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ADDENDUM 2 TO NOTE

from : Budget Committee
to : Permanent Representatives Committee/Council
Subject : Discharge to be given to the Commission in respect of the implementation of the budget for the financial year 2008
- Council conclusions on the Court of Auditors' special reports

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Council conclusions on special report No. 8/2008

"Is cross compliance an effective policy?"

The Council welcomes the Court of Auditors' special report No. 8/2008¹.

The Council notes that the concept of cross compliance, agreed by the Council in 2003 and phased in from 2005, was new and obliged a number of Member States to increase and reorganise their efforts to better implement and control the relevant Community legislation at farmer level.

The Council expresses its satisfaction at the fact that the scope of cross compliance was adjusted in the context of the CAP "health check".

The Council underlines the important benefits that cross compliance can produce, contributing to a better respect of the relevant environment, food safety, health and animal welfare legislation.

The Council recalls the Council and Commission statement on simplification of cross compliance requirements entered in the Council minutes when the three Regulations and the Decision were adopted in the framework of the CAP "health check" and therefore invites both the Commission and the Member States to pursue their efforts towards this objective, bearing in mind the cost-benefit ratio, and in this context agrees that the effectiveness of cross compliance could be further improved.

¹ Doc. 17248/08 FIN 557 AGRI 455 AGRIFIN 114 AGRIORG 137 (OJ C 45, 24.2.2009, p. 22).

Council conclusions on special report No. 9/2008

"The effectiveness of EU support in the area of freedom, security and justice for Belarus, Moldova and Ukraine"

The Council welcomes the Court of Auditors' special report No. 9/2008¹, which examined the effectiveness of EU support in the areas of border control, migration and asylum management, the fight against organised crime, and judiciary and good governance, and which sought to establish the reasons for instances of under-performance and how to take into account lessons learned. The Council notes that the audit covered 40 contracts in the period 2000-2005 with a total value of EUR 99.3 million, out of 89 projects with a total EU contribution of EUR 165.7 million.

The Council notes that the main conclusion of the special report was that the greater part of the audited projects achieved satisfactory results, particularly in the area of border management. However, progress was poor or mixed and in general slower than expected in the areas of migration and asylum, the fight against organised crime, and judiciary and good governance.

The Council appreciates the Commission's constructive response to the conclusions of the special report.

The Council approves the recommendations formulated by the Court in its special report. The Council calls upon the Commission to continue to take due account of these recommendations in order to further improve the effectiveness of EU support in the area of freedom, security and justice, with a special focus on coherence between the available financial instruments and initiatives, and on coordination between donors.

¹ Doc. 5593/09 FIN 23 COEST 24 NIS 6 JAI 32 (OJ C 71, 25.3.2009, p. 19).

Council conclusions on special report No. 10/2008
"EC development assistance to health services in Sub-Saharan Africa"

I. INTRODUCTION

The Council welcomes the Court of Auditors' special report No. 10/2008¹, its recommendations and the Commission's replies.

Convinced that building up and strengthening health systems is crucial to ensure access to comprehensive health services and accelerating the progress towards the MDGs in Sub-Saharan Africa, the Council notes the concerns expressed by the Court in its report in particular regarding the fact that direct EC funding to the health sector has not increased since 2000 as a proportion of its total development assistance despite the Commission's MDG commitments and the health crisis in Sub-Saharan Africa.

The Council considers that the EU Agenda for Action on the MDGs, agreed in June 2008², can be an important contribution to strengthening health services and systems across the African continent.

The EU is strongly committed to enhancing aid effectiveness, on the basis of partner country ownership and the 2005 Paris Declaration on Aid Effectiveness, the 2008 Accra Agenda for Action³, the EU Code of Conduct on Complementarity and Division of Labour⁴ and the "Three Ones" principles⁵. The International Health Partnership (IHP) launched in 2007 is a way to apply these principles to the health sector.

¹ Doc. 5886/09 FIN 31 ACP 32 PTOM 10 DEVGEM 22 RELEX 94 SAN 12 (OJ C 108, 12.5.2009, p. 7).

² Doc. 11096/09: "The EU as a global partner for pro-poor and pro-growth development: - EU Agenda for Action on MDGs".

³ Adopted at the High-level Forum on Aid Effectiveness (Accra, 2 to 4 September 2008).

⁴ Council conclusions of 15 May 2007 (doc. 9558/07).

⁵ The principles were endorsed in April 2004 by representatives of governments, donors, international organisations and civil society and include one national HIV/AIDS framework, one broad-based multi-sectoral HIV/AIDS coordinating body, and one agreed country-level monitoring and evaluation system. UNAIDS is acting as facilitator and mediator to realise these principles.

II. SPECIFIC ASPECTS

The Global Fund

The Council recognises that the Commission has contributed significant funding to help launch and support the activities of the Global Fund in order to address HIV/AIDS, tuberculosis and malaria. In the framework of the global Fund's renewed efforts to support national health systems, the Council recognises that the Commission has not given the same attention to strengthening countries' general health systems although this was intended to be its priority. The Commission has had insufficient health expertise to ensure the most effective use of health financing.

The Commission has speeded up the implementation of the health assistance it manages itself. The Council acknowledges that the Commission response to the special report recognises the points made on the Global Fund and indicates areas where it has taken steps to improve performance, including the Commission's participation in the International Health Partnership (IHP). The Council considers that the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action (AAA) should also be further promoted in the activities of the Global Fund.

Budget Support

The Council notes that the Commission has made little use of Sector Budget Support (SBS) to directly assist the health sector although this instrument could make an important contribution to improving health services. It has used General Budget Support (GBS) much more widely but the links of this instrument to the health sector are less direct and the Commission has not used it very effectively with regard to strengthening these links. In this context, it is therefore important to ensure adequate room for health issues within the context of political dialogue and to set the right conditions and indicators within the Policy Assessment Frameworks (PAFs).

The Council invites the Commission to combine GBS in an effective and coherent manner with Sector Budget Support as well as with technical assistance, and to reconsider, in the limits of the respect of the ownership and aid effectiveness principles, the current distribution of resources between Sector Budget Support and General Budget support, while underlining that this should not be a simple reallocation of funds from GBS to SBS. In this regard, the Council encourages the Commission to increase transparency on the choice and combination of instruments.

The Council considers GBS an appropriate and effective tool in order to support the implementation of poverty-oriented reforms and foster partner countries' capacities, including in the health sector, provided that it is accompanied by the aforementioned sector specific instruments.

Capacity

The Council notes that human resources for health are a crucial element in strengthening health systems, but also a broader approach is needed, particularly including sickness risk coverage and financing of health systems in developing countries, as approved by the Council on 11 November 2008.

The Council acknowledges that donors' expertise in the partner countries is an essential condition for the Sector Wide Approach (SWAp).

In order to improve the capacity in delegations, the Council would welcome innovative in-country opportunities and invites the Commission and the Member States to strive to address this issue. In this regard, the Commission could investigate the possibilities of increasing its health expertise particularly in countries where health is a focal sector and where it uses general budget support, through working in closer partnership with other partners including the Member States and the UN organisations, in particular with the WHO Country Offices, and draw on their expertise.

III. RECOMMENDATIONS AND CONCLUSIONS

The Council approves the Court's recommendations to the Commission that is invited to:

- consider increasing its aid to the health sector during the tenth EDF mid-term review to support its commitment to the health MDGs;
- continue improving the predictability of its funding provided through various instruments to enable countries to better secure the resources needed for their health sectors;
- take into account the Aid Effectiveness principles enshrined in the Paris Declaration and the AAA while respecting the EU Code of Conduct on Complementarity and Division of Labour;
- monitor the EU collective increased support to health, based where possible on existing mechanisms;
- review how its assistance to the health sector is distributed to ensure it is primarily directed to its policy priority of health systems support;
- ensure that each delegation has adequate health expertise either in the delegation or through relying on the resources of other in-country partners (particularly the Member States), building on further consultations with the Member States and other global partners on a division of labour;
- make more use of Sector Budget Support in the health sector and focus its General Budget Support more on improving health services; SBS should be aligned with national sector policies;

- continue to use projects, especially for support to policy development and capacity building, pilot interventions and assistance to poorer regions, while ensuring they contribute to development of sustainable financing mechanisms for the whole health system;
- seek to clarify its comparative advantages, inter alia increase health-related assistance to fragile states and post-crisis countries;
- continue and strengthen, together with the Member States, efforts to support and build the institutional and technical capacity of the beneficiary countries in the preparation of Global Fund grant applications and in the implementation of Global Fund grant contracts, as well as to contribute to improved disbursement rates from the Global Fund and to ensure that it also effectively supports national health systems;
- establish clearer guidance on when each instrument should be utilised and how they can best be used in combination;
- pursue its efforts jointly with partner countries and the donor community to contribute to the formulation of well defined health sector policies and common development oriented results frameworks in beneficiary countries;
- pay more attention to sexual and reproductive health and rights, while respecting the established EU positions and to achieve the goals and the objectives of and taking into account the Programme of action of ICPD, the Beijing Platform for action and internationally-agreed development goals including the MDGs. The Council notes the importance of increased accessibility to maternal health services, including in the fight against HIV/AIDS.

The Council recalls its conclusions of November 2008 and in particular its request to the Commission to present, in 2009, a communication on the sickness risk coverage and financing of health systems in developing countries.

In conclusion, the Council considers the answer of the Commission adequate, and encourages the Commission to work on those answers to the conclusions of the report. It welcomes the fact that the Commission accepts the Court's recommendations in general and that it has already begun to take some measures to act on them, in particular the Council is pleased to see in the Commission responses that it will look at the sectoral allocations as part of the mid-term review of the 10th EDF. The Council asks the Commission to provide the Council in 2010 with an update of the concrete steps that have been taken on the recommendations and conclusions of the report.

Council conclusions on special report No. 11/2008

"The management of the European Union support for the public storage operations of cereals"

The Council welcomes the Court of Auditors' special report No. 11/2008¹.

The Council is pleased that the Court has found that the procedures, ensuring that the cereals bought in are of the required quality and that they are stored appropriately, are correctly applied.

The Council acknowledges that, bearing in mind some of the Court's findings, some elements of the current public storage system could be managed in a more effective way to limit, if appropriate, the costs of intervention.

¹ Doc. 5570/09 FIN 18 AGRI 23 AGRIFIN 5 AGRIORG 6 (OJ C 45, 24.2.2009, p. 23).

Council conclusions on special report No. 12/2008
"Instrument for Structural Policies for Pre-accession (ISPA), 2000-2006"

The Council thanks the Court of Auditors for its special report No. 12/2008¹. It has carefully examined this important document, and has taken note that the objective of the Court was to assess the effectiveness of the ISPA Programme, by focusing on three main issues: a) whether there was a coherent strategy and an adequate preparation, b) whether projects were implemented according to planning, and c) whether projects contributed to the compliance, by the beneficiary countries, with the EU environmental *acquis* and to the improvement of the Trans European Network (TEN-T).

The Council notes with satisfaction the Court's assessment that a coherent strategic framework was in place and that, as a result, ISPA projects generally contributed to increase the compliance with the EU environmental standards and to improve the links to the TEN-T. The Council would like to commend the Commission for these positive findings.

The Council also notes that the Court has indicated some shortcomings which occurred, in particular the fact that, while the basis was a coherent strategy, the preparation of the projects was not always adequate. Furthermore, the Court underlined the fact that, very often, projects were not implemented according to the planning: there were significant delays and considerable changes in the financing plans.

The Council takes good note of the Commission replies to the Court's report, in particular of the explanations given by the Commission in response to the specific remarks of the Court on the shortcomings which were observed. The Council welcomes the general statement that the Commission agrees with the Court's recommendations. It notes in particular that the Commission intends to continue to monitor ex-ISPA projects, paying particular attention to cost overruns and delays in implementation.

¹ Doc. 6380/09 FIN 48 HR 3 ELARG 3 FSTR 19 PECOS 2 (OJ C 108, 12.5.2009, p. 7).

The Council recalls the great importance it attaches to the efficiency and effectiveness of the pre-accession aid. In this context, the Council takes note with particular interest of the recommendations made by the Court in order to avoid shortcomings in the future. It encourages the Commission to follow the recommendations of the Court and to take stock of the experience gained, not only with a view to the monitoring of the remaining ex-ISPA projects, but also to the implementation of the new pre-accession instrument IPA.

Council conclusions on special report No. 1/2009

"Banking measures in the Mediterranean area in the context of the MEDA programme and the previous protocols"

The Council welcomes the Court of Auditors' special report No. 1/2009¹, which examined banking measures under the MEDA programme and the previous protocols to determine whether the ongoing measures were adequately monitored by the Commission and the European Investment Bank (EIB) and whether the projects had achieved their objectives.

The Council notes that the main conclusion of the special report was that there is a need for better coordination of the assistance work undertaken by the Community, the EIB and the other international/local partners.

The Council appreciates the Commission's constructive response to the conclusions of the special report.

The Council approves the recommendations aimed at setting up a tailor-made evaluation and monitoring programme for banking measures (covering, among other things, the environmental aspect and safeguarding the Community's financial concerns).

The Council notes with satisfaction that several of the issues raised, were addressed in an adequate manner through the establishment of the ENPI. It nevertheless calls upon the Commission to continue to take due account of the recommendations contained in the report.

¹ Doc. 8051/09 FIN 99 MED 7 (OJ C 91, 21.4.2009, p. 7).

Council conclusions on special report No. 2/2009

"The European Union's Public Health Programme (2003-2007): an effective way to improve health?"

The Council welcomes the Court of Auditors' special report No. 2/2009¹ and recognises the efforts and achievements of the Court in producing this comprehensive special report.

The Council takes note of the Commission's replies which accompany the report and welcomes the actions being already undertaken to improve the Commission's approach to the Public Health Programme.

The Council recognises that the Executive Agency for Health and Consumers (EAHC) established by the Commission as of 1 January 2005² contributes to improved management of the Public Health Programme.

The Council recognises the European added value of the Public Health Programme as a tool to support the implementation of the Health Strategy as well as collaborative activities complementing national policies in this field, which is not provided by other means.

The Council gives serious consideration to the overall conclusion of the special report and welcomes its recommendations.

The Council stresses that setting objectives which should be specific, measurable, achievable, relevant and timed (SMART), for all sectors of EU activity covered by the budget is an obligation under the Financial Regulation³.

¹ Doc. 12074/09 FIN 262 SAN 191 (OJ C 201, 26.8.2009, p. 9).

² OJ L 369, 16.12.2004, p. 73.

³ Article 27(3) of Council Regulation (EC, Euratom) No. 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1).

The Council invites the Member States and the Commission to pay utmost attention to the recommendations of the special report in implementing the present and developing any future Health Programme and in particular to:

- a) assign clear targeted programme objectives that will be in proportion with budgetary means available;
- b) ensure greater clarity in the intervention logic in the conception and implementation of the Health Programme, in particular at programme and project level, setting out coherent and better defined objectives which should be SMART, illustrating links between them and define process and performance indicators to measure their achievement;
- c) ensure that there is a limited number of annual priorities focused on strategic topics and activities with European added value;
- d) ensure participation of the Member States through the Health Programme Committee in setting the priorities and preparation of work plans as well as their implementation;
- e) consider complementary cooperation mechanisms as a means of facilitating collaboration and the exchange of information throughout Europe with a view to complementing national programmes and activities.

The Council invites the Commission, in implementing the current and any future Health Programme, to:

- a) avoid any overlaps in projects portfolio and results of those projects and improve coordination between the different financial programmes managed by the different Commission's Directorate Generals;
- b) keep projects objectives in line with programme objectives and "annual priorities" agreed in Annual Work Programme and set, wherever possible, quantified targets and process and performance indicators in order to facilitate monitoring of progress towards set objectives;

- c) inform regularly the Council's Working Party on Public Health on the implementation of the programme;
- d) facilitate the transition between the successive Health programmes and projects financed by those programmes, while taking into account evaluations made of the outcome of previous programmes;
- e) make sure that results of projects are widely publicly available and improve dissemination and use of those result among concerned stakeholders.

The Council invites the Court to audit the Health Programme (2008-2013), in view of its recommendation for the Public Health Programme (2003-2007), and report back to the Council and the European Parliament not later than in 2011. On the basis of this audit and its recommendation the Commission, in consultation with the Member States through the Health Programme Committee, should propose further improvement of the management of the current programme and its implementation.

Council Conclusions on special report No. 3/2009**"The effectiveness of Structural measures spending on waste water treatment for the 1994-1999 and 2000-2006 programme periods"**

The Council, recalling that:

- investments analysed by the Court of Auditors were made under the EU cohesion policy and that according to Article 158 of the Treaty, the Community shall develop and pursue its actions leading to the strengthening of its economic and social cohesion and aim at reducing disparities between the levels of development of the various regions, and according to Article 159 of the Treaty the formulation and implementation of the Community's policies and actions shall take into account the objectives set out in Article 158 and shall contribute to their achievement;
- according to Article 174 of the Treaty, the Community shall contribute to preserving, protecting and improving the quality of the environment based on the precautionary principle and on the principles that preventive action should be taken, damage should be rectified at source and that the polluter pays;
- according to the Sixth Community Environment Action Programme the management of waste water is an EU priority for the period 2002-2012, and that a series of Directives have been adopted in this respect, and that the EU has also co-financed the building of urban waste water treatment plants through the Cohesion Fund and the European Regional Development Fund,

welcomes the Court of Auditors' special report No. 3/2009¹ and recognises the efforts and achievements of the Court in producing this comprehensive report.

¹ Doc. 10613/09 FIN 202 FSTR 55 REGIO 25 FC 5 (OJ C 130, 9.6.2009, p. 2).

The Council gives serious consideration to the overall conclusion of the report, welcomes the conclusion that structural measures have contributed to the improvement of the waste water treatment in the four Member States audited and the evidence provided by the Court of the positive evolution of the percentage of population of urban agglomerations located in sensitive areas served by treatment plants, and also welcomes its recommendations.

The Council takes note of the Commission's replies, which accompany the report, and welcomes the actions being already undertaken or envisaged by the Commission to meet the conclusions and recommendations of the report, in particular the ongoing work on a revision of the Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture (Sewage Sludge Directive)¹.

The Council takes note of the conclusions and recommendations of the report, which are addressed to Member States, and invites Member States in particular to:

- a) ensure that sufficient thought is given to the connection of newly constructed treatment plants to the sewage network;
- b) pay greater attention to the adequate pre-treatment of industrial waste water and to promote the sharing of best practice amongst operators;
- c) ensure that urban waste water treatment plants have a strategy for the disposal of sewage sludge;
- d) ensure that their databases on sewage sludge contain information for each plant on the quantity of sludge produced, its content and method of disposal.

¹ OJ L 181, 4.7.1986, p. 6.

The Council invites the Commission to take further action in view of improving the effectiveness of structural measures spending on waste water treatment, and in particular to:

- a) require that information allowing the setting of performance targets, in line with Community legislation, in such key areas as quality of water discharged, quality of receiving water bodies, volume of water to be treated and intended method of sludge disposal should be included in grant applications and systematically checked as part of the project appraisal process;
- b) encourage Member States to assess the achievement of the anticipated results at project level as set out in application for assistance;
- c) to finalise the impact assessment on the need for a possible legislative initiative on phosphates content in detergents within the EU;
- d) ensure that the financial sustainability of waste water collection and treatment projects is considered at the application approval stage and pertinent information such as proposed tariffs is given due consideration, taking also into account equity considerations.

The Council invites the Commission to inform the Council and the European Parliament on the steps taken with regard to the recommendations of the report by June 2010.

Council conclusions on special report No. 4/2009

"The Commission's management of non-state actors' involvement in EC development cooperation"

I. INTRODUCTION

The Council welcomes the Court of Auditors' special report No. 4/2009¹ and its recommendations. The purpose of the audit report was to explore the extent to which the Commission ensures that non-state actors (NSAs) are involved effectively in the development cooperation process, through efficient and results-oriented management systems, and capacity development activities.

The Council notes that the Court's recommendations could contribute to raise awareness about the relevance of NSAs activities, create a more structured and predictable involvement of NSAs in EC development cooperation and help enhancing the capacity development of NSAs.

II. INVOLVEMENT OF NSAs

Convinced that NSAs can play a considerable role in the fulfilment and success of EC development cooperation, the Council takes note of the concerns expressed by the Court's report, in particular regarding the scarce involvement of partner countries' NSAs in the Commission's development cooperation, especially at grass root level. At the same time, the Council recognises that the objective of reaching NSAs in partner countries should be pursued further to a balanced assessment. Dialogue and consultation with the NSAs should be further strengthened both at country and headquarters level.

¹ Doc. 10415/09 FIN 197 DEVGEN 161 RELEX 513 ACP 133 (OJ C 152, 4.7.2009, p. 8).

The Council welcomes that the Commission is already taking steps towards a strengthened participation of NSAs in EC development cooperation and notes the Commission's replies to the Court's recommendation regarding the involvement of NSAs. The Council also recognises the need, pointed out by the Commission, for a balanced approach between the involvement of NSAs and the respect for the partner governments' own priorities, mindful of the different legal bases framing NSAs involvement. The Council underlines the importance of country ownership in the development process of the government's priorities in line with EU aid effectiveness commitments.

III. MANAGEMENT OF ACTIVITIES IMPLEMENTED BY NSAs

The Council notes that the Commission's management systems generally ensures that projects implemented by NSAs are relevant and are likely to produce the intended results. It also notes that improvements can still be realised, especially in the Calls for Proposals procedure, which is enshrined in the Financial Regulation as the default method to award grants, also taking into due consideration feedback coming from NSAs. The Council calls on the Commission to continue simplifying this procedure, improving transparency and giving more guidance to NSAs, especially on the practical application of the financial rules. The Council also invites the Commission to further pursue its efforts to ensure a consistent interpretation and application of procedures.

The Council welcomes the Commission's move towards a results-based management and underlines the importance of both EC Delegations and of NSAs to yield good results, particularly through developing, applying, monitoring and reporting on quantitative and qualitative performance indicators.

IV. CAPACITY DEVELOPMENT OF NSAs

The Council shares the Court's concerns about the disparity detected in selected countries in the approach to capacity development between ACP and Asian and Latin American countries, which is induced by the different legal frameworks¹. The Council agrees that the excessive dependence of NSAs in Asian and Latin American countries on the thematic programme for funding capacity development should be avoided to the extent possible.

The Council notes that the Commission's response to the special report recognises the preference for channelling capacity development through geographic programmes, whenever possible.

The Council broadly agrees with the Court's recommendations on the implementation of capacity development programmes and welcomes the Commission's intention to increase its attention to the timely procedural management of programmes.

The Council acknowledges the challenges posed by the Calls for Proposals procedure to small and grass-roots organisations. In this regard, the Commission is encouraged to further promote improvements already within the legal framework currently governing the project selection process and, where appropriate, to support the relevant organisations without sufficient organisational capacities.

¹ The Cotonou Partnership Agreement and the Financing Instrument for Development Cooperation (DCI).

V. RECOMMENDATIONS

In the light of the above, the Council invites the Commission to:

- take further measures to strengthen the genuine involvement of NSAs in EC development cooperation and policy making processes and especially partner countries' NSAs, in line with existing instruments and guidelines;
- provide more guidance to NSAs on its procedures, emphasising the need for predictable Calls for Proposals procedures or criteria to award "targeted projects", especially with regard to the financial rules;
- take into account the experiences of the current project selection process and possible improvements resulting from the Mid-Term Review of the financial instruments for external actions when putting forward proposals on the review of the EC financial regulation;
- ensure, within the existing budgetary framework, that sufficient resources, guidance and expertise are available to EC delegations so as to be able to better manage the NSAs involvement in EC development cooperation;
- develop a consistent strategy for capacity development of NSAs in all partner countries, in line with the Court's findings in Asian and Latin American countries;

- sustain its dialogue with NSAs on the implementation of cooperation programmes, including in the framework of the "Palermo Process";
 - report back to the Council on progress in meeting these recommendations by the end of 2010.
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Council conclusions on special report No. 5/2009
"The Commission's Treasury Management"

The Council welcomes the Court of Auditors' special report No. 5/2009¹ which assessed the quality of the Commission Treasury, and in particular whether the Commission complied with the rules and regulations applicable to treasury management and whether the Commission had established internal control systems which ensure sound treasury management.

The Council notes that the Court's main conclusions are that:

- a) overall the Commission has complied with the main provisions prescribed by the Community legislation;
- b) the Commission has set up prudent cash management forecast procedures ensuring that it has at its disposal sufficient funds to cover cash requirements arising from budgetary implementation;
- c) the Commission's procedures to transfer funds between Member States' own resources accounts were not sufficiently documented;
- d) as a result of the provisions of Council Regulation (EC, Euratom) No. 1150/2000 of 22 May 2000 implementing Decision 2007/436/EC, Euratom on the system of the European Communities' own resources², significant balances accumulate during the second half of the year as a consequence of transferring own resources to the accounts opened by the Member States in the name of the Commission on the basis of budget appropriations;

¹ Doc. 11263/09 FIN 219 ECOFIN 452 RELEX 597 (OJ C 162, 15.7.2009, p. 10).

² OJ L 130, 31.5.2000, p. 1.

- e) overall the internal control procedures in place concerning the execution of payments and bank accounts were effective; however, unlike DG ECFIN, DG BUDG did not document its management of risks arising from treasury activities, nor were its procedures established to assess all aspects of its performance;
- f) there was a lack of coordination between the Commission DGs in an area where a common approach to issues such as risk management and control is necessary. This led to the situation that the accounts' limits for holding funds with commercial banks were established by the DGs concerned without considering the Commission's overall risk exposure with each commercial bank; and
- g) fines are held in specific bank current accounts, thus there is an increased risk of loss.

The Council agrees to the following main recommendations of the Court:

- a) the Commission should improve the documentation of its cash flow forecasting and reporting procedures;
- b) the Commission should analyse the functioning of the present system of own resources accounts with the aim of reducing balances on these accounts during the second half of the year;
- c) the Commission should put in place procedures which ensure coordination of its treasury management activities;
- d) DG BUDG should improve the documentation of its risk management and the scope of its performance measurement; and
- e) the Commission should as a matter of priority reach a conclusion in its search for an optimum solution for the treatment of provisionally collected fines.

The Council notes that the Commission has already taken action and established more regular coordination meetings between the two DGs concerned in relation to treasury and asset management activities of the Commission; and further recommends that despite the separation of tasks between DG Budget and DG ECFIN, coordination should entail an exchange of information on risks and best practices regarding treasury and asset management activities on a Commission-wide level, in particular to maximise efficiencies and minimise inadvertent exposure to risk.

The Council notes with satisfaction that the Commission has taken a decision on the management of newly cashed fines, which will be put in place by the beginning of 2010; thus the exposure of DG Budget to financial (counterparty) risk will be limited to the current amounts held with commercial banks for payment execution and the outstanding fines at the end of the year which will be gradually paid out.

The Council appreciates the Commission's constructive responses to the special report.

Council conclusions on special report No. 6/2009**"European Union food aid for deprived persons: an assessment of the objectives, the means and the methods employed"**

The Council welcomes the Court of Auditors' special report No. 6/2009¹.

The Council recalls that in September 2008, the Commission presented a proposal for amending the scheme for food distribution to the most deprived persons in the Community².

The Council takes note of the fact that the Court recognises that the Commission proposal for amending the scheme for food distribution to the most deprived persons in the Community, if implemented, would address some of the observations made by the Court.

The Council appreciates the Commission's intention to examine the recommendation of the Court as regards the adaptation of the bartering arrangement and invites the Commission to take the actions it deems appropriate in this respect.

The Council recalls the public debate held by the Council on 28 November 2008 and the positions expressed by the Member States on this occasion as well as the legislative resolution delivered by the European Parliament on 26 March 2009³.

¹ Doc. 13721/09 FIN 334 AGRI 396 AGRIORG 89 AGRISTR 39 AGRIFIN 78 (OJ C 231, 25.9.2009, p. 38).

² Doc. 13195/08.

³ European Parliament legislative resolution of 26 March 2009 (TA/2009/188) on the proposal for a Council regulation amending Regulation (EC) No. 1290/2005 on the financing of the common agricultural policy and Regulation (EC) No. 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) as regards food distribution to the most deprived persons in the Community.

Council conclusions on special report No. 7/2009**"The management of the Galileo programme's development and validation phase"**

The Council takes note of the Court of Auditors' special report No. 7/2009¹ concerning the European Union's involvement in satellite navigation in the period 2003-2006. This report addresses the period during which the Galileo Joint Undertaking (GJU) managed the development and validation phase, focusing in particular on its mandate, the process of setting it up and the management of its tasks. The GJU, which operated from September 2003 until the end of 2006, was a dedicated management structure set up by the European Commission and the European Space Agency after approval by the EU Council and the ESA Council.

The Council welcomes the recommendations formulated by the Court in its special report and the Commission's commitment to embrace these recommendations. It notes the Commission's thorough and constructive response to the conclusions of the special report and notes that part of the measures suggested by the Court has already been taken by the Commission. The Council encourages the Commission to continue in this path in order to ensure a smooth and successful development of the European satellite navigation system.

The Council recalls that in order to face some of the management inadequacies identified by the Court, the European Parliament and the Council adopted, on 9 July 2008, Regulation 683/2008 on the further implementation of Galileo. This Regulation sets out a clear division of tasks by giving to the Commission full responsibility for the overall management of the programmes, to the GSA the responsibility for, in particular, security accreditation, operation of the Galileo Security Centre, contribution to the preparation of the commercialisation of the systems, including market analysis, and to the European Space Agency (ESA) the role of procurement agent for Galileo.

¹ Doc. 11860/09 FIN 248 TRANS 278 MAR 102 AVIATION 101 CAB 29 RECH 227
(OJ C 208, 3.9.2009, p. 4).

The Council looks forward to the Commission Mid-Term Review Communication on the future of Galileo beyond the deployment phase and on the strategic and operational objectives of the programme, which is under preparation and expected to be presented in 2010, as requested by the European Parliament and the Council in Regulation 683/2008.

The Council underlines the importance of independent assessments in order to provide the necessary assurance both to stakeholders and to the European citizens that sufficient and effective monitoring and control of the programme is undertaken in parallel with its implementation.

The Council invites the Court to keep the Council informed of future audit reports on the evolution and resource allocations of the European satellite navigation programmes.

Council conclusions on special report No. 9/2009**"The efficiency and effectiveness of the personnel selection activities carried out by the European Personnel Selection Office"**

The Council welcomes the Court of Auditors' special report No. 9/2009¹ concerning the efficiency and effectiveness of the personnel selection activities carried out by the European Personnel Selection Office (EPSO).

The Council notes with satisfaction the conclusion that EPSO has successfully managed the increase in the number of open competitions required in the context of enlargement.

The Council takes note of the first actions adopted following the EPSO Development Programme (EDP).

As regards areas of improvement for EPSO's efficiency and effectiveness, the Council:

- a) underlines the necessity to reduce substantially the duration of the selection process and takes note of EPSO's ongoing efforts on this issue. The Council underlines the need to strengthen cooperation between the Community institutions and EPSO. It is essential that the Institutions identify and communicate their strategic staffing needs to EPSO in a timely and consistent manner, in order to help the EU Institutions achieve their recruitment targets.
- b) agrees that there is a need to professionalize Selection Boards and to use qualified assessors. The Council stresses the importance of Selection Boards not only being competent in the field but also having expertise in human resource management.
- c) acknowledges that EPSO's decision to make the pre-selection test available in all the EU languages will contribute towards securing for the institutions the services of officials of the highest standard of ability, efficiency and integrity, recruited on the broadest possible geographical basis from among nationals of Member States.

¹ Doc. 12727/09 FIN 295 STAT 22 (OJ C 257, 27.10.2009, p. 16).

- d) underlines the need for an effective communication strategy in order to attract a sufficient number of qualified candidates. The measures identified for implementation should focus on relevant target groups and address the specific situation in each Member State. Attractiveness is also dependent on transparency in procedures, where accurate and clear notices of competition published in all the official languages play an important role.
- e) stresses the need for transparency in relation to the financial implications of the new selection procedure to guarantee cost-effectiveness both now and in the longer term, and underlines that EPSO must have adequate funding in order to continue to implement the EDP successfully. It takes note of EPSO's commitment to carry out a benchmarking exercise of costs per successful candidate against other international organisations, and in that context to analyse the costs and benefits of the new system once introduced.

The Council highlights the need to ensure optimal use of reserve lists established. It believes that having a large number of successful candidates waiting for a long time on the reserve lists is a problem which needs to be solved in an adequate manner. Successful candidates must furthermore be given clear, precise and practical information on the steps to follow between selection and potential recruitment.

The Council appreciates EPSO's response to the recommendations in the special report that will primarily be implemented through the EDP and invites EPSO to periodically inform the Council about the further implementation of this Programme.

Council conclusions on special report No. 10/2009
"Information provision and promotion measures for agricultural products"

The Council welcomes the Court of Auditors' special report No. 10/2009¹.

The Council recalls that the information provision and promotion measures co-funded from the Community budget are complementary to national measures and therefore stresses that the activities co-funded from the Community budget need to be evaluated having this in mind.

The Council is pleased that the Court has found that the Commission has for some years been making improvements to the management and control arrangements for expenditure connected with information provision and promotion measures for agricultural products.

The Council appreciates the Commission's efforts to support Member States in their evaluation and selection of programme proposals in order to deliver measures that facilitate reaching the objectives of the policy; stresses the importance of improving ways to measure the effectiveness and impact of projects.

The Council acknowledges that the improvements currently being made to the Commission's selection procedure should be continued and that the Member States should continue to increase their selectivity. The Council considers that this should be done without increasing the administrative burden and bearing in mind the ongoing objective of simplification of the CAP.

¹ Doc. 12036/09 FIN 258 AGRI 308 AGRIFIN 68 AGRIORG 68 (OJ C 272, 13.11.2009, p. 12).

Council conclusions on special report No. 11/2009

"The sustainability and the Commission's management of the LIFE-Nature projects"

The Council welcomes the Court of Auditors' special report No. 11/2009¹, which examined the sustainability and the Commission's management of Nature projects co-financed by the Financial Instrument for the Environment (LIFE).

The Council agrees with the Court's assessment that LIFE has been an important instrument of the Community's environmental policy, especially for biodiversity conservation through LIFE-Nature; and recalls that LIFE remains the only instrument exclusively dedicated to supporting this policy;

The Council notes that the Court's audit focused in particular on LIFE III Nature projects, representing more than 50% of project funding under LIFE III (Regulation (EC) No. 1655/2000, as amended by Regulation (EC) No. 1682/2004, covering the period 2000 to 2006), and the selection procedure for LIFE+ (Regulation (EC) No. 614/2007, covering the period 2007 to 2013);

The Council further notes the Court's main recommendations:

- a) as regards the selection process:
 - i) that the project selection criteria applied to prioritise LIFE-Nature projects give more weight to the relevant sustainability factors in scoring and in separating the management of the "Nature" and "Environment" strands;
 - ii) that possible ways of shortening the selection procedure be considered;

¹ Doc. 13726/09 FIN 336 ENV 607 (OJ C 240, 7.10.2009, p. 3).

- b) as regards the monitoring of outputs and long-term results, that the Commission:
 - i) improve its monitoring, control and evaluation of projects and make it more transparent, paying more attention to the results achieved;
 - ii) develop appropriate indicators and criteria to allow better assessments;
 - iii) make use of existing indicators developed by the European Environment Agency and the European Topic Centre on Biological Diversity;
- c) as regards the dissemination of results, that improvements are needed in respect of lessons learned, best practices identified and the detailed technical and scientific information acquired;
- d) as regards the long-term management of project results, that the Commission:
 - i) contractually oblige beneficiaries and, if appropriate, national co-financers to sustain the project result for a minimum period after the project closure; and
 - ii) consider introducing a follow-up scheme for "after-LIFE funding".

The Council appreciates the Commission's constructive response to the special report; and notes, in particular, that the Commission has already introduced measures to improve the management of LIFE projects taking into account several of the Court's recommendations and has also introduced changes for the fourth financial phase (2007 - 2013).

The Council expresses reservations about the Court's recommendations concerning imposing contractual obligations on beneficiaries to sustain project results after the project closure and introducing the possibility of penalties and recoveries to ensure compliance with this requirement; and considers that these recommendations will require careful consideration of the legal, practical and financial implications.

The Council calls upon the Commission to have regard to the recommendations of the special report in its forthcoming mid-term review evaluating the implementation of LIFE+, to be submitted before 30 September 2010 as required by Article 15 of Regulation (EC) No. 614/2007, including the complementarity of LIFE+ with other Community funds.

Council conclusions on special report No. 12/2009**"The effectiveness of the Commission's projects in the area of Justice and Home Affairs for the Western Balkans"**

The Council welcomes the Court of Auditors' special report No. 12/2009¹ concerning the effectiveness of the Commission managed EU assistance in the Western Balkans in the areas of asylum and migration, integrated border management, judiciary and police.

The Council recalls that the EU is the most significant donor in the region. The EU provides more than half of the grants to the region. In the Justice and Home Affairs sector it has spent EUR 470 million between 2001 and 2006.

The technical and financial assistance provided - in the form of investment projects and institution building projects - aimed at aligning the region to relevant EU standards by building up appropriate administrative, judicial and law enforcement structures. These projects were of particular importance given the insecurity and violence in the past and the still fragile political and economic environment. The Council notes that in some cases the rule of law still faces serious challenges.

The Council welcomes the Court's judgment that, overall, the Commission's management has been largely effective and has contributed to strengthening the rule of law, the judiciary and measures against corruption and organised crime. The Commission has given priority to the Justice and Home Affairs sectors and tackled important structural reforms early in the process of bringing the countries to EU standards. The Council is encouraged by the success stories mentioned in the report, but at the same time points out that serious challenges need to be addressed urgently.

¹ Doc. 14845/09 FIN 387 COWEB 231 JAI 718 (OJ C 278, 18.11.2009, p. 16).

The Council welcomes the fact that, overall, the investment projects achieved satisfactory results and made a useful contribution to the national infrastructure and capacities while noting that in some cases sustainability of projects is at risk. As for the area of institution building, the Council regrets that many of the projects suffered from a lack of political ownership, insufficient follow-up of the assistance rendered and lack of commitment of the top management. It regrets, in particular, the high staff turnover and lack of resources to maintain investments in the long term which means that several projects are unlikely to be sustainable. It is clear therefore that valuable resources have not been used optimally. The Court's report shows that with stability in the civil service, well targeted training and a committed top management, progress can be achieved.

The Council stresses the significance of regional cooperation for the development of the region and its European agenda as the Western Balkan countries face similar difficulties across the region. The Council supports the proposal of the Court to increase the numbers of joint border crossing points financed from national and regional funds. Projects should be designed to foster regional cooperation and make use of the manifold regional initiatives like SEPCA, SECI Centre, RAI and others. In this context the Council welcomes the Commission's regional financial assistance project to improve the monitoring in the Justice and Home Affairs area.

In its report the Court also points to weaknesses in the Commission's management in the period covered. The Council is encouraged that the Commission has taken on board the Court's recommendations within IPA financed Justice and Home Affairs projects and calls upon it to continue to do so. In particular it asks the Commission to improve sustainability by:

- conducting, more systematically, a thorough needs analysis before investment projects are approved, including long term maintenance plans within project fiches and
- complementing the delivery of assistance with commitments from the authorities in the recipient countries to ensure sustainable institutional change.

Furthermore the Council invites the Commission to:

- better set objectives and use impact indicators to measure results of projects and
- actively contribute to improve donor coordination.

The Council invites all donors to engage in coordination in order to ensure that their programmes are in line with priorities of the recipient countries, common policies and combined donor efforts. The Council welcomes the recent conferences to improve donor coordination and the effectiveness of financial assistance. It encourages the follow up of their conclusions as well as the preparation of joint projects. It also calls upon the countries of the region to enhance their capacity to manage and lead donor coordination activities in the respective country. Concerning procurement of equipment, the Council supports the Court's recommendation to organise joint investment pools under the authority of the recipient country.

The Council recognises that the role of the recipient countries is of vital importance. It therefore calls upon them to:

- increase local ownership and demonstrate political will by translating it into concrete political and financial commitments,
- increase their involvement in projects by developing reform initiatives aiming at increasing the stability, competence, professionalism and independence of the Justice and Home Affairs institutions,
- safeguard, and where necessary, to enhance the capacity of the public administration involved in the projects and

- use the resources provided optimally.

In concluding, the EU continues to stand ready with its assistance, while strongly encouraging the Western Balkans countries to show greater will and initiative on reforms and their implementation.

Council conclusions on special report No. 13/2009**"Delegating implementing tasks to executive agencies: a successful option?"**

The Council welcomes the Court of Auditors' special report No. 13/2009¹ on executive agencies, bodies with legal personality entrusted with certain tasks in the management of EU programmes in accordance with Council Regulation (EC) No. 58/2003², in line with the Council's invitation in its conclusions on special report No. 5/2008³.

The Council stresses the importance for the Commission to be able to delegate some of its tasks relating to the management of EU programmes to third parties, while fully complying with the principle of sound financial management and transparency, in order to contribute to a more efficient implementation of EU programmes and thereby decreasing administrative costs.

While recognising the situation that the Commission had to face in the 1990s with the multiplication of EU programmes and the recourse to the so-called Technical Assistance Offices, the Council regrets that the Court found that the decisions to establish executive agencies were not mainly based on the intrinsic features of the programmes themselves, that the cost-benefit analyses were not entirely comprehensive and that the exact savings achieved could not be verified due to a lack of information on the staff previously in charge.

The Council notes with concern the Court's conclusions that the reason for setting-up executive agencies was mainly driven by constraints of employment, i.e. staff shortages in number and specialisation, and did not take enough into account needs assessment.

The Council regrets that the Commission's underestimation of the time needed to set-up a new agency and to recruit staff has led to recurrent over-budgeting and asks the Commission to put forward more accurate estimates in the future.

¹ Doc. 16632/09 FIN 528 (OJ C 279, 19.11.2009, p. 12).

² OJ L 11, 16.1.2003, p. 1.

³ Doc. 13538/08 FIN 344.

The Council calls on the Commission to reconsider its procedures for identifying the potential for externalisation and for considering the establishment or the extension of executive agencies in order to ensure an efficient and effective management of EU programmes at lower costs in comparison to management by Commission's services.

The Council requests the Commission to continue improving the cost-benefit analyses accompanying the decisions to create executive agencies in order to allow them to contribute fully and effectively to the decision-making process and to take into account all relevant costs and benefits based on appropriate indicators and asks the Commission to put forward comprehensive comparative cost estimations between in-house management and externalisation, including those related to freed and frozen posts.

The Council calls on the Commission to guarantee that it avails itself of relevant, reliable workload and productivity data related to the implementation of the delegated tasks, both before and after externalisation, in order to be able to fully evaluate the benefits produced by the executive agencies.

The Council is pleased that the service was improved as a result of a specialisation of tasks, that the time for contracting and for approval procedures was reduced and payment delays were shortened and that various other qualitative improvements had taken place, including simplification of processes, and notes the Court's findings that clear savings were achieved, even taking into account the significant uncertainties for defining the exact costs.

The Council welcomes the progress made by the Commission step by step in giving more information on the executive agencies in particular on freed posts, and invites the Commission to make better use of the annual work programmes and to develop focused indicators.

While taking note of the progress made by the Commission to recruit extensively contractual agents, the Council invites it to continue reflecting upon measures to simplify the recruitment of executive agencies' staff adapted to tasks originating from results-oriented and targeted objectives.

The Council agrees with the Court's recommendation relating to the Commission's strengthened supervision of the executive agencies' activities by adopting SMART objectives and by monitoring their achievement by appropriate performance indicators which constitute the basis for the next year's objectives, without increasing the administrative burden.

The Council invites the Commission to apply the success factors identified, e.g. simplified procedures, as elements for leading to better results in the executive agencies, to those programmes that continue to be managed by the Commission itself.

The Council asks the Commission to inform in good time about forthcoming external evaluations of executive agencies.

The Council takes note of the Commission's decision not to create new agencies under the current financial framework, unless there are new competences attributed to it, and asks to be timely informed on every intention of the Commission to attribute new tasks to existing agencies or to extend an agency's mandate, recalling the joint statement of the European Parliament and the Council of 13 July 2007¹.

¹ Doc. 11781/07 BUDGET 19.

Council conclusions on special report No. 14/2009

"Have the management instruments applied to the market in milk and milk products achieved their main objectives?"

The Council welcomes the Court of Auditors' special report No. 14/2009¹. The Council takes note of the Court's recommendations that:

- monitoring the development of the market in milk and milk products should continue, so that liberalisation of the sector does not lead once again to over-production;
- the price formation process in the food industry should be subject to regular monitoring by the Commission;
- in-depth reflection should be given to strategies to tackle the special problems of those regions where milk production is most vulnerable and the environmental consequences of a geographical concentration of milk production;
- efforts should be continued to focus milk production on meeting the needs of the domestic European market and on producing high added value products to be exported.

The Council recalls the European Council's encouragement to the Council to continue responding to the challenges facing the dairy sector and notes that the Commission has set up a High Level Expert Group on Milk with the important task of discussing the medium and long term perspectives.

¹ Doc. 14759/09 FIN 382 AGRI 455 AGRIORG 106 AGRIFIN 92 (OJ C 299, 9.12.2009, p. 8).