achieved. Except where restrictive conditions are stipulated in the contract, the partners are obliged to meet the obligations of any defaulting contractor. Under the terms of the standard contract, however, this joint responsibility is limited to carrying out the work and does not extend to the financial aspects of contracts. The audits have shown that the Commission is ill-equipped when it comes to recovering unduly paid-out Community subsidies from beneficiaries, particularly as the financial risks taken by the Community are poorly assessed (see paragraph 91 to 93).

41. In addition, if detailed supporting documents for amounts above a certain limit and specific types of expenditure are not forwarded to the managing departments, the current expenditure

statement, which is equivalent to documentary evidence of payment for the Commission, does not provide a satisfactory guarantee as to the reality and compliance of the costs. As a result, the conditions laid down in the Financial Regulation ⁽¹⁾ concerning the validation of expenditure are met only in exceptional cases.

42. Lastly, the standard-contract provision ⁽²⁾ that enables the Commission to cancel the contract in the event of, *inter alia*, a serious financial irregularity, is rarely invoked in practice, and yet controls regularly reveal frequent errors in the expenditure declared which, while they may not constitute serious financial irregularities, are no less prejudicial to Community interests. The Commission is unequipped to deal with this situation and is not in a position to impose appropriate penalty measures. In addition, some contractors, due to the lack of specific clauses in their contracts with the Community, circumvent the national legislation in force when implementing research projects. For example, the rules governing public contracts and the remuneration or recruitment of officials to public bodies are usually ignored.

Management structure and methods

43. Up until the third FP, agricultural research measures were covered by sectoral programmes, which were entrusted to various Commission DGs, i.e. XII for Science, Research and Development, VI for Agriculture or XIV for Fisheries, according to the targeted area. The Commission has since incorporated these activities into a single specific programme, but the research axes have not been fully incorporated into a common legislative framework, in that it also had no major impact on the structures and methods for managing the activities concerned.

Management structure

Co-management of the programme

44. Agricultural research measures under the FAIR programme continue to be managed by three DGs (XII, VI and XIV) which are responsible for 41 %, 40 % and 19 % of the appropriations respectively. Pursuant to the authorisation rules concerning RTD, DG XII is the lead DG.

⁽¹⁾ Article 41 of the Financial Regulation stipulates that 'validation of any expenditure shall be subject to the submission of supporting documents showing the creditors' claim and the service rendered or the existence of a document justifying payment'.

⁽²⁾ Article 5(3) of the general conditions annexed to the standard contract provides that the Commission may immediately and in writing cancel the present contract or terminate the participation of a contractor:

- (a) (i) when the Commission has requested action be taken to rectify, within a reasonable time limit that may not be less than one month and that shall have been stated in writing, the non-performance of the present contract and this action has not been taken satisfactorily or
- (ii) when a serious financial irregularity exists;
- (b) when the ownership at the level of a contractor, an associated contractor or an associated undertaking changes and this change is such that it is prejudicial to the project or the Community's interests.

45. Within this co-management framework, each DG managing the programme is responsible for one or more research areas: roughly speaking, DG XII manages agro-industrial projects in areas 1, 'Integrated production and processing chains', 2, 'Scaling-up and processing methodologies' and 3, 'Generic science and advanced technologies for nutritious foods'; DG VI manages contracts in area 4 for 'Agriculture, forestry and rural development' and DG XIV those in area 5 for 'Fisheries and aquaculture', while area 6 for 'Other activities, mainly implemented by concertation' may concern measures in any of the above areas. In its capacity as leader, DG XII also provides the secretariat for the programme and ensures that a number of joint procedures are applied. Had the lead DG's powers been put in writing, as far as jurisdiction, responsibilities and decision-making powers at the scientific and financial levels are concerned, its role would have been easier. In reality, it has done little in areas for which it is not responsible as far as notification, decision-making or arbitration are concerned.

Implementation methods

46. The imprecise nature of the rules on joint management and decision-making for FAIR programme activities partly explains the evident differences in the managing DGs' implementation methods. For example, as regards the organisation of the first calls for proposals and the procedures for evaluating projects submitted, some methods applied by the associated DGs were far removed from those selected by the lead DG for the programme.

47. There were six calls for proposals for the FAIR programme, numbered FAIR1 to FAIR6. In addition to these, there were three calls for measures concerning transmissible spongiform encephalopathies (TSE): the first was specific to the programme and the remaining two were conducted jointly with the two additional specific life sciences research programmes. These calls were conducted under a tight schedule at the rate of two or three per annum. This sustained rate enabled the proposals to be targeted and, consequently, the beneficiaries' and departments' efforts to be spread in a more balanced manner over the entire duration of the programme's implementation. This rate was not applied by the DG for Agriculture, however, which preferred annual calls, which were not properly targeted and thus resulted in extra work and great pressure to meet the budget timetable. In the course of the programme, however, DG VI gradually targeted its calls in conjunction with the other DGs.

48. The calls for proposals reserved for TSE measures (specific or joint) were issued following events relating to 'mad-cow disease', which called for increased research work in specific areas in accordance with the plan of action drawn up by the Commission. The specific call was issued on 17 December 1996 and had a budget of ECU 8,8 million. The first joint call was issued shortly afterwards on 29 April 1997. As the budget of ECU 35 million (ECU 11,5 million of which was for the FAIR programme) set aside for TSE measures was not fully utilised, ultimately a new joint call for

ECU 13,6 million was issued on 17 March 1998. However, the procedures for these three calls, which were held at close intervals, were dissimilar: the procedures applied to the separate FAIR call, issued four months prior to the first joint call, were markedly different from those subsequently agreed for the two joint calls. These three successive calls, which resulted in the selection of eight, two and nine FAIR proposals respectively, mobilised considerable resources, both internal and external, given the Commission departments' concern to take all the measures needed to guarantee the transparency and quality of the selection procedure.

49. In the absence of a procedure for evaluating proposals for the fourth FP, as of 1994 a special guide was drawn up for the FAIR programme by the three Directorates co-managing the programme. However, after the external scientific evaluation laid down by the guide, the departments managing area 4 for 'Agriculture, forestry and rural development' submitted the proposals for this area for internal evaluation by various units of the DG for Agriculture, so that their relevance and compliance with the CAP and rural development could be assessed. In the case of the FAIR1 call, this internal analysis resulted in considerable changes in the order of priority of the projects selected as established by the external scientific evaluation. Inadequate information and formalisation rendered the procedure for selecting the proposals for this area less transparent.

Management methods

50. The FAIR specific programme faced increasing demands which the Commission departments were determined to meet, but with limited management resources. These limits were rendered all the more appreciable by the fact that the programme's management was divided between three DGs, which, individually, were unable to derive maximum benefit from the staff and equipment made available to them.

Staff

51. Over 90 scientific and financial managers share the management and monitoring of some 1 300 FAIR programme contracts. Almost a third of these staff have short-term contracts for a maximum duration of six months or a year, which results in high staff turnover. As a result, 14 of the 44 research projects examined had been administered by at least two managers (two of them by three). Lastly, although the Commission departments had undertaken to ensure that the division of tasks within the scientific and financial teams was improved, the scientific manager still frequently administers too many projects. This is prejudicial to sound monitoring.

Information systems

52. The information systems on which management of the FAIR programme is based are organised on an individual basis. Each DG has developed its own computerised tools for the scientific and financial management of projects on a unilateral basis. Part of the reason for this is the lack of a coordinated computerisation policy governing the management of research activities. These individual developments, which impede information exchange and genuine coordination between the departments managing the programme, are unjustified. They give rise to unnecessary costs and delay the introduction of a shared comprehensive system. In fact, not one department has a comprehensive and historical database recording the programme's elements in terms of projects and beneficiaries. The incomplete nature of the systems used deprives managing departments of genuine management and control tools, as there is no scope for research, extensive cross-checking or, more simply, statistical enquiries.

Coordination and cooperation mechanisms

53. In the field of agricultural research, the Court's audits of beneficiaries confirmed the existence of activities similar to those aided by the FAIR programme, but financed outside the fourth FP.

54. Such financing is possible on a large scale under the Structural Funds. Nevertheless, the Commission has taken no satisfactory action to reduce the risks of dual financing and duplication of effort. This has been aggravated, however, by the increased number of demonstration projects within specific research programmes. The declarations made by the partners in the research proposals, which are neither recorded in the form of contractual provisions, nor centralised in a database common to the DGs concerned, cannot be considered satisfactory.

55. In 1996, the lead DG for the FAIR programme had planned to establish better cooperation with the departments managing agricultural policies in order to help overcome the information gap. Its efforts failed, however. With regard to coordination with national research work, the measures taken to date have not produced concrete results. As far as agriculture is concerned, the former information system was abandoned, but not replaced.

MANAGEMENT OF FAIR PROGRAMME ACTIVITIES

56. Over the four years of the programme's implementation, efforts have been made to improve the management of the activities. However, a certain number of weaknesses in the regulations and practices in force, and shortcomings in the implementation of the management, monitoring and control procedures persist.

Rules and practices

57. The practices described below had the direct or indirect effect of easing or even circumventing the rules in force.

Dating of contracts

58. In order to make up for the delay in relation to the timetable for conducting the first call, the DG for Agriculture had to speed up the negotiation phase, given the budgetary constraint, to enable contracts to be signed by 31 December 1995. As the negotiations had not been completed by that date, many contracts were finalised only at the beginning of the following financial year, but the Commission still dated them December 1995. This practice of back-dating contracts was not limited solely to the proposals under the first FAIR call. In fact, out of 48 projects studied, 18 similar cases were identified in respect of different calls, but all for area 4. This procedure contravenes Article 6(5) of the Financial Regulation, which provides that 'the commitments shall be entered in the accounts on the basis of the commitments contracted up to 31 December'. The effect of this practice was to create unsound relations between the Commission and its partners. In February 1998, the Commission put an end to this practice, which was legally unacceptable.

The Authorising Officer's role and position

59. The analysis of delegation with regard to the commitment of expenditure reveals that the deputy Authorising Officer of the unit responsible for managing area 4 projects was hierarchically subordinate to the file manager, the unit head. As a result of this situation, he was responsible for preparing files to be submitted to the manager and for signing the corresponding commitments of expenditure. In 1996 over 98 % of the commitments of expenditure were authorised in this manner by this official alone, who was subordinate to the manager. As is confirmed by the Treaty ⁽¹⁾ and the Financial Regulation ⁽²⁾, the Authorising Officer is one of the principal parties involved in implementing the budget and is solely responsible for carrying out certain acts for which he is specifically held accountable. These provisions are not being respected, at least in their spirit, if the deputy Authorising Officer is in a position that is hierarchically inferior to the manager. If the Authorising Officer is hierarchically subordinate, he does not possess the independence necessitated by the responsibilities connected with his duties.

Interdepartmental consultation

60. Interdepartmental consultation is an obligation under the Commission's Rules of Procedure that is intended to ensure the transparency and consistency of the final decisions it is called upon to make. Interdepartmental consultations for the purpose of

⁽¹⁾ Article 209(c) of the EC Treaty.

⁽²⁾ Articles 21 and 73 of the Financial Regulation.

selecting research proposals for the FAIR programme have been held on the basis of a list of projects identified by their number, title, cost and the estimated Community contribution. In practice, this information was insufficient to enable the DGs concerned to make a genuine analysis of the proposals and judge their benefit in full knowledge of the facts.

61. The regulatory time limit for consultation of 10 working days prior to submission of a file to the Secretariat-General has also rarely been adhered to. For example, the DGs consulted in connection with the first three calls were granted between just one and four days. Such time limits did not enable them to apply themselves as necessary to analysing the proposals and to react promptly to possible dual-financing risks. Considerable risks were thus identified in connection with the INNOVATION specific programme for the 'dissemination and exploitation of the results of RTD and demonstration activities' ⁽¹⁾, some of the proposals for which proved similar to those financed by the FAIR programme.

Entry in the accounts and monitoring of staff and operating costs

62. As at 31 October 1998, the Commission listed 93 staff financed using FAIR research programme appropriations. Of this total, 54 contributed exclusively to the management of FAIR measures, while the remainder were actually assigned to other programmes or departments. The actual departmental organisational charts indicate that 91 staff were physically assigned to tasks related to the programme. 37 of these staff are financed from sources other than the FAIR budget heading and 21 by operating appropriations. This separation of budgetary management from the physical management of staff assigned to a programme is arbitrary. It complicates, if not interferes, with the monitoring of the corresponding expenditure for no reason.

63. The Council Decision adopting the FAIR specific programme provides for maximum staff and operating costs of 3,3 % and 4 % of the programme's budget respectively. To ensure that these thresholds are adhered to, the Commission has introduced a flat-rate method for allocating expenditure which consists of dividing it between the specific programmes in proportion to the budgetary allocation fixed for each. It emerges from this that the maximum percentages imposed are always adhered to, but also that the true costs of staff and, more importantly, the programme are unknown.

64. Staff costs are recorded in two sets of appropriation accounts entitled 'Staff', which covers seconded national experts (SNEs) and temporary staff, and 'Official research staff', covering permanent officials and auxiliary staff. However, only expenditure recorded

in the second set of accounts is used to calculate the maximum percentage authorised by the Council to cover staff costs. The other expenditure is included in what is known as administrative expenditure and is therefore used to calculate the related authorised ceiling.

65. In addition to these accounting and budgetary practices, it should be noted that, in order to adhere to the authorised percentage, the calculation of staff costs does not take account of expenditure relating to at least 21 permanent officials, who are remunerated using appropriations for administrative expenditure under Part A of the budget.

Existence of private agreements with contractors

66. The Commission authorised private financial agreements with several contractors. They served as a pretext for some contractors not to submit detailed data concerning their real costs when the on-the-spot audits were carried out. These agreements in fact exempted them from the obligation of drawing up true overhead rates and sanctioned the use of flat rates for all European projects. The existence of such agreements was by no means the exception. It was possible to identify 24 private framework agreements, conventions or arrangements on the basis of Commission information.

67. Amongst the above, several cases were detected where the overhead amounts were not calculated in accordance with the contractual mechanism. The overheads declared by two of the beneficiaries audited were even exorbitant. Despite the fact that the findings of audits carried out by external firms confirmed this, no corrective action was taken by the Commission departments responsible. In addition, these agreements could have been contested on legal grounds when the fourth FP ended, mainly because they were so out-of-date: none of them had been drawn up at the time of the fourth FP and 17 of them were over 10 years old.

68. The conclusion of financial agreements that derogate from the general terms and conditions of standard contracts impedes smooth monitoring and control of the financial aspects of files and affects the transparency of the contractual procedures. Practices of this kind in fact grant unjustified easy terms to some contractors without being even mentioned in the provisions of the contracts signed.

Cooperation with the FAIR Programme Committee

Quality and scope of the information forwarded

69. The main task ⁽²⁾ of the Programme Committee, comprising representatives of the Member States, is to assist the Commission in adopting certain measures. Depending on the nature and

⁽¹⁾ Council Decision 94/917/EC of 15 December 1994 adopting a specific programme for the dissemination and optimisation of the results of activities in the field of research and technological development, including demonstration (1994 to 1998), OJ L 361, 31.12.1994.

⁽²⁾ The Programme Committee's role is described in the Council Decision of 13 July 1987 laying down the rules for exercising the implementation powers conferred upon the Commission and in Articles 5 to 7 of the Council Decision concerning the FAIR specific programme. Article 7 lays down, *inter alia*, the measures on which its opinion is required or of which it should be notified regularly.

value of the projects concerned, the Commission departments receive its opinion or provide it with information concerning the activities implemented under the programme. Cooperation with the Committee in the area of agricultural research has been difficult on occasions, as is evidenced by the Committee's reproaches regarding the quality and scope of and time taken to present the information that has been submitted to it.

70. The Court's audit revealed that the Commission had not provided the Programme Committee with the all the necessary items of information in writing. In other cases it had complied with the regulatory provisions, but had not adhered to the time limits for forwarding the information agreed during the Committee's proceedings. Consequently, the Committee was not always able to fulfil its role properly. For example, in the case of both the work programme, the FAIR1 financing proposal and interim budgetary information on the programme, the Committee's favourable opinion could only be obtained under pressure of the time limits that the Commission departments had placed themselves under in order to meet the budget timetable and avoid losing the appropriations at the end of the financial year.

71. Taking account of the thresholds fixed by the Commission for this specific programme, there was no need to submit some activities to this Committee for its opinion. For example, inasmuch as the Commission had set a maximum threshold cost of ECU 1 million as a compulsory eligibility criterion ⁽¹⁾ for SME cooperative research projects alone, not one proposal gave rise to a Community contribution in excess of the intervention threshold of ECU 0,5 million, the level above which the Committee's opinion would have been required. The Programme Committee was therefore notified of the list of SME proposals, but was not required to deliver its opinion.

72. Lastly, even though certain agricultural research activities, such as institutional and competitive activities to provide scientific and technical support to Community policies, were implemented outside the FAIR specific programme, no coordination mechanism was provided.

Independence of Committee members

73. According to the Rules of Procedure laid down for the Committee, Member States' representatives must not have an interest in or be associated with a body that is party to the proposals submitted for an opinion. Although the audits revealed that at least 54 members of the FAIR Programme Committee held their office at the same time as being responsible for contracts, it could not be verified that the stipulated provisions had been complied with inasmuch as the minutes of the meetings did not report whether the members involved in or concerned with a proposal had taken part in the discussions.

⁽¹⁾ In a footnote to the information file relating to technological stimulation measures in favour of SMEs.

74. In order to take account of the commitments undertaken by the Commission in response to the European Parliament with regard to transparency ⁽²⁾, at the moment of their appointment to the Programme Committee, any members who were not civil servants were supposed to sign a statement certifying that no 'conflict of interest existed between the Committee's work and their own private interests'. No such statement was sought, however.

Implementation of the management, monitoring and control procedures

75. Cases were detected where there had been a lack of discipline and punctiliousness in the implementation of the management, monitoring and control procedures, both internally and in relation to project beneficiaries.

Pressure of time limits

76. The pressure of the budget timetable is frequently at the root of the weaknesses detected. As the departments lack sufficient time, preparation of the management of activities has been neglected on occasions.

77. The partners managing FAIR projects thus worked until March 1997 on the guide to drawing up technical reports relating to the previous programme up. The new guide was drawn up only belatedly and could not be distributed prior to the above date. The initial evaluations concerning the concerted actions were made on the basis of the questionnaire for shared-cost projects. This questionnaire was unsuitable, however, as there was no point in asking several of the questions concerned. An appropriate form specific to concerted actions was prepared subsequently. It was discussed in principle in February 1996, but was not accepted until a year later and could not be used until FAIR5, the programme's penultimate call.

78. Furthermore, following the renegotiation of the list of FAIR1 proposals with the Programme Committee, the Commission's corresponding decision with regard to the DG for Agriculture was taken late, in December 1995. In the case of the contracts signed before the end of 1995, the time available had been too short to allow the normal negotiation procedure to take place.

79. This Commission Decision was also taken using an accelerated written procedure. Although use of this procedure is restricted, i.e. reserved, according to the procedural guidelines manual, for legislative acts that are urgent, due to unforeseen and exceptional circumstances, there was no information that made it possible to ascertain whether the conditions for its application, as laid down

⁽²⁾ Note from the Commission Secretary-General dated 13.11.1996, SEC(93) 2118.

in the abovementioned manual, had been met. The need to make up for an administrative delay is, in fact, an unacceptable justification for the need for a reduced time limit.

80. Lastly, although the time limit for responding to calls is not regulated, it is customary practice to grant beneficiaries three months to respond. The time limits of 59 and 77 days for the specific call and the first joint TSE call respectively were shorter, however. Time limits that do not allow those submitting proposals to mobilise their efforts properly are hardly compatible with the requirement for quality in Community research activities. They are also likely to compromise the fair treatment of potential beneficiaries. It emerges from the Court's audits that, of the 53 FAIR-TSE proposals received, eight were submitted by at least one independent expert who had worked on the report used as a basis for drawing up the Commission's plan of action and that, following the selection procedure, five of the same proposals, out of the 19 projects selected, received Community financing.

Formalisation of the management of the measures

81. The weaknesses identified hereafter derive fairly regularly from insufficient formalisation of the work carried out.

Proposal evaluation and selection

82. Discipline was especially lacking when proposals were selected, notably in two main areas. The first was unsatisfactory formalisation of the independent experts' final evaluations. At the end of the external evaluation stage, each group of experts is asked to refine its initial classification. As this final analysis is not documented, the increased marks given in respect of the proposals examined could not be explained.

83. The second area was the quality of the information drawn up by the Commission to justify its selection of certain measures that had been marked B by the expert assessors. Inasmuch as the rule is that only the best proposals may be financed, the Commission has an obligation to give solid reasons for departing from this rule. It is required to show that selection was not at the cost of projects of higher scientific and technical quality and that the proposals selected are susceptible of genuine improvements. This was not always demonstrated in practice, however. When justifications were provided, the Commission undertook to take account of the experts' criticisms, but it did not define the specific steps on which it deemed the granting of Community support would be conditional.

84. The audits also revealed that the evaluation marks awarded by the independent experts to technological stimulation measures (exploration incentives and cooperative research projects) in favour of SMEs were lower overall than those for the FAIR programme's other shared-cost projects. This peculiarity was not explained. For example, out of 203 measures financed as at 31 December 1997,

126 had been put in category B, whereas the number of shared-cost projects or concerted actions put in category B which had been financed accounted for no more than 40 of the 310 cases concerned.

Contract negotiation

85. Certain aspects of the contract negotiation stage were also insufficiently formal. Whilst the results of discussions concerning technical specifications are stated in the files, the financial negotiations, in contrast, are less frequently satisfactorily documented. Files in DG XII departments, in particular, bear little trace of the budgetary negotiations relating to the proposals, and the information required is often insufficient to enable eligible costs to be analysed.

86. The negotiation sheets, originally drawn up by DG XII, have not been adapted to the other managing departments' requirements and circumstances. Apart from irrelevant replies, some also contain obvious errors that had neither been detected nor corrected by the end of the negotiation. The most frequent errors concern the type or nature of the body and whether it formed part of a group or not.

87. In 13 of the 44 cases audited, the budgetary negotiations were limited to reducing the budgets for the proposals submitted. These reductions, which were, on occasion, clearly motivated by the comments made by expert assessors, were still not accompanied by an analysis that would allow their sufficiency and the impact they would have on the proposed work to be assessed, thus giving free rein to the partners to decide for themselves the repercussions they would have on the projects' tasks and objectives. The budgets initially proposed by the contractors were reduced systematically and on a unilateral basis by DG VI's departments. Far from having the anticipated effects, they induced the partners to increase the costs budget in their proposals by a proportional amount.

88. In other cases there was no evidence in the final contracts that experts' comments had been taken into account. Various situations show that a better response to experts' recommendations, reservations or doubts would have spared the Commission the difficulties it subsequently encountered in implementing the research work.

89. The technical annex to projects, which forms an integral part of research contracts, does not take sufficient account of the changes decided at the end of the negotiation. With regard to organisation and coordination procedures, the audits also revealed significant differences between the technical annex's theoretical description and actual practice. In addition, little detailed information is provided concerning the qualifications of the teams scheduled to carry out the research tasks. This factor sometimes

made it easier for the management and piloting of projects to be delegated to third parties without the Commission's prior consent, even though this is required under standard-contract provisions ⁽¹⁾.

90. It was found that customary clauses were repeatedly omitted from some managing departments' research contracts. For example, information concerning the nature, status or position of the signatories was regularly omitted, while in some cases the standard provisions relating to States and associated partners were not mentioned.

Financial and technical requirements

Tenderers' financial standing

91. There were no specific instructions concerning the need to verify tenderers' financial standing before concluding contracts. Owing to the lack of records in the files, it was not even possible to establish whether the Commission departments had actually carried out the analyses, and more especially as, out of the sample of projects audited, very few of the financial documents forwarded by the partners for negotiation purposes had been kept.

92. In practice, few bank guarantees were taken. Furthermore, those checked were unsatisfactory and not based on relevant criteria. DG XII has thus held bank guarantees for only four FAIR contracts since the programme began. All of them relate to the project coordinator, irrespective of the competence and financial health of the other contractors involved. Owing to the fact that the partners are not jointly and severally liable financially, the guarantees are insufficient to ensure that Community interests are adequately protected. Moreover, two of the four guarantees were issued for too short a term.

93. The bank guarantees requested have not been monitored centrally within the Directorates managing the programme. Each Directorate took decisions to request guarantees individually, irrespective of the information already available in any other Directorate, which therefore gave rise to marked differences in both the content and scope of the risks covered.

Contractors' obligations

94. It was frequently established during the audits that the partners did not pay the requisite attention to the clauses contained in research contracts and that many elementary rules were ignored, whether through misinterpretation or deliberately. The errors, oversights and shortcomings that were detected hardly differ in their nature and impact from one contractor to another: the accounting and analytical procedures are defective or non-existent, and the provisions concerning the determination and justification of time spent and eligible costs are not adhered to. On two occasions payments made by coordinators, which were onward payments of the Community contribution received, had been to

natural persons when they were actually due to the organisations that were the project partners. The lack of effective constraints, attributable to the managing departments' lax requirements, explains this situation in part.

95. In many cases, however, there were many conspicuous signs in the information provided to the Commission of the poor quality of the procedures or of non-compliance with standard-contract provisions. The lack of certification provided for in the contractual provisions, the exorbitant or inconsistent hourly rates and overhead expenses, or even non-adherence to the timescales stipulated in the contract, did not result, for example, in a single investigation by the Commission. Consequently, no action was taken to rectify the situation.

96. Third parties, i.e. subcontractors employed in respect of Community research projects, may be party to a contract, subject to certain conditions, one of which requires the Commission's prior written consent ⁽²⁾. This restriction, which is not coupled with any other reservation concerning the reason for subcontracting and the nature of the tasks entrusted to external service providers, is unsatisfactory in respect of the Commission's rights of control, since the rights conferred upon it by the standard contract are limited to mere technical control of and access to the third parties concerned, to the exclusion of any right of financial control.

97. The on-the-spot audits also revealed that the conditions imposed by the standard contract with regard to subcontracting had been misinterpreted and therefore poorly applied. In certain cases the main purpose of some subcontracts was to relieve the coordinator of the actual task of conducting the scientific coordination of the projects or even to circumvent the national rules applicable to contractors. Of the 44 projects audited on the spot, at least five cases where subcontracting was involved served as a pretext for practices open to criticism. The most common involved the conclusion of contracts between partners in one and the same project or with an associated undertaking, where the internal profits invoiced were not regularised, the conclusion of contracts or additional clauses that were not first authorised by the Commission and the failure to justify the precise nature of the service provided and the related costs.

Financial and technical monitoring of activities

98. The procedures for monitoring activities also revealed many disparities as regards quality and efficiency. In some cases the cause was a lack of instructions.

⁽¹⁾ Article 2(2) of the general conditions annexed to the standard contract.

⁽²⁾ Article 3(2) of the general conditions annexed to the standard contract stipulates that the contractors may conclude subcontracts, subject to the Commission's prior written approval, when the total value of the operations subcontracted exceeds 20 % of the contractor's estimated reimbursable costs for the project, provided that the contract contains detailed data concerning the latter.

99. The nature of the scientific and financial attestations provided by the managers at the end of their analysis of the periodic technical reports and financial statements is unsatisfactory in some departments. Owing to lack of information concerning significant events and the stage reached in the projects, the attestations are not documented.

100. On-the-spot visits are organised during the course of each project, but with varying regularity and frequency. Meetings are also organised in Brussels during which the coordinators are asked to present their projects and say how far they have got with their work.

101. Apart from the fact that the time limits for processing statements of expenditure exceed the contractual time limit, the methods used by the three DGs managing the programme to pay the Community contribution differ. However, one of the methods contravenes the contractual provisions. The periodic advances paid, which are dependent on the expenditure accepted, are calculated on the basis of an advance timetable for expenditure that is not laid down in the contract. In some cases, this method gives rise to Community payments in the course of the project that are considerably higher than the contribution corresponding to the costs actually incurred.

Auditing of activities

102. The DGs managing the FAIR programme have made no coordinated efforts between them to audit research activities. Moreover, the DG for Agriculture had neither the resources nor the time needed to carry out satisfactory audits, given the number of projects being managed and the volume of finance granted. DG XII's internal audit unit carried out a higher number of audits, yet they were not selected on the basis of any type of specific risk analysis and in some cases they were carried out after excessive delays.

103. The audits carried out were primarily financial in focus and mainly involved auditing declared expenditure. Verification of the reality, compliance and benefit of the scientific work carried out and the results achieved is, on the other hand, poorly organised during the audits, as the scientific managers' technical control mainly involves a check on the files on the basis of annual reports forwarded by contractors or during visits to projects when partners hold meetings.

104. Lastly, because there is no clear division of the tasks and responsibilities between the managing and the audit departments, there is no proper guarantee that observations concerning contractors who are beneficiaries of the FAIR programme are followed up, which partially reduces the benefit of the audits and deprives them of the deterrent effects they have on third parties that are involved. Several significant cases revealed that audit findings were insufficiently exploited and disseminated.

Recoveries

105. The efficiency of the recovery procedure depends on sound cooperation between the three departments involved, i.e. authorising, accounting and legal. In practice, the Accounting Officer's role is limited to entering the recovery orders in the accounts and notifying Authorising Officers, who, prior to any litigation, are still responsible for clarifying the situation with regard to debtors. However, owing to the lack of appropriate control at this stage, files forwarded to the Accounting Officer so that recovery orders could be issued were either incomplete or submitted late.

106. An analysis of the Commission's periodic accounts concerning the financial years 1996 and 1997 and the beginning of 1998, which list the recovery orders issued and not regularised by year, revealed low recovery rates overall. Three files, which have been under examination by the Commission's Legal Service since July 1996 and August 1997, and whose due dates have expired, account for 92 % of the ECU 3,4 million that remains to be recovered.

AIR programme demonstration projects in the 'non-food' area

107. The AIR programme, under area 1, entitled 'Non-food', financed seven demonstration projects, each of which was coordinated by a European Economic Interest Grouping (EEIG) set up for the sole purpose of seeing its project through. These projects, which received a Community contribution of ECU 45 million, fixed at the level of 30 % of their eligible costs, followed on from costly preliminary studies amounting to ECU 4,7 million and were conducted from 1991 to 1992 as part of the 'Preparation, support and monitoring activities'. Notwithstanding this, each met with considerable difficulties. The management and monitoring of them were also marked by numerous shortcomings and anomalies.

108. At the end of the external evaluation, they were all put in category B, without the improvements required to justify their selection having been documented.

109. Although the contracts were signed between October and November 1992, the actual date for commencing work on three of them had been set before the contract was signed. As they could not be implemented within the stipulated time limit of 36 months, contract extensions had to be granted on several occasions.

110. The manner in which they were organised within the EEIG framework proved to be at variance with everyday Community procedures for the technical and financial management of contracts. As a result, Community financing was granted without any specific bank guarantee being obtained, while each EEIG's capital was insignificant in relation to the amount allocated and the costs of the work whose implementation was to be self-financed. In addition, owing to the delays in implementing the work, the

initial advances paid proved too high, which induced the Commission to reduce the size of subsequent payments. The end of the budgetary financial year resulted in the amounts that had been retained being paid in the end.

CONCLUSION

111. The FAIR specific programme has continued and further developed research efforts made previously in the field of agriculture. To be specific, this has been reflected in the growth in its appropriations and the diversification of the activities financed. However, the act of making additional resources available would have been more effective if it had been accompanied by a suitable structure and appropriate management methods.

112. Efforts will have to be made to develop indicators and meet the obligations regarding final evaluation of previous programmes. Measurement of the results and impact of the research activities could thus be improved and the stakes involved in the programme expressed in more concrete terms. Global understanding of the programme and the relevance of the priorities selected would then be increased, and it would be possible to verify subsequently that the achievements matched the initial objectives.

113. Coordination of research activities carried out under the programme and, more broadly, in the context of all Community policies, should be increased. Improved utilisation of, or an improvement in, the existing coordination tools would, firstly, ensure that the efforts made complemented each other and converged and, secondly, obviate redundant work.

114. Procedural homogeneity and overall consistency between the programme's activities would be improved if the lead role devolved to one of the DGs formally bestowed on it certain rights in the area of scientific and financial management of the activities. The Commission should also endeavour to define a consistent policy with regard to information systems for all the DGs

managing the framework programme and to use common computerised management tools.

115. Commission Decisions concerning the selection and financing of activities would be better understood and a higher number of beneficiaries would become involved, if the key procedures for implementing the programme were specified and clarified prior to its implementation.

116. Provisions applicable to the entire framework research programme should be defined in order to guarantee the quality and independence of expert assessors and improve the justification of the results of selections. Bearing in mind the specific nature of some FAIR programme measures, the rules on cooperation with the Programme Committee should be reviewed to enable it express its opinion concerning the financing of measures, irrespective of the amount involved.

117. The legal and technical quality of contracts is unsatisfactory and should be improved. Provision should be made for joint and several financial liability on the part of contractors and for more appropriate penalisation methods. Given the high level of Community financing and in order to comply with the provisions of the Financial Regulation, whenever supporting documents are not submitted, certification by an accredited authority of the expenditure concerned should be required. In addition to the above improvements, the managing departments' checks on the technical and financial clauses in contracts should be increased.

118. Certain weaknesses detected in the manner in which the programme was implemented could have been avoided. Better planning of the activities, an effort to formalise the proposal evaluation and contract negotiation stages and, lastly, more stringent requirements and greater discipline in the area of monitoring and control of the activities would help improve the programme's quality. Recognition of the efficiency of both the programme and Community management depends on all the above.

This report was adopted by the Court of Auditors at the Court meeting of 16 December 1999 in Luxembourg.

For the Court of Auditors

Jan O. KARLSSON

President

THE COMMISSION'S REPLIES

INTRODUCTION

Research activities in the field of agriculture and fisheries

1, 2 and 5. The FAIR programme evolved from a series of programmes which were run separately by three different Directorates-General (DGs) under the second framework programme, dealing with fisheries, agriculture, food, and renewable resources. These were grouped together under FP3 (the third framework programme) in the AIR programme, where one specific programme covered research from the farmer, or fisherman, to the final consumer. This was further developed in FAIR, which was created as a more focused and integrated effort based on the results of the previous programmes.

In order to meet the evolving objectives in the field of agricultural, agro-industrial and fisheries research, the Commission regularly reformed its organisational structures, especially with a view to using increasing programme budgets in the most efficient manner possible.

The objectives of the FAIR programme were defined by the corresponding Council Decision and in the work programme adopted by the Commission, which described in detail the scientific and technological objectives, the research priorities and the implementing rules.

The Commission considers that it is intrinsically difficult to set quantitative objectives in a precompetitive research programme; moreover research involves elements of novelty and uncertainty. The Commission is, however, equipped with tools which can measure the success or failure of research programme objectives by means of five-year assessments and annual monitoring. These were carried out concomitantly from the beginning of this programme. The independent experts who carried out the annual monitoring always considered that the FAIR programme successfully met the assigned objectives over the course of the programme.

SUMMARY OF THE PRINCIPAL OBSERVATIONS

6 and 7. While the Commission did not adopt an evaluation manual for the FP4 programmes (as is now the case for FP5), it did issue a management manual for public consumption in Janu-

ary 1994, nearly a year before the start of FP4. This document described in layman's terms the general procedures for evaluating proposals and preparing RTD contracts, including the rules for the selection of experts. The Commission implemented these procedures in a very transparent way for the FAIR programme. Furthermore, a specific evaluation manual for FAIR was prepared and used by the three DGs co-managing the programme.

All projects selected by the Commission within the programme were judged to be of high scientific quality by the independent experts who carried out the evaluation of proposals. Where appropriate, projects which were felt to impinge on Community policies (CAP, CFP) were further analysed according to the relevance criteria contained in supplementary documentation made publicly available in the course of the programme. This analysis was performed after the scientific evaluation and was used to complement, not to replace, the conclusions of the external evaluation.

The Commission considers that the obligations concerning the final evaluation of programmes were respected. In accordance with the new evaluation scheme for Community research programmes adopted by a Commission Decision in 1995, the final evaluation of some specific programmes of the second and third framework programmes was included in the five-year assessment carried out in 1996. As to the principle of proportionately decreasing the financing of projects with respect to the proximity to the market, it should be noted that the vast majority of FAIR projects are precompetitive research projects; the principle therefore applied in only two cases.

8. Concerning coordination with other Community policies, regular contacts were established between the services concerned. The Commission nevertheless acknowledges that additional efforts are necessary, in cooperation with the Member States, to improve the coordination mechanisms, particularly at the level of individual projects financed by the Community.

9. For FAIR, a key element was the development of effective collaboration and joint management between the three DGs involved. The many joint actions were carried out on the initiative and under the direction of the DG in charge of the overall running of the programme, which also provided coordination on horizontal activities. The FAIR annual monitoring reports, a good independent yardstick, state that there was good cohesion between the three DGs, which resulted in a well-run and effective programme delivering significant results.

10. The information systems of the FAIR programme developed from a situation in the past where the three DGs ran separate specific programmes. In the course of FAIR, the three DGs pooled the information on proposals and contracts on a regular basis.

11 and 12. The Commission implemented the FAIR programme within a strict regulatory and contractual framework. With regard to the specific cases and situations mentioned by the Court, the Commission is taking the necessary steps to remedy them. With regard to the programme implementation and procedures, the Commission indicates in its reply to the report the improvements it has already taken on board and those planned for the future.

GENERAL FEATURES OF AGRICULTURAL RESEARCH MEASURES

Special features

16. The JRC, it is true, did obtain certain contracts in accordance with the rules governing these activities, but the Commission would point out that the JRC was not the body awarding the contract. The rules on public contracts moreover provide for a private treaty (Article 58 of the Financial Regulation) where a tendering procedure has not yielded a result, i.e. no technically acceptable tender has been received.

Financial data

19. In the early calls of the programme, most concerted action proposals concerned Areas 1 to 5. The Commission revised the work programme for FAIR in December 1996 and further clarified Area 6 by stressing that thematic networks should include primary producers, processors, and those responsible for 'scientific cohesion' between States involving technology transfer between different regions in Europe. This was done in discussion with the FAIR Programme Committee in November 1996 and resulted in more interest in the area in subsequent calls.

Based on the strategy outlined above, the Commission allocated to Area 6 relevant concerted actions coordinating research across the thematic areas. The FAIR Programme Committee endorsed this approach. It should be noted that the programme made it possible to implement a total of 115 concerted actions and seven thematic networks; this contributed to strengthening the coordination of research efforts across Europe.

ORGANISATION OF THE FAIR PROGRAMME

Implementation framework

21. The Council clearly outlined the objectives of the FAIR programme in the text adopted on 23 November 1994 (Decision 94/805/EC). Moreover, the FAIR work programme set out in detail the scientific and technological objectives, the research tasks and the implementation schedule, including dates for calls for proposals.

Definitions and rules

Strategy and objectives

22. One must assess the quantification of results in precompetitive research programmes against the fact that research involves novelty and unknown parameters. The Commission put in place an extensive system for evaluating research programmes by panels of independent external experts: five-year assessment and annual monitoring of the FP and the specific programmes.

The five-year assessment report focused on a cross-section of previous programmes implemented between 1991 and 1996; it was one of the key inputs in the preparation of FP5. The report stated the following: 'based on a detailed assessment of a randomly selected sample of 15 % of the AIR projects, the panel concluded that the programme as a whole is very successfully meeting its objectives'. In addition, the annual monitoring is of use in order to measure the performance of the programme against its objectives, examining outputs and measurement indicators (e.g. patent generation, industrial impact, etc.).

Types of activities

23. Two important tools for reaching the FAIR programme's objectives were the research training grants and the stimulation measures for SMEs. These measures followed the harmonised procedures set up for all specific programmes under FP4. This harmonisation, together with the coordination established by the Training and Mobility of Researchers specific programme for training grants and by the Directorate-General for Research's SME Coordination Unit, facilitated their execution within the FAIR programme.

24. In the case of training grants, the average period of time between submission of proposals and signature of contracts for selected proposals was between six and nine months for the Directorate-General for Agriculture, except in 1995; between six and nine months for the Directorate-General for Research and

between eight and nine months for the Directorate-General for Fisheries. Furthermore, according to Article 8(3) of the general provisions, the grant-holder has a period of up to six months after the signature of the contract to start the research work, which helps explain some of the time lags mentioned by the Court.

The Commission addressed the question of possible double financing in several ways. In their project proposals, the applicants had to mention the possible links of the proposed work with any other Community programme or Community-funded project and the originality of the work and degree of innovation constituted one of the evaluation criteria considered by the independent experts. In addition, the Commission services further analysed this issue during the preparation of projects to be shortlisted and during inter-service consultations.

Furthermore, the Commission services monitor the work of the grant-holders. Contractors must send scientific annual progress reports, cost statements and final reports to the Commission for approval, and the Commission keeps updated files on the projects. There is no systematic monitoring on expiry of the training contract.

25. As a result of the Commission's efforts to encourage the inclusion of SMEs in the RTD framework programmes, their participation trebled between the third and fourth framework programmes, and over 14 500 SMEs were associated with FP4. The Commission's procedures did not therefore become more complex. The Directorate-General for Research's SME Coordination Unit made some adjustments to the rules concerning SMEs in the course of the programme which had a positive impact on the participation of SMEs in FP4.

As regards the FAIR programme, the 1998 monitoring report mentions that the Commission services made constant efforts to raise awareness of SME-related measures in the programme. The final budget allocated to these measures depended on the quality of the proposals received. Moreover, the response was uneven across the different areas of the FAIR programme, which reflects the existence of SMEs in the different research areas. The response by SMEs was particularly high in Areas 1, 2 and 3 of the FAIR programme, which led to an allocation of up to 9,1 % of the indicative budget for SME measures in these areas to the Directorate-General for Research, 1,4 % to the Directorate-General for Agriculture and 6,9 % to the Directorate-General for Fisheries.

26. The Commission, recognising the need to help SMEs take part in the programme, took the initiative of establishing SME focal points in the Member States, not just for dissemination activities but more importantly to provide assistance to SMEs in

preparing proposals, seeking partners, etc. The increase in the participation of SMEs in FP4 was mainly due to such actions. The FAIR programme co-financed these networks (50 %), and the projects contained timetables, a precise methodology and a list of deliverables.

When it came to FP5, the Commission introduced a standard grant agreement formally incorporating all the constituent parts of the project to be financed.

Selection criteria and financial contribution

27. The success and legitimacy of the RTD framework programmes are linked, among other things, to the strict application of known selection criteria for proposals for projects to be financed. The criteria of CAP/CFP relevance are additional to the criteria of scientific quality and never led to the selection of projects of inadequate scientific quality.

28. As regards the 10 'B' proposals replaced by high-quality scientific projects, these were good-quality proposals according to the rules of the research programme. Graded B, they were put, in the light of their relevance, on a reserve list. Five of them subsequently received funding thanks to savings made on projects on the main list. This procedure is correct.

29. The rules in no way exclude the application of criteria of compatibility with Community policies, clearly explained and laid down in addition to the criteria of scientific quality which are not called into question. As soon as explanations were provided after the first call for proposals, these difficulties disappeared.

30. As the vast majority of projects under the FAIR programme are precompetitive research projects (more than 95 %), criteria for proximity to the market rarely apply (two cases).

The Commission is aware of the need for a clear explanation of the key concepts when a new framework programme is prepared. This is why, in the case of FP5 standard contracts provide for fixed rates of 35 % for projects which are close to markets and 50 % for those that are further away.

Procedures

Programme evaluation

31 to 33. The Commission several years back established a system of RTD programme and project evaluation which constitutes

a major tool for optimising the implementation of programmes and for their strategic development. This set-up involves evaluating the activities undertaken during the past five years. The 1996 evaluation exercise covered the whole of FP3, which ended in 1994, and also the final evaluation of the FP2 programmes.

34. The Commission is particularly attached to ensuring the independence of experts called on to evaluate RTD programmes and projects. The expert the Court mentions was no longer a member of the FAIR Programme Committee at the time of the selection of the experts for the FAIR-1995 monitoring and had indeed retired from his ministry. Moreover, the Member States nominate the members of the Programme Committee and, at the time of establishing the monitoring panel, the Commission did not identify any incompatibility between the expert's earlier involvement in the FAIR Programme Committee and his later participation in the monitoring panels.

With a view to improving the situation, the Commission introduced a special procedure for the selection of experts for FP5 and took steps to ensure that a member of a programme committee is not eligible to be a member of the annual monitoring panel for the same programme. One or more members of an annual monitoring panel may be reappointed to ensure continuity between successive annual exercises, but not the whole panel of experts.

Proposal evaluation

35. The evaluation of projects is a key stage in the management of RTD programmes. Whereas the Commission did not adopt an evaluation manual for the FP4 programmes, there was a procedure and a framework set out to govern the choice of evaluation experts.

The Commission issued a management manual for public consumption in January 1994, nearly a year before the start of FP4. This manual was widely available in all Community languages. The document described in layman's terms the procedures for evaluating proposals and preparing RTD contracts, including the rules for selecting experts. The document restated the rules for the regular rotation and replacement of experts, after the Commission had first announced them in a paper of June 1993 ('Management of Community RTD activities — an agenda for change').

37. Panels composed of on average four to six independent experts examined each proposal for the FAIR programme. It is

logical to find some degree of discrepancy between different experts in a panel on a given project. This is independent of the marking system, whether it is point-based or grade-based.

In the case of FAIR, following the individual evaluations, the panels assembled to discuss the marks they had awarded, with a Commission official acting as moderator for the group. During these consensus meetings, the experts agreed on a final grade for each of the groups of criteria and on an overall grade for the proposal. They justified their grades with comments to provide feedback to the proposal coordinator and agreed on an overall and fully documented summary report that the experts signed.

38. It should be stressed that the Commission has harmonised the evaluation procedures to be applied to all specific programmes under FP5, as explained in the manual of proposal evaluation procedures the Commission has adopted.

As for the FAIR programme, the Commission services created a database of experts in 1995. By the end of the programme, it contained 2 600 names supplied by the Member States. Strict criteria for selection from the database according to the area of the programme being evaluated were always in force: competence and experience, impartiality, fair geographical distribution, varieties of backgrounds (types of organisations) of the candidates, references. Subsequently, the Commission always put together expert groups on the basis of expertise in the relevant areas, availability and distribution of type of organisation and country of origin. In all cases the Commission made the greatest effort to avoid inviting experts from institutes involved in the proposals to be evaluated. When this was unavoidable, the Commission asked the expert to abstain from the evaluation.

Decision-making procedures

39. The Commission services perform a thorough analysis of all projects and did not deliberately keep the adjustment of the Community contribution within the limits that did not require a new Commission decision. The Commission wishes to point out that out of the 640 proposals selected 70 % (454 proposals) had a reduction of between 0 % and 5 % and only 4 % (24 proposals) had a reduction of between 15 % and 20 %. Moreover, for one proposal for which there was a reduction higher than 20 %, there was a new Commission decision.

Contractual provisions

40. The contract represents another important stage in a research project, and it is the Commission's view that the provisions of the standard contract concerning beneficiaries' obligations are not defective, in particular as regards the financial responsibility between partners in a research project.

In the standard contracts for FP4 the Commission provided for joint responsibility for the technical implementation of projects, and the situation is the same for FP5. The Commission did not, however, make provision for joint financial responsibility in either FP4 or FP5, and it considers this to be fully justified.

In the event of the bankruptcy of one of the contractors, the Community will be protected by the national law applicable. A defaulting contractor will not affect the implementation of the project since the joint responsibility for implementation of the project means that the other contractors will have to take the necessary steps to complete the project without being reimbursed by the Commission for the extra cost incurred. It can thus be said that in such cases joint responsibility also has financial consequences for the contractors.

41. The Commission takes the view that the current procedures are in accordance with the Financial Regulation, and in particular Article 41(1) thereof: 'Validation of any expenditure shall be subject to the submission of supporting documents showing the creditor's claim and the service rendered or the existence of a document justifying payment'.

The statements of costs submitted by contractors fulfil this function. The standard contract requires all contractors to keep accounts and appropriate documentation. The Commission can request additional supporting documents to substantiate and justify the costs listed in the statements and also during on-the-spot checks.

42. As regards cancellation of contracts for financial irregularities, three different cases can arise: firstly the case of serious financial irregularities; secondly errors which do not constitute serious irregularities and thirdly the circumvention of national legislation.

In the first case, the Financial Regulation and the warning system set up by UCLAF in July 1997 require detailed reasons, backed up by supporting documents, to cancel the contract, end participation and/or request reimbursement of payments made by the Commission. The Commission may take appropriate measures only when it has sufficient proof.

In the second case, the Commission takes the initiative of correcting the errors to ensure proper performance of the contract. In any case the contract rules protect the financial interests of the Community, as do the recovery orders which the Commission issues after the contract has expired.

As for circumvention of national legislation, the Commission is not in a position to undertake checks relating to such activities by contractors, having neither the powers nor the means. It is the responsibility of contractors to ensure that the national rules in force governing public contracts, remuneration and recruitment of agents of public bodies are applied.

Management structure and methods

43. There is a common and complete legislative framework for agricultural research: the Council Decision adopting the FAIR programme. This fully outlines the objectives of the programme, the scientific areas, the funding and breakdown between areas, and the specific rules for implementing the programme. The legislative authority and the Commission have continuously adapted the structures of the programme, its management and its resources to the new priorities. This was also true for the FAIR programme covered by this report.

Management structure

Co-management of the programme

44. The FAIR programme was co-managed by three DGs, each with its own special interests, but working in close collaboration to design and implement a homogeneous system, coordinating on each of the essential components: the work programme and subsequent revisions; the info-pack for the programme, the evaluation manual, the guide to compiling periodic and final reports on the progress of projects, calls for proposals, common rules for the establishment of databases of exports, the rules for the external evaluation of proposals, shortlists, Commission decisions, meetings of the Programme Committee, periodic monitoring and evaluation exercises, etc.

These activities were conducted appropriately, on the initiative and under the direction of the lead DG.

In order to meet the evolving objectives in the field of agricultural research, the Commission regularly reformed its organisation, especially with a view to using the increasing budget in the most efficient manner. For FAIR, a key element was developing effective collaboration and joint management between the three DGs involved, as evidenced by the meetings (GPIS) at Director level the Commission held during FAIR so as to ensure the efficient running of the programme and the daily contacts at the level of unit heads and scientific officers.

The minutes of these meetings demonstrate the collaboration between the three DGs and the fact that the Directorate-General for Research also provides coordination on horizontal activities such as SME measures, demonstration, ethical aspects, training and annual monitoring.

45. The six regular calls for proposals, which the Commission established at the outset of the programme in accordance with Article 5 of the Council Decision on FAIR, followed the same procedures and implementation rules, and the three DGs jointly organised and managed them. As to the evaluation of proposals, it should be noted that, for all 3 328 evaluations, the Commission services followed to the letter and under strict control the guide for the evaluation process that the three DGs adopted in March 1995. In the case of Area 4 of the FAIR programme, and because of the direct relevance of projects in this area to the CAP, prior to preparing the shortlists, the Directorate-General for Agriculture carried out extensive consultations with its policy and market departments on those proposals rated A+, A, B+ or B by the independent experts.

Implementation methods

46. Although it is regrettable that the timetable for the implementation of the FAIR programme put considerable pressure on the Directorate-General for Agriculture, it should be acknowledged that it took steps on its own initiative to remedy the situation after the first call and particularly in preparation for its activities under FP5.

47. The Commission was able to respond promptly and efficiently to the TSE emergency or 'mad cow disease'. In the case of the two TSE joint calls the Commission proposed, based on the evaluation guidelines established by the Directorate-General for Research, a specific evaluation manual which took on board the different aspects of the three programmes (FAIR, Biomed and Biotech). In addition, the manual also addressed the issue of safety and ethical aspects, which were particularly important in this field of research. The joint Programme Committee (FAIR, Biomed and Biotech) unanimously endorsed both the contents of the two joint calls and the evaluation manual.

As regards the specific call for proposals from the Directorate-General for Agriculture on TSEs, it was published and implemented under the FAIR programme alone and the evaluation procedures for the FAIR programme were thus followed (evaluation forms and guide, the FAIR grading system, etc.) together with a two-tier scientific evaluation of the proposals. This procedure is correct.

It should be pointed out that the differences in the evaluation procedure had no effect on the quality of the proposals selected or at

the later stages of the procedure (negotiation of contracts and technical annexes), which were the same for all calls for proposals since they followed the rules common to the whole framework programme. Again for the sake of standard procedures, each TSE project selected contained a checklist relating to samples, safety and ethical aspects, irrespective of the call for proposals concerned.

No criticism was levelled against the implementation of the TSE calls by the Directorate-General for Agriculture or the Directorate-General for Research, particularly regarding the use of FAIR procedures on the one hand and ad hoc procedures on the other.

48. In the next call for proposals it was involved in (FAIR 3) the Directorate-General for Agriculture saw to it that it supplied all the necessary information beforehand. The problems that arose with the first call for proposals thus disappeared.

49. Agricultural research has evolved from a situation where three DGs ran separate research programmes into one where, starting with FP3 (AIR), they run a single programme.

Throughout this period, and particularly under the FAIR programme, a strong partnership existed between the three DGs involved. As described earlier, the directors met regularly to decide on direction and strategic issues. At the level of heads of units or technical staff, there are almost daily contacts between the DGs, and a strong spirit of partnership has progressively developed. There is no factual basis for the assertion that they did not 'derive the maximum benefit from the staff and equipment'.

On the contrary, the annual monitoring reports on the running of the programme, a good independent yardstick, state that there was a very good cohesion between the three DGs, which resulted in a well-run and effective programme that delivered significant results.

Management methods

50. At the heart of the management of the RTD programmes, including FAIR, is the scientific officer. The Commission does not consider that the fact that more than one scientific officer manages a project during its lifetime has a negative effect on the quality of the management. On the contrary, mobility of the scientific staff and assignment of different tasks may increase the overall efficiency and it is in line with the Commission's personnel policy.

Staff

51. The information systems of the FAIR programme developed from a situation in which the three DGs ran separate programmes. From the start of the FAIR programme, the three DGs pooled the information on proposals and contracts on a regular basis. This was essential in formulating replies to the different monitoring exercises, for the FAIR homepage on the CORDIS website, and in preparing project catalogues for the programme. The Commission is unaware of any factual basis for the negative consequences the Court draws from the existing structure of the information systems.

Information systems

52 to 54. The departments responsible for the Structural Funds and those responsible for research policy have worked together for years.

With the aim of improving the management of projects and drawing the attention of future contractors to the rules on combining public contributions under FP5, the Commission made a number of additions to the contract preparation forms to be completed by those submitting proposals at the negotiation stage. These forms now contain clear information, some of it in the form of tables and precise legal references, about the rules on combining public contributions as laid down by, on the one hand, the WTO Agreement on Subsidies and Countervailing Measures and, on the other, the Community guidelines on State aid for research and development. They also alert those submitting proposals to the need for State aid measures to be duly notified in accordance with the relevant provisions of the Treaty.

As far as agriculture is concerned the AGREP system to which the Court refers in the last sentence of point 54, was designed to carry out a survey of agricultural research projects in the Member States and then to centralise the main points in a common database. There is no need to provide for its replacement since a system of this kind has become superfluous since the advent of the Internet, which enables the same information to be accessed directly and very easily.

The Commission discussed a new information system on national agricultural research programmes with the Member States in the Standing Committee on Agricultural Research (STAR); this gave rise to the specification being established, plus a feasibility study. The purpose of the system is quite different from that of AGREP in that it does not merely compile a list of projects, it analyses research strategies.

MANAGEMENT OF FAIR PROGRAMME ACTIVITIES

Dating of contracts

58. The backdating of contracts had no financial implications. The Directorate-General for Agriculture ended the practice in Feb-

ruary 1998, and has not backdated any of the 100 or so FAIR contracts signed since then under the various categories covered by the research programme (shared-cost research projects, training grants, measures to assist SMEs, accompanying measures, etc.). It goes without saying that there will be no backdating in the future either.

The Authorising Officer's role and position

59. The authorising officers to whom the Directorate-General for Agriculture delegates receive their appointment in a personal capacity from the Director-General, to whom they are accountable.

In this special function they are not therefore dependent on their direct hierarchical superior.

In any case, the fact that delegation transfers the full responsibility and risk linked to authorisation to the authorising officers (Article 73 of the Financial Regulation) would make them resist any pressure and ensure that they remained independent as advocated by the Court over and above the specifications laid down in the Financial Regulation and the internal rules of procedure.

It should also be noted that before being able to authorise, authorising officers must receive the agreement of the Directorate for Agricultural Budgetary and Financial Matters, which oversees operations. This Directorate plays an internal audit role in this respect.

Interdepartmental consultation

60 and 61. The Commission stresses that, even if it performed the interdepartmental consultation under tight deadlines at some times, this never happened at the expense of the high standards set by the procedure.

The relevant departments always had the relevant information long beforehand in an informal manner, and they always received updates on the slightest developments within the other Directorates-Generals co-managing FAIR. In this way, and due to the fact that even more information was forwarded to the departments concerned than legally required, all the departments concerned had the necessary background information and could prepare their comments for the consultation even before the formal interdepartmental consultation procedure started.

Furthermore, during the course of the written procedure, all information on participants, as well as a description of the contents, was available to the members of the Commission. Following its request of 24 October 1996, related to the adoption of evaluation decisions by written procedure, the Secretariat-General received all the relevant elements.

Regarding the links with the Innovation programme, it must be pointed out that the Innovation and FAIR demonstration projects have complementary but different objectives. The Innovation programme aimed at developing best practices in technology transfer and validation in all scientific and technological areas, while FAIR demonstration projects were specifically aimed at proving the technical and economic viability of projects within the scope of the FAIR programme. Sometimes the Commission performed the interdepartmental consultation between these two actions under tight deadlines but never at the expense of the high standards of the procedure. In fact, the Directorate-General for Research clearly identified certain proposals in the Innovation programme as having potentially overlapping qualities with those of FAIR demonstration proposals, and the Commission took the requisite corrective actions.

While preparing FP5, the Commission reflected on the prior consultation of the departments most closely associated with research policy, one of the topics addressed in the communication of 16 December 1997 on the management of FP5. Following this communication, the Commission set up a group of directors representing all the DGs involved in the different specific programmes. This group now meets on a regular basis and ensures the good quality of the information flow at all levels.

Entry in the accounts and monitoring of staff and operating costs

62. Across all the departments, out of the total of 93 personnel (statutory and non-statutory) paid from the FAIR programme at the end of October 1998, 57 were assigned to the direct management of the programme, 22 to support tasks relating to the three life-science programmes (management, contracts, ethical aspects, demonstration) and two to support tasks in the Directorate-General for Research. In addition, 12 people were assigned for accounting purposes to other research programmes or operational tasks (four and eight respectively). In the case of these 12 their assignment to other duties was largely made up for by the assignment to the FAIR programme of personnel remunerated from other programmes. When FP5 was launched, the Commission took the necessary steps to remedy the accounting situation.

The Commission would stress that personnel management is by no means arbitrary; it is in accordance with the rules in force, the annual decisions of the budget authority, and the will of the legislative authority adopting the specific research programmes.

63 and 64. Personnel and operating costs come within a strict and transparent legislative and budgetary framework which also allows for good integration of resources.

The budget authority each year adopts a separate table showing personnel for each research programme, including FAIR. In addition

and in accordance with the Financial Regulation, the research budget includes a table listing seven categories of administrative expenditure for each programme. This structure is at the forefront of the Commission decisions for improving financial management (SEM 2000).

The Commission attaches great importance to monitoring the ceilings imposed by the Council on administrative expenditure. In the case of FP4, the Council adopted two ceilings for the majority of the programmes, including FAIR: one for expenditure on statutory personnel and the other on other administrative expenses. The Commission departments regularly analyse administrative expenditure to ensure that research programmes are kept within the limits laid down by the budget authority. The Commission also informs the budget authority about the execution of administrative expenditure.

The DGs responsible for the implementation of research programmes include, in addition to the scientific services, departments with horizontal administrative or political tasks such as personnel, budget, auditing and coordination with national policies. The staff performing these duties are in the main research personnel, a number of whose posts are assigned to the FAIR programme. The Directorate-General for Research manages a number of items of expenditure, including horizontal expenditure and expenditure on statutory personnel, via an allocation made up of contributions from the various programmes. This arrangement is in accordance with the Financial Regulation.

65. The DGs responsible for implementing the FAIR programme have some personnel paid from the research budget and some who, for historical and regulatory reasons, come under the operating budget. The officials concerned often perform horizontal and administrative tasks but also hold jobs in the scientific departments.

Existence of private agreements with contractors

66 to 68. In the course of FP4 (as under FP2 and FP3), the Commission concluded agreements with contractors who had several Community research contracts. The Commission concluded the majority of these agreements in the 1980s, the aim being to facilitate the management of contracts by contractors and the negotiation, administration and auditing of these contracts by the Directorate-General for Research.

The Commission cancelled all these agreements in May 1998; the letters cancelling them provided, none the less, for the possibility of concluding new agreements on costs.

As far as FP5 is concerned, the Commission is again looking at the possibility of concluding such contracts.

Cooperation with the FAIR Programme Committee

Quality and scope of the information forwarded

69. Relations and cooperation with the Programme Committee have been both fruitful and efficient. It should be noted that the Commission submitted to the FAIR Programme Committee more than 20 draft measures during the lifetime of the programme. In all cases these measures received the favourable opinion of the Committee by unanimity or by a large majority. No delegation was ever against any of the measures submitted. The Commission always supplied the Committee with the requested information, and at no stage did the Commission withhold any information from the Committee. As a result, the Committee was generally satisfied with the information provided, and, in many instances, it praised the Commission services for the quality of their work.

70. The Commission acknowledges that the Programme Committee did have limited time to examine the draft version of the FAIR work programme. For this reason the Committee's chair, which the Commission occupies, invited written comments from the Committee members within 10 working days of the meeting held on 21 October 1994. As stated in the minutes of that meeting, the majority of the delegations expressed their satisfaction with the scientific content and scope of the FAIR draft work programme. The comments were mainly critical of the evaluation criteria, and the Commission organised a meeting on 20 January 1995 to address the issues and explain in detail to the Committee the evaluation procedure for the FAIR programme.

Following the call for proposals under FAIR 1, the Directorate-General for Agriculture ensured that the Committee received the requisite information in advance. The Committee expressed its satisfaction with this information and there was no recurrence of the problems encountered with the first call.

71. In accordance with the Council Decision on FAIR, the Commission always informed the Committee of the activities concerning SME specific measures and of the outcome of the selection processes. The information the Commission provided to the Committee was similar to that provided for other shared-cost actions. In this respect, the Commission presented all short-lists of SME measures in FAIR to the Programme Committee by way of information. In turn, the FAIR Programme Committee expressed its appreciation for the information given. It should be noted, moreover, that it was the Council that decided on the ECU 0,5 million threshold for triggering consultation of the FAIR Programme Committee. The ECU 0,5 million ceiling for funding of cooperative research projects was uniform across the various specific programmes under FP4.

72. There was no actual coordination mechanism; none the less, each time the Committee asked for information, it was provided.

Independence of Committee members

73. On the issue of potential conflicts of interest, the Commission wishes to point out first that it is the Member States that nominate the members of the Programme Committee. Article 6 of the Committee's rules states the following: 'When an opinion of the Committee is requested on the assessment of the RTD activities proposed for funding, the members of the EU Member States delegations should not have an interest in or connection with the legal entities involved'. This rule, read by the Chairman on all appropriate occasions, called on any participant, whether a nominated member or accompanying expert, to leave the room during an agenda point requiring the vote of the Committee if they were directly connected with or involved in it. Nevertheless, it was left as a matter of trust between the Commission and the members of the Committee, which is why the minutes recorded the actual event (though not the names of any members who left the room).

74. As far as the FAIR Programme Committee is concerned, it must be pointed out that the Commission made it possible for the Committee's chairman to make a declaration to the effect that members with a direct interest in activities proposed for funding should inform him and could not take part in the debate and the vote. For FP5, the rules for programme committees have been prepared with a view to preventing committee members from taking part in deliberations on points with a potential conflict of interest.

Implementation of the management, monitoring and control procedures

Pressure of time limits

76. Under FP4 there was no particular pressure of time limits for the preparation of management instruments, mainly because the Commission already had excellent instruments from FP3 which were suitable for the following framework programme.

77. The Commission produced the 'guidelines for the preparation of scientific periodic and final reports for FAIR shared-cost projects and concerted actions' in March 1997 following consultation and agreement among the three DGs involved. The delay affected only the first annual reports of FAIR-1 contracts. This was mainly due to the services' effort to produce a comprehensive and user-friendly guide in conformity with the previously produced 'guidelines for the preparation of technical annexes to FAIR contracts'. It should be noted that the Commission used the existing guidelines for AIR contracts (FP3), which were perfectly valid, during the interim period.

The services produced an updated version of the evaluation questionnaires for the last two calls. This included a special form for concerted action proposals to help experts distinguish the specific criteria necessary for concerted actions, though the original forms were perfectly adequate for this purpose when used properly. Moreover, the Commission services thoroughly briefed the experts on all occasions on the operational evaluation process and on how to use the proposal evaluation forms.

78. The Directorate-General for Agriculture encountered some difficulties in 1995 in selecting projects for Community financing under the first call for proposals. Anxious to ensure that the projects provided the various units concerned in the DG with appropriate information, it consulted them widely, which meant that it was unable to present its list of proposed projects to the Programme Committee at the same time as the Directorate-General for Research and the Directorate-General for Fisheries.

The list of the Directorate-General for Agriculture's projects was submitted somewhat later than those of the other co-managing DGs, so it was inevitable that the later phases leading up to the conclusion of contracts could not be implemented in an optimum manner; in particular there had to be an accelerated written procedure to ensure that the execution of the projects was as effective as possible despite the hitches early on.

The problems encountered with the first call for proposals did not arise again later on: the Directorate-General for Agriculture's list of priority projects was presented to the Committee together with those of the other managing DGs. The projects were selected in accordance with homogeneous criteria and gave rise to no more difficulties. The Directorate-General for Agriculture thus took the appropriate steps in June 1996 to remedy the difficulties encountered.

80. In the case of the TSE calls, the Commission deliberately reduced the deadlines slightly in order to speed up implementation of the action programme. In both cases the programme committees concerned issued a unanimous favourable opinion despite the unusually short time limit. These deadlines did not prevent those submitting proposals from mobilising their efforts properly; nor did they adversely affect the quality required in Community research activities.

In the case of the specific FAIR call, the number and quality of the proposals received in a very special area show that this call was quite adequate. A total of 24 proposals were submitted, eight of which were accepted, and the appropriations set aside for this call for proposals were used in full for high-quality projects. This shows that the research teams concerned in Europe did actually have the opportunity to prepare their proposals and to establish

them in accordance with the high quality requirements laid down by the Community RTD programme.

On a general note, it is pointed out that the implementation of the research action programme on TSEs was spread over more than a year (specific call under FAIR and two joint calls). The programme was the subject, throughout this period and at each stage, of unprecedented information from the Commission to raise awareness among all potential participants. It cannot be claimed that teams would not have been in a position to submit proposals on account of the time limits. Nor can it be said that the scientists involved in compiling the Weissmann report (which served as the basis for drawing up the action programme) had any advantage in the matter for the same reason.

It is perfectly normal that scientists who contributed to the Weissmann report should have taken part in TSE projects. Conversely, the absence of such participation would have raised certain questions: it would mean that the best scientific teams in Europe with a world reputation in their field did not wish to take part in the Community TSE programme or that the Commission had not selected them.

The Commission would make the general point that all aspects of the procedure it followed throughout the implementation of the TSE action programme were subject to detailed scrutiny and reported in detail to the various programme committees concerned, which deemed it exemplary.

Formalisation of the management of the measures

Proposal evaluation and selection

82 and 83. The guidelines of the Commission services provided precise instructions for the ranking of proposals. Furthermore, the Commission services thoroughly briefed the experts on the operational ranking process. The evaluation summary reports that the experts signed reflect the rationale for the scores of the relevant proposals.

As described in the 'Notes for the evaluation process', B-rated proposals are 'good' proposals, that is, 'proposals of high quality but with elements that need improvement'. As such, B-rated proposals are eligible for funding, subject to budgetary constraints.

The Commission kept the FAIR Programme Committee fully informed of the outcome of the evaluation and selection procedures during the life of the FAIR programme. More specifically, the Commission submitted to the members of the Programme Committee the following information concerning all proposals:

abstract of the proposal's scientific/technical content, partnership, total cost, requested EC funding in total and per partner, evaluation summary report, including comments from the evaluation panels on the proposal's scientific content, partnership, anticipated socioeconomic benefits and, finally, the score given. In addition, to enable the Programme Committee to acquire a global view of the process, the Commission always provided overall descriptive statistics.

In its effort to enable the Programme Committee to provide an informed opinion, the Commission submitted, in addition to the above, a justification for the inclusion of B-rated proposals selected for funding. The Commission verbally communicated this justification to the Programme Committee during the discussion concerning FAIR 1 proposals. For subsequent calls, the Commission provided a written justification. In response, the Programme Committee expressed its appreciation of the value of the systematic information provided by the Commission.

84. For the selection of SME exploratory awards and cooperative research projects to be funded, the Commission took into account A-and B-rated proposals, since their overall quality was 'very good' or 'good' and therefore met the requirements for funding. On the basis of the scores given by the experts, the quality of proposals under the SME specific measures was comparable to that of shared-cost projects. The eventual decision took into account the budgetary constraints, which explains why comparatively fewer B proposals received funding under the shared-cost scheme.

Contract negotiation

85 and 86. The negotiation of contracts is a key stage in the management of research programmes, and the Commission pays particularly attention to this when preparing each framework programme. The contract negotiation forms are based on standard contracts and are fully in accordance with the relevant provisions. The information contained in the negotiation form is what is strictly necessary for drawing up the contract. According to the instructions in force, any adjustment required in order to comply with the contract provisions must be contained in a correction to the negotiation form which is signed by those submitting proposals.

The amount of detail required for each cost category must clearly reflect the scientific activities involved. It is on the basis of this information that the cost statements are checked during the term of validity of the contract. The standard shared-cost action (SCA) contract also requires contractors to give a precise breakdown of their costs in their own accounts. The statement of costs constitutes a declaration by the contractors that the costs declared are accurate and correspond exactly to the contractual definition of eligible costs.

87. Whenever a reduction of the requested EC contribution occurs as a result of the negotiation, it is based on a careful analysis of the adequacy and correspondence between the proposed work programme and the resources necessary to carry out the

work. The outcome of these negotiations is duly reflected in the final technical annex and in the contract negotiation forms.

As far as the Directorate-General for Agriculture is concerned, it points out that there are two successive stages in the procedure leading to the establishment of the contribution allocated to each project: in the first stage the estimated amount at the time of selection is established; the second stage is to establish a precise amount entered in the contract. The Court's remark applies only to the first stage. In this connection, the Directorate-General for Agriculture itself took the initiative in 1998 to put an end to systematic reductions when establishing estimated amounts, in favour of an individual analysis. As for the second stage, for all the contracts signed since the start of the programme, this was always based on a case-by-case analysis in connection with the contract negotiation, in accordance with the rules common to the three co-managing DGs.

88. It should be noted that the Commission conducts negotiations for all selected proposals; the comments of the experts constitute an important basis of the Commission's argumentation.

89. The work programme or technical annex of the research contract contains, in as clear a manner as possible, all activities, actions and tasks that the participants in the project are committed to undertake in order to fulfil the scientific and research objectives stipulated in the contract. Bearing in mind the objective of the technical annex, namely the detailed description of the research work, it is considered that aspects related to the capacity and quality of the participants should not be included in such a document.

Moreover, the research proposal describes the role and contribution of each of the partners in the project, their qualifications for their role, their capacity to provide their contribution to the project, their experience and knowledge. It also describes why their qualifications and experience make them particularly suited for the work allocated to them. Based on this information, the independent experts examine the quality of the partners, particularly if the resources, skills, reputation and expertise of the proposers are of sufficient quality to realise the objectives of the project. This appraisal constitutes one of the main elements of the overall evaluation score.

The Commission further examines the quality and capacity of the partners during contract negotiations that cover all aspects related to the management of the projects, including the potential delegation of the management to third parties. In three cases raised by the Court in paragraph 88, the project coordinators failed to inform the Commission as required under the contract.

Financial and technical requirements

Tenderers' financial standing

91. The Commission systematically investigates the financial standing of potential contractors. Under FP4, contractors were

required to send the Commission their statements of account for the past three years. On the basis of the data from potential contractors, the Commission checks their financial standing with regard to the project in which they wish to participate and the work they wish to do within the project. When it comes to subsequent projects, potential contractors send the Commission updated figures.

Where there is some doubt about the potential contractor's financial situation, the Commission calls on external experts (financial analysis companies), to supply information about the financial standing of the potential contractor in question, from independent sources covering commercial and financial activities. The Directorate-General for Research centralises this information and makes it available to all the departments concerned, particularly the scientific directorates, via the central management system.

The Commission would also stress that the negotiation forms, like the statements of costs, constitute a declaration by the party submitting a proposal/contractor of the costs expected/incurred. The SCA model contract also requires contractors to give a precise breakdown of their costs in their own accounts. The statement of costs constitutes a declaration by contractors that the costs declared are accurate and correspond exactly to the contractual definition of eligible costs.

The purpose of the Commission staff's analysis of the financial situation is to evaluate the suitability of participants to take part in the project and determine the coordinator's ability to repay the initial advance received as depositary of the contractors. This amount is at this stage not yet reflected in the costs incurred and declared in the statements of costs. It is in the latter case that the relevance of a bank guarantee request is evaluated, on the basis of a classic financial analysis of the balance sheet ratios. The Commission does not take this decision until after a preliminary evaluation of the capacity of each contractor to commit to and meet its obligations under the contract.

Analysing the first statement of costs (and the first interim report on the progress of the project) enables a preliminary check to be made on the use of this advance. On this occasion the Commission staff withhold amounts from the advance if there are reservations about the scientific and administrative assessment of the implementation of the project.

92 and 93. Few guarantees are requested because few beneficiaries present a risk that warrants such action. The four guarantees the Court mentions, although not uniform, are all along the same lines and provide for the same conditions. It is also clear that, depending on the projects, they contain specific elements. Any

attempt to establish a single model comes up against the problem of the diversity of legislation and commercial practices. As a general rule the Commission staff endeavour to keep financial documentation in the archives.

Contractors' obligations

94 and 95. On a general note, the Commission would point out that the arrangements described above for financial analyses of contractors and checking compliance with the provisions of contracts are supplemented by many audits based on a risk analysis.

96 and 97. As far as subcontracting is concerned, the FP4 standard contract requires the prior written approval of the Commission where the total amount for subcontracting exceeds 20 % of the estimated eligible costs or where the subcontractor is established in a country other than the contractor's. The contractor is required to conclude subcontracts whereby subcontractors are required to submit to technical inspection by the Commission.

The FP5 standard contract has introduced an additional condition: the Commission's prior written approval is now also necessary where the total amount of subcontracts exceeds EUR 100 000.

Financial and technical monitoring of activities

99. The Commission bases its approval of periodic and final project reports on a thorough assessment of both scientific progress and cost incurred over the reporting period. If the officer is not satisfied with the report, he frequently asks for clarification. In cases where difficulties arise, the scientific declaration comes as a supplement to the scientific officer's appraisal of the report.

100. The regularity and frequency of on-the-spot visits are subject to the implementation timetable for projects and to their specific requirements. Meetings of coordinators of related projects are an important part of the follow-up strategy. The Commission uses these meetings to monitor progress, to enhance networking of participants and to alert all users to progress of projects.

101. The Directorate-General for Agriculture takes the view that its method of calculating periodic payments, although different from that of the Directorate-General for Research, is still compatible with the contractual provisions. This method takes account of the estimated expenditure requirement for the work schedule, Community payments already made and expenditure actually incurred during the preceding period(s).

Lastly, it should be pointed out that when the balance for a contract is paid, the Commission reviews and if appropriate rectifies all the expenditure declared on the basis of the cost declarations covering the entire duration of the project. There were no cases where the total Community contribution paid by the Directorate-General for Agriculture for a project exceeded the expenditure declared.

Auditing of activities

102. The auditing of research activities is a vast undertaking. It is worth pointing out that up to the end of FP4 the Directorate-General for Research had carried out numerous audits, either at

the request of the departments managing the research contracts, where it was seen from the research reports and statements of costs received that there might be irregularities, or on the basis of a sample of contracts under way.

In the last three years the Directorate-General for Research continuously increased the number of on-the-spot checks as well as the number of RTD contracts audited across all programmes. The table below, based on the figures published in the Court of Auditors' annual report, confirms this continuous increase.

	1996	1997	1998
Number of audits closed	42	59	69
Of which agricultural research (FP2, FP3 and FP4)	1	6	8
Number of audited contracts	55	117	132
Of which agricultural research (FP2, FP3 and FP4)	1	8	9

Since 1999, the Directorate-General for Research has based its audit plans on a selection procedure that makes use of a new risk analysis method. This method is based on previous audit results, on auditable contracts as well as on the Community's activities in the countries participating in research activities. It also takes into account audits on request. Furthermore, the implementation of a new framework agreement signed with an external audit firm will notably enhance these efforts. The Commission has already transmitted a first batch of 100 audits to the external auditor. This will increase the audit capacity of the internal auditors. It will also allow the Commission to reach its intended coverage of audit of contractors.

As far as the Directorate-General for Agriculture is concerned, it concentrated its efforts on clearly defined cases, on which questions arose as projects progressed. This targeted approach has proved particularly effective for detecting irregularities. It should be noted that in addition to the checks carried out by the Directorate-General for Agriculture, additional ones are done at its request by the Directorate-General for Financial Control.

At least 80 % of the participants in projects managed by the Directorate-General for Agriculture are also partners in contracts managed by the Directorate-General for Research. The Directorate-General for Agriculture thus also benefits from the checks done by the Directorate-General for Research on a series of projects carried out by the same body.

Lastly, the Directorate-General for Fisheries undertook 18 on-the-spot checks and checked 95 research contracts in the last three

years. In view of the time and personnel available, the Directorate-General for Fisheries tries to organise one inspection visit to each Member State every two years, to respond to requests by the Directorate-General for Financial Control and, on a case-by-case basis, to visit all the contractors whose reports present an obvious problem. The number of projects financed and the amount of Community aid granted are taken into consideration when deciding which institutes to visit. The Directorate-General for Fisheries plans very shortly to call on the services of the external auditors with whom the Directorate-General for Research has signed a framework contract.

103. Every research contract lays down the explicit terms and conditions with regard to reporting, auditing (including on-the-spot visits) and remedial measures. Where appropriate, the Commission takes specific action against all or individual contractors in a research project. The Commission keeps proper records of such actions in the contract files.

104. As regards the division of tasks and responsibilities between the managing and audit departments, the unit responsible for the audit issues an opinion in the form of a report following an on-the-spot check. It sends this opinion to all the authorising departments via a network of audit correspondents. When the inspection reports are finalised, the audit unit contacts the authorising departments concerned. It is then up to these departments to implement the recommendations made. The audit departments of all the DGs involved in the research framework programme receive an abstract of the report.

The cases mentioned are three distinct cases. The Commission fully implemented the audit conclusions in relation to the reimbursement of costs relating to the projects concerned in two cases. In the third case the Commission's audit led to the cancellation of the special agreement with the contractor in 1999.

Recoveries

105. The authorising departments issue numerous recovery orders (182 for the reference period), which they then send to the accounting officer. The authorising departments keep in regular contact with the accounting officer on all these cases.

106. The Court mentions that three cases represent 92 % of a total of EUR 3,4 million remaining to be recovered. The Commission's Legal Service has been investigating these cases since July 1996/August 1997.

AIR programme demonstration projects in the non-food field

107. The Commission acknowledges that there were certain management problems with some of the demonstration projects of the AIR programme (FP3).

Following the preparatory work, funded as a 'promotion, accompanying and support activity' (PASA), the Commission services made a special effort to monitor these projects. This included the joint scientific monitoring by the two DGs co-managing these projects, mid-course seminars for six of the projects (one had been stopped on the initiative of the services) and a symposium for presentation of the projects' final results. The Commission took these initiatives in order to help exploit the results by bringing together producers, users and scientists, all united by their common interest in developing a European non-food sector necessary to adapt to the effects of the CAP-reform.

The Commission fully considered the lessons from the approach under FP3 for these demonstration projects and acted on them for developing the demonstration area in the Life Sciences Programmes of FP4.

108. The rationale and procedures for selecting these projects were identical to those for the AIR research projects: B-rated proposals were proposals of 'good' overall quality and therefore met all the requirements to be eligible for funding. When duly justified, the Commission grants a contract extension in order to maximise the outlets of research and to guarantee the full execution of the contract.

110. EEIG capital, under a 1993 Council Regulation, is subject to Community law. In return for full legal capacity, in the case of default, members of a grouping have unlimited joint and several liability for the grouping's debts to third parties. Unlimited joint and several liability is a general principle.

CONCLUSION

111 and 114. The Commission manages the research programmes, including FAIR, with great care. Strict rules and criteria established by the legislative authority govern the principal stages of evaluation, selection, management and monitoring of the research projects. The three departments responsible for implementing the FAIR programme have coordinated their efforts for many years, particularly as regards planning calls for proposals, evaluating and selecting projects and negotiating and monitoring contracts. The Commission will be able to reinforce this coordination further under FP5, thanks to the recent reorganisation of its departments and the creation of directors' groups.

The Commission attaches great importance to adjusting its management structures and resources in line with developments in research policy. This was also true of the FAIR programme under FP4, deemed by the external experts appointed to evaluate it to be effective. The Commission departments also monitor on a regular and in-depth basis, the financial resources intended for the management of the research programmes and report to the budget authority.

112. The Commission started developing indicators for the annual monitoring of requirements in 1995, going on to fine-tune them for the assessment of results and impact as well. The Commission planned a wide-ranging investigation of the results and impact of the programmes as part of the 1999 evaluation.

113. As regards coordination with other Community policies, there are regular contacts between the departments concerned. The Commission acknowledges, however, that further efforts are needed to improve coordination on the individual projects financed by the Community, in partnership with the Member States.

116. The quality and independence of the experts responsible for evaluating the research project proposals are key factors in the

framework programmes. The Commission has tightened up this aspect of programme management under FP5, in particular through a common evaluation manual. The Commission, which manages the programmes, acts entirely independently and on the basis of known criteria, to select the projects to receive Community financing.

117. It is in the light of the evaluation of, and lessons learned from past programmes that the Commission adopts standard contracts for research projects. In this way, when preparing for FP5 the Commission took an in-depth look at a large number of contractual provisions, more particularly in the field of eligible costs, always with the aim of maintaining or reinforcing the protection of the Community's financial interests. The Commission will give careful consideration to the suggestions contained in the

Court of Auditors report, such as the certification of eligible costs by an accredited authority.

118. Finally, the Commission would point out that the FAIR programme involved thousands of participants in over 1 500 projects making a substantial impact in relation to the programme's objectives. The independent experts responsible for evaluating the FAIR programme acknowledged on many occasions that it was proving effective. The Court's report contains many points on which the Commission will base its ongoing reflection on ways of improving the management of research programmes, particularly those relating to agriculture. The Commission is also taking all the steps necessary to check the individual cases raised by the Court and to make the appropriate improvements as soon as possible.
