

Striking a Balance

Efficiency, Effectiveness and Accountability.

**The impact of the EU Financial Regulation on the relationship
between the European Commission and NGOs.**

Appendices

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Report by F.M. Partners Limited

On behalf of:

Open Society Institute-Brussels,
Concord,
The Platform of European Social NGOs,
SOLIDAR,
The European Women's Lobby

Appendices

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Appendix 1

Summary of Recommendations

The following recommendations have been extracted directly from the report.

Chapter 4: Grant Call for Proposal and Payment Procedures

4.2 Recommendations for Improving the Existing Application Procedure: Commission initiated projects.

The application process should be in stages:

1. Eligibility – remote input into a database and use of Commission national representations and delegations.
2. Concept paper of no more than 3 pages plus a Logical Framework Analysis.
3. Full application, minimum information necessary for grant size and beneficiaries.
4. Three line budget (as ECHO) with supporting information at a high level.

The target beneficiaries should be kept front of mind when designing each Call for Proposal. On approval of the Call for Proposal, a Committee should sign a statement that the application requests only the minimum information necessary to judge and award the grants, taking into account:

- The size and resources of the beneficiary
- The average value of the grants to be awarded
- The types of activity to be performed

The eligibility requirement information should be removed from the application process and be replaced by a separate submission to an ‘Eligibility Database’.

- Initial vetting could be through remote access to a database including questions that require yes/no answers, or values, that enable the system to ‘estimate’ eligibility.
- For first time applicants, the legal documents, which are usually in a local language and usually unique to a country, should be sent to the Commission’s national delegation for checking by a national official. This would have to be completed before a contract could be signed.
- After the first application records would only need to be updated.

In one EAC programme where the Commission administrator was interviewed this would have reduced the 4 months application process by over a month. It would also be a more accurate process, as real experts would check documents in their own language. This would also save the Commission significant amounts of effort on repeated eligibility checking.

ECHO’s database, APPEL, could be upgraded to manage this eligibility process or the database Connex could be re-developed.

Calls for Proposals within Programmes should be made more specific or be very general. They should not be a combination of the two.

A 3-page concept paper, plus an outline budget and a Logical Framework Analysis should be used to judge project relevance and give an overview of the activities. It should not be more than 3 pages.

The full application form should be completed only by those who are selected for the next stage. This can then show more detail of the project activities and the associated costs. It should include only enough information to form a reasonable view of the applicant's capacity and skills, whether the activities are likely to lead to the achievement of the objectives, that the activities are adequately costed, and that a contract can be agreed. It should expand on the 3 page concept paper that has already been approved for the application to reach this stage.

The cost of producing the full proposal, including planning costs and the cost of raising co-finance should be included as part of project costs eligible for a grant. They should be limited to a maximum percentage of the grant available.

The number of organisations selected to reach the full application stage should be limited to enable very high pass rates to minimize the costs of failed applications to both NGOs and the Commission.

The objective should be to keep the requirements to the minimum necessary so that applications:

- Can be easily understood
- Can be reviewed cost effectively
- Minimise the cost of the process to the Commission and to applicants

To facilitate this, any point scoring system should focus on key drivers, not detail.

Co-finance

The time given between concept paper and full application should take into account:

- Value of co-finance to be raised and likely partners
- The number of partners who have expressed interest

It is only at this stage that firm commitments need to be obtained from co-financiers and partners.

Contract

There should a published time limit set for completing contracts. The Commission should be bound by these time limits. If the deadline is missed, the NGO should be allowed to begin work on the project, and claim the costs of the work done prior to signature.

The time limit should be based upon central guidelines representing efficient working.

4.3 Project Budgets

A. To support the level of funding required and to plan the expenditure at the beginning of a project.

The budget detail should be relevant to decision making. For example, under the present system, for a seminar in the EU with 100 people attending, it is necessary to say where the seminar will be held, where the attendees will come from, and the cost of the flights per attendee. This is an unnecessary level of detail and a process that is unlikely to be accurate or useful.

Where there are small general activities these activities should not have to be budgeted separately. Instead, if there are 20 seminars there should be an average cost per seminar. Note: Claims can only be made for actual expenditure for actual agreed activities.

This process will reduce the number of checks done by the finance officer, and most could be checked using a computer programme. This would save the Commission money and speed up the process.

For multi annual agreements, an outline budget should be submitted for the years after the first (showing total for all years after year 1). This budget should not need to be by activity, but should contain sufficient information to show that it is relevant to the activities proposed. At the beginning of each year, a more detailed budget, including changes to the original plan caused by learning from experience, changes in the environment, project delays and unforeseen circumstances should be submitted by the NGO for approval. There should be dialogue with and agreement on the budget by the Authorising Officer.

The greater the value of the individual grants and the greater number of activities requires recognition that averaging of costs is the most pragmatic way of budgeting.

Reduction of NGO budgets by the Commission should be a rare occurrence, but if done, it must be based on rational and explicit grounds. It cannot be arbitrary and should not be the result of trying to fund more applications.

Eligible costs should be standardised across the Commission departments and published in guidelines for applicants.

B. To enable the Commission to judge the validity of the expenditure at the end of the project.

Implement a 3 line approach (as used by ECHO) and allow a 15% movement between lines. The 3 lines should be: goods and services; support costs; and an administration allowance of a fixed percentage of the eligible costs.

4.4 The Principle of co-financing

Co-financing should be used to support NGO initiatives. It should not be about NGOs subsidising the Commission's initiatives.

Projects that are initiated by the Commission i.e. really Commission tasks, should continue with the present Call for Proposal system, but NGOs should receive up to 100% of the cost of the project from the Commission and be allowed to make a surplus if that surplus is the result of increased co-financing by third parties:

1. Up to a maximum margin
2. If the surplus cannot be distributed and so will be used to implement other projects

Tender or Proposal

Value for money should be considered at the stage of deciding whether a Call should be a Proposal or a Tender.

Where relevant the eligibility criteria of Calls for Tender should be consciously set to enable NGOs to participate.

4.5 Recommendations for a Second Application Procedure: NGO initiated projects

1. The Commission publishes clear policies and strategies for each policy area. A specific Call for Proposal is NOT required.
2. NGOs ensure eligibility for proposals using the eligibility database (see section 4.2)
3. NGOs submit a 3 page concept paper to a Policy Committee of experts of whom some must come from outside the Commission
4. The Committee give feedback and pass or fail the project. The concept paper can only be re-submitted once more and only if it has taken account of the feedback.
5. If accepted, the NGO at its own cost produces a detailed proposal including budgets in line with published guidelines for the process
6. Experts evaluate the full proposals and score them based on criteria such as alignment with policy, ability to implement, innovation, sources of co-financing and value for money. Each quarter, a Committee, again including experts from outside the Commission accept or reject the proposals.
7. The proposals accepted are to the limit of the funds available in that quarter.
8. A proposal can only be re-submitted if it was in the top 5% of those not chosen or if it is significantly reworked based upon feedback from the process.
9. Budget changes made arbitrarily by the Commission should not be allowed. Changes may only be made as a result of a dialogue where the Commission show that they fully understand the project and can make a coherent case, in writing, why less resources than budgeted should be required.
10. Contracts
 - A clear timetable should be set down for all parties to adhere to
 - If the Commission breaches the timetable, they must pay the costs from the agreed date, prior to contract
 - If it is the fault of the applicant that the contract is delayed, the Commission has the right to withdraw the offer of funding.

Co-financing: As this is an NGO initiative, financing by the Commission should be from 50% to 90% with an independent source of funds involved.

Appendix 1

Chapter 5: Sound Financial Management

The Commission should urgently implement sound financial management principles fully as required under the Regulation including the measurement of performance indicators per activity.

The achievement of performance indicators should have an impact on the number of points staff earn in their annual personal appraisals.

The Commission must initiate a greater dialogue with the outside world. It should not let procedures act as a substitute for dialogue. Knowledge and understanding of the environment in which actions are to take place is essential for the Commission.

Appendix 1

Chapter 6: User friendliness and Usability

The Commission should treat the Financial Regulation and Implementing Rules as one, redraft them in a single coherent process, and the Council and European Parliament should review and adopt the newly combined set of Regulations.

The Financial Regulation and Implementing Rules should be re-drafted. As part of this process they should be broken down into multiple end user orientated regulations. In this case it should be subject by end-user group e.g.: Commission staff involved in internal budgetary processes, Commission staff and beneficiaries of grants for humanitarian aid. Common themes such as sound financial management should be repeated in each regulation if appropriate. While not changing the regulations conceptually this would make each regulation easier to understand, require less reading for each subject and therefore be more likely to be understood and followed.

Representatives of the end users (e.g. Commission officials for budgets; external parties and Commission officials dealing with grants) should be involved in the drafting so that there is a ‘real world’ applicability test as part of the process.

The Regulations should specify the performance indicators required of the Commission.

These recommendations have the benefit of moving away from the ‘one size fits all’ approach and enabling the rules to adapt to contract values, environmental conditions, beneficiary types and levels of risk.

An attempt should be made to use clear and simple, rather than legalistic, language. There should also be an attempt to use generally accepted terms rather than “jargon” specific to the Commission.

Updating the present Regulations and Rules that are incomprehensible to most of its users will lead to continuing confusion, inconsistent interpretation, high levels of errors, high staffing, high costs to the NGOs and ever more complex documentation.

If, and only if, the Financial Regulation and Implementing Rules cannot be changed from their present format, the Commission should publish DEFINITIVE guides by end user group.

Appendix 1

Chapter 7: The Financial Regulation: A Critique

7.1 Onerous Clauses

A. Interest of pre-financing

Remove the requirement to account for and pay to the Commission any interest accrued on pre-financing.

B. Requirement for Financial Guarantees

Remove the option to require financial guarantees from the Financial Regulation. If there is a significant risk to advance funding, the Commission should change to paying quarterly in advance. Allow grants to be refused on the basis of significant financial risk, but only after taking into account the beneficiaries being targeted.

For quarterly payments in advance:

- a. Payments should be made upon receipt of a claim and description of work done against plan.
- b. The authorising officer is bound only to review these claims, not certify their correctness.
- c. No supporting documentation to the claim should be required.
- d. Internal auditors of national representations or delegations should undertake ad-hoc inspections to vouch for the project's progress.
- e. On policy issues, the Commission should arrange review meetings on progress.

This is the method used by both the UK and Swedish governments and it should therefore be possible for the EU member states to agree to such a process to be used for the use of public monies through the Commission's grant programmes.

The Commission should view risk as a whole, in effect taking a portfolio approach. Spreading activities across a number of NGOs reduces risk.

C. Default Interest

Make it a requirement for the Commission to automatically pay interest on late payments rather than the beneficiary having to request it.

D. Implicit Approval

Change the Regulation to state that after 45 days authorisation by default or implicit approval occurs, and that in this case all other rules of checking, personal liability and audit are overruled. It should be treated as a damages payment.

A report of all such payments should be made to the Secretary General and European Parliament each quarter.

To ensure that this system operates equitably, a report summarising the questions to claimants that stop the clock, categorised into themes, values and length of time remaining, should be made to the Secretary General and Parliament each quarter.

E. Payment periods

The Regulations should clearly separate approval periods and payment periods for all transactions.

The approval period may stay at 45 days, but would ideally be reduced.

The payment period of an approved claim should be no more than 5 working days.

F. Certifying claims as ‘correct’

Authorising officers should have to declare that “the checks undertaken give reasonable assurance, given the Directorate’s normal procedures that the claim is in accordance with the contract”.

A Commission-wide review should be undertaken to assess the level of checks required and so consider the efficiency and effectiveness of the programme.

Note one possible system of control is described in section 7.4 of this report.

G. Changing Agreements.

Changes to grant agreements should be allowed if circumstances have changed through environmental, political or operational change or if the learning process supports better options for future implementation. Decisions can only be made on the basis of knowledge that is held today. Hindsight cannot be used in advance.

Proposals for change supported by examples of changes should be approved whether or not it would have affected the initial decision to award a grant. The procedures for award ensure that the decision is made based upon the best information available at the time.

If the Commission official refuses to allow a change, there should be a fast track process of appeal.

H. Procurement

Procurement procedures should be variable and reasonable depending upon the grant beneficiaries, values and environment of the action. There should be separate guidelines that the Commission can use for insertion into a grant contract.

These guidelines should be drafted in consultation with, and require the approval of, end users.

J. Start Date

An NGO should be allowed to start a project after the proposal submission but before the contract date at its own risk. If the grant is won, costs should be recoverable from the start of the project.

7.2 Issues not included in the Financial Regulation and Implementing Rules, but often considered to be

Dialogue

The Regulations should specifically address this point and clearly allow the practice of asking for clarifications where questions arise during the project evaluation phase.

The final selection criterion should involve interviews. Costs of attendance should be covered by the Commission.

Contingency

Enable contingencies to be budgeted for in projects involving an element of uncertainty or when exchange gains or losses are possible.

7.3 Personal Liability: The Management Incentive scheme

Clarify the clause making authorising officers personally liable for loss to the Commission (Article 66). The Regulation should explicitly place the burden of proof on the Commission to prove intention to defraud or negligent behaviour. If this is already the reality, the wording must reflect it.

7.4 Systems of Financial Control and Segregation of Duties

1. Each department should review its systems and segregation of duties based upon the requirements of economy, efficiency and effectiveness as required by the Financial Regulation.
2. The key project approval check should be: was the project completed as contracted? It should not be “has the expenditure been the same as the budget?”
3. Reduce the detail of the budget against which transactions are checked see 4.3.
4. The finance officer undertakes detailed checks on a sample basis. This will NOT include a review of every invoice unless errors are found.

Normal checking will include:

- Basic checks such as correct budget, correct additions, 10% rule etc. and there should be IT systems to do these checks automatically. Electronic submission by claimants would automate this process.
 - A review of costs against budget and an understanding of the variances. These should be explained in the claimant’s project report.
 - A review of major cost items for reasonableness.
 - A general review for reasonableness.
5. Where questions are asked that stop the clock, the authorising officer should approve the request and certify that it is a reasonable request to make. A report of all questions that stop the clock is recommended.
 6. Internal audit should be charged with reporting and making recommendations on both the adequacy of internal control, on efficiency and on unnecessary procedures.
 7. The Financial Regulation should be amended in order to remove the requirement of the authorising officer to ‘Certify Correct’ a transaction for these recommendations to be implemented (see Chapter 7 F). A better approval would be “the agreed systems of controls and sample checks give reasonable assurance that the claim is correct’.
 8. For interim claims the Commission official should be able to sign off after reading a brief update report from the beneficiary. The amount of the claim should be pre-defined. If there is real reason for concern, the maximum that a payment could be held up should be 15 days for investigation, and should begin with a dialogue with the counter party.

Interim claims should be paid within a maximum of 30 days.

Pre-financing should be paid immediately a contract is signed.

9. The authorisation procedures and segregation of duties should be reviewed and considered from a context of efficiency and effectiveness. A proposed procedure is described on the next page.
10. Give authorising officers training in efficient and effective financial control and segregation of duties.
11. Re-assess the interpretation of “annuality”. The creation of annual cycles to fit with budgetary requirements creates unnecessary peaks and troughs in the workload for Commission officials, but has also lead to multiple interpretations which have impacted work programmes.

Suggested standard segregation of duties:

There is not a definitive set of authorisation procedures that can be recommended but the example below is an efficient and effective way of authorising transactions with good segregation of duties.

Original Budget

1. The '**Contracts Manager**' finalises a contract with a beneficiary on the instructions of the **Award Committee**.
2. The '**Contracts Manager**' inputs the 3 line budget details into 'The System'. This should trigger an immediate payment instruction of the agreed pre-financing for the '**Accounts Manager**' to approve and initiate.
3. A representative of the '**Awards Committee**' reviews the input on a sample basis.

Changes/updates to the Budget

4. The '**Project Task Manager**' agrees changes or new years of multi year contracts with the 'Beneficiary'.
5. The '**Head of Unit**' approves the changes.
6. The '**Contracts Manager**'s department updates the budget.

This input is used as the base for future checks, but also updates the Commission's overall budgeting system. The input is also used by Finance to update accounting records and forecasts. No one outside the Contract Managers department can update the budget in 'The System'

Claim

7. Ideally the 'Beneficiary' enters the Claim into 'The System' remotely (otherwise a Finance clerk inputs the data)
8. 'The System' does standard checks such as additions, or variances against budget. 'The System' automatically emails the Beneficiary of any errors in the claim, which the beneficiary must correct remotely.
9. The '**Task Manager**' reviews the project report and claim, and approves that the work done is in accordance with the Contract. If it is not there should be a separate procedure. *Note, the Task Manager should be having an ongoing dialogue with the beneficiary and have at least received interim reports if not visited larger projects.*
10. Disallowed amounts will be emailed to the Finance Department which will make adjustments to the claim in 'The System'. The beneficiary is simultaneously emailed. Note, the '**Task Manager**' cannot update the source of the accounting records in 'The System'.
11. The '**Head of Unit**' reviews and approves the sign off of the '**Task Manager**'.
12. 'The System' instructs Finance to check claims on a random, but statistically valid basis, plus highlights unusual variances to budget for checking. *Note, projects that have been externally audited should not be checked again.* The '**Finance Manager**' checks as instructed. Errors found are updated in 'The System' by the '**Finance Manager**', and the Beneficiary and '**Task Manager**' are notified by email. Questions are asked by email.
13. 'The System' automatically notifies the Beneficiary if the clock is stopped and why.
14. The '**Accounts Manager**' approves the payment on the basis that the correct process has been performed i.e. the '**Head of Unit**' and '**Task Manager**' have approved it and where 'The System' shows a requirement, the '**Finance Manager**' too.
15. The '**Payments Clerk**'; makes the payment.
16. Internal audit performs random checks, but this process does not hold up payments.

Appendix 1
Chapter 9: Operating Grants
Research Results and Recommendations

A. Co-financing

a. Co-financing: Ability to raise funding

The co-financing percentage should not be fixed, but based upon the perceived ability of the beneficiary to achieve the co-financing target, their potential 'target market' and their history of fund raising.

The Commission should appoint authorising officers with the ability, training and knowledge to be responsible for setting co-financing limits of each NGO.

This same person should be responsible for the recommended strategic review.

b. Co-financing: reduction in funding and planning

Use an incentive method rather than a sanction method.

NGO funding from the Commission should be in 2 tranches.

- The first is a minimum grant that it receives, as long as it spends it.
- The second is variable and a multiple of the co-finance raised.

The Commission review process should be more strategic, based upon objectives and effectiveness, rather than the present 'ticking the boxes' approach.

The authorising officer should sign off the base budget from a strategic point of view i.e. what will be the effect of the expenditure (deliverables).

The officer should then sign off how the extra money would be spent if it becomes available, again from a strategic, and effectiveness perspective.

Where organisations receive a grant that is less than 60% of the budgeted costs, remove the link between total spend and the grant, unless reports show a very significant under spend in the budget.

This will drastically improve the efficiency of the process for all concerned

c. Co-financing: The ‘insolvency’ trap

Adopt the recommendations above:

1. Co-financing target is based on the specific NGOs circumstances.
2. The base budget and incentive payment approach is adopted.

Rather than state a core funded NGO cannot make a surplus in any period, state that:

- It cannot distribute that surplus
- That a year’s surplus cannot be more than 10% of the grant unless it is clearly labelled to be spent in the following year.

Payment delays

Implement a similar process to the UK and Swedish Governments.

Treat the relationships as strategic and not as an accounting exercise. Value the outputs of the programmes (as the Commission’s political masters must do to initiate the grants)

1. Form a real strategic partnership. Move to a programme of annual review for a given period (e.g. 5 years) and away from a process of annual application.
2. Fund the NGOs a quarter in advance.
3. Allow overdraft interest costs should be eligible costs.
4. There should be a quarterly claim form requiring only summary level information. No transaction list and no copy invoices should be required.
5. Automate the payment process and pay based upon the claim very quickly after its receipt, say 15 to 30 days.
6. Give deadlines for submission of audited accounts, which if breached result in the suspension of payments.
7. Have a half yearly, or quarterly, financial and strategic review depending on the size of the organisation. This should be high level review undertaken by Commission staff capable of undertaking an overview and aware of the policy dialogue.

C. Relevance of the financial information supplied

Annual reviews should be strategy reviews rather than detailed budget reviews.

Review expenditure at the year end with a view to ensuring that all monies were spent in pursuit of the objectives agreed with the Commission, not to ensure that the plan was rigidly adhered to.

Develop key performance indicators that enable a view to be taken of whether or not objectives are being achieved.

D. Double Funding

Allow overheads to be included in projects for organisations that receive operating grants at 7% of the direct eligible costs.

Appendix 1
Chapter 10: Project Grants
Research Results and Recommendations

A. Late payment, including pre-funding

A move away from the annual cycle and/or adoption of the procedures proposed in Chapter 4 would reduce peaks and troughs in workloads. This would be facilitated by the use of the second procedure for giving grants as recommended in section 4.5.

Automate the procedure and require NGOs to remotely update their bank details into the eligibility database.

Give payments which are meant to be in advance, properly in advance. Pre-financing should be paid within 5 days of contract signature.

B. Withholding Payments / Suspension

The Commission should have 45 days to resolve disputes to the satisfaction of both parties, or disputes must be sent to the Ombudsman by the Commission.

C. Failure to Communicate Reasons for Underpayment to Beneficiaries

The procedures should be systemised. There should be a proper tracking system including a 'note pad' system. The system should automatically notify beneficiaries by email as soon as the decision to deduct amounts from the claim is made (see example procedures section 7.4).

D. Commission recover monies after contracts are signed off

If there are contract sign offs in multi year projects then the Commission should adhere to the sign off. It should only be overruled if auditors find fraud, negligence, or significant errors.

E. Payments delayed awaiting audit

Move to an innocent until proven guilty approach and move the burden of proof to the Commission to prove errors in a claim, rather than delaying payment on the assumption that they will find errors.

Project payments should not be held up awaiting project audits unless reasons for suspicion have been explicitly stated to the claimant or unless the audits are delayed by the claimant.

There should be a fast track review with the Ombudsman if the claimant contests the explicitly stated suspicion.

The Commission should only be able to require an organisation's audit report for the year ended that precedes the end date of the project.

F. Lack of support / access to the Commission / inconsistent actions

There should be a central reference point of best practice in order to:

- Promote consistency across Commission services of best practice, procedures and interpretation of the regulations.
- Facilitate economies of scale
- Undertake benchmarking studies
- Offer 'experts' as the resource centre and focal point for any questions on the Regulation.

Each department should have trainers who arrange tutorials for applicants and claimants.

G. Transparency

Reducing Grant Budgets Arbitrarily

Projects should be accepted or rejected. Adjustments to budgets should be discussed at interviews and further suggestions for reductions should be based on rational analysis and debate, not a demand based upon power.

Feedback on rejected proposals

All scores and comments should be placed on the system database that is also used for eligibility. Applicants should have access to the experts for direct comments.

This would provide the benefit of feedback directly from the evaluators.

Tracking applications and payments

Implement a web enabled workflow system whereby applicants or claimants can track the status of their applications and claims.

H. Failure to act consistently

Project Managers should undertake at least one visit each year to a project.

The Commission should consult fully on the redrafting of the Financial Regulation and ensure that they are easily understood and relevant to user groups.

I. Inconsistent Objectives or low relevance to the environment

The Commission should issue draft calls for consultation prior to publication of Calls for Proposals.

Calls should be more regular, with more clearly defined objectives but there should be a limit to the number of applications any one applicant can make a year.

The Commission must re-initiate a dialogue with the outside world in order to ensure it is funding an appropriate range and balance of NGO projects.

J. Onerous and Costly application Procedures

These issues are covered in Chapter 4.

K. Timescales

Long timescales in the Commission

The Commission should publish a definitive timeframe for funding to which they have an obligation to adhere. That timeframe should be benchmarked against other programmes and external parties to ensure reasonableness.

The Commission should be given clear targets by the new central benchmarking department depending upon the type of grant and its complexity.

Recommendation: Short timescales for applicants

The deadlines given should reflect the complexity of the project. Reducing the level of planning required pre-contract should facilitate shorter application cycles particularly where multi-partner and multi-country projects are concerned.

If co-financing and partnership agreements are required, then the time given to applicants should reflect the value and sources of that co-finance and the number and involvement of those partners.

L. Minimum project sizes too large

Programme management including minimum grant sizes and co-financing percentages should be designed specifically for the programme taking into account the objectives, the environment and the target beneficiaries.

Experts with real knowledge of the beneficiaries should be used for this otherwise there should be a consultation process with target beneficiaries.

M. Flexibility

A contingency should be available for use subject to approval by the Commission.

A contingency should always be allowed where there is an exchange rate risk.

N. Overhead recovery too low

The Commission should publish the calculations that gave rise to the 7%.

In those calculations they should include an analysis of Commission overhead rates.

The reasons for this are:

- If the Commission's overheads are excessive it has a knock on effect on the organisations dealing with them and so should be taken into account in the decision
- It would clarify what is included as overheads. At present this is a point of dispute between the Commission and NGOs.

The relationship of the 7% to the €5,000 limit in the adjoining clause should be clarified.

O. No recognition of planning costs

Detailed planning is a necessary part of the project and the costs should be recoverable as other project costs in the claim. See section 4.2.

P. Co-financing

The amount of co-financing should not be prescriptive. In a grant application the beneficiary should be allowed to make a case for lower co-financing than that indicated in the proposal. The Commission should then decide on a case by case basis within specific guidelines.

Q. Inappropriate Tendering Requirements

The requirements should be set per programme taking into account the project objectives, beneficiaries, the environment and value of individual purchases.

Appendix 1

Chapter 12: Efficiency

12.1 Commission Efficiency

Urgently implement a system for measuring internal efficiency.

Give each head of unit efficiency targets against which they are measured. The results should impact the staff assessment evaluation points total e.g. no manager who is more than 20% outside the benchmark should be eligible for promotion.

Create a mechanism or culture that enables procedures to be changed in the interest of efficient and effectiveness at a unit level.

Review and change procedures in order to implement the requirements of sound financial management. Equal weighting should be given to economy, effectiveness and efficiency.

The Commission should urgently undertake a benchmarking review of best practice. It should break its normal modus operandi and look for best practice from other organisations' funding procedures. It should benchmark itself against the best examples and monitor improvement.

12.2 Efficiency: The Impact on NGOs

Include creating efficient procedures for counterparties to a transaction as an objective for head of units in all relevant Commission Directorates and agencies.

In the Commission's drive for greater transparency, the first step should be to produce a comparative study of how efficiently and effectively it uses tax payers' money compared to its member state governments.

Appendix 1

Chapter 13: Effectiveness

Create a new (small and focused) institution, external to the Commission to manage the project evaluation process. This should be a body both able to judge policy and to understand the reality of implementation, and it should consist of those who have touched and understand the worlds of the poor and socially disadvantaged.

This body should manage the evaluation budget which in 2003 was €30.97 million and it should have the right to review Calls for Proposals and on appeal, make changes in ongoing programmes.

This recommendation is central to raising the importance of effectiveness and creating the necessary tension with economy (procedural compliance) and efficiency required to enable the principle of sound financial management to be realised.

Appendix 1

Chapter 14: Strategic Management

The Executive Agencies should be 're-absorbed' into the Commission, and be given the discretionary powers needed to do the job, but they should be allowed to recruit as many experts on contracts as is necessary to properly perform the duties, and to keep staff costs low. This will enable all the relevant staff to operate under one responsible management team and still cost less than an organisation staffed by Commission Administrators.

The Executive Agencies should define their own procedures, quantities, beneficiaries served, and controls to be adopted etc. and from that identify staffing needs. They should not copy the DG from which they were spawned.

Careful attention should be paid to the culture of the organisation. Bringing in large numbers of outsiders could enable a more positive, pro-active, can do culture if the leadership is strong and clearly communicates its vision and objectives.

The Agencies should stay self-accounting and have clear efficiency and effectiveness targets.

Appendix 1

Chapter 15: Role of the Auditors and the Ombudsman

Internal Audit

Ensure that Internal Auditors fully understand the concept of Sound Financial Management, and when reviewing procedures form a view of excessive control, damage to effectiveness and efficiency.

Bring in a requirement that Audits can only lead to the recovery of funds if they are undertaken within one year unless there is evidence of fraud or negligence when recovery can go back to up to 7 years.

Court of Auditors

When making comments on findings the Court of Auditors should also be obliged to:

- Make clear recommendations to solve the problem that they are raising.
- Indicate the impact of the solution on efficiency and value it, if appropriate.
- Indicate the impact on effectiveness.

Ombudsman

The Ombudsman should be given a maximum of 8 months to finalise cases.

There should be a fast track procedure e.g. payment issues, simple complaints.

The Ombudsman should be empowered to impose financial penalties on the Commission in favour of a complainant.

If an NGO goes to the Ombudsman, all grant applications by the NGO for the next 5 years should be under the 'Ombudsman's watch'. This means that the Commission has to give an explanation of why a grant application failed to the Ombudsman as well as the applicant.

The Ombudsman has a definition of maladministration; it should add over-administration to this definition.

In assessing the Commission's administration, the Ombudsman should consider procedures in the light of the pressures for efficiency and effectiveness.

Appendix 2

Sources of information

Financial Regulations: Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002

Implementing Rules: Commission Regulation (EC, Euratom) No 2342/2002 and No 2343/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities and Commission Regulation (EC, Euratom)

Reports published on the Europa website relating to the topic

Budget 2005: http://europa.eu.int/comm/budget/furtherinfo/index_en.htm

Evaluation Report 2003:

http://europa.eu.int/comm/budget/evaluation/Key_documents/evalguide_study_en.htm

Strategic Evaluation of the Management Methods of Programmes:

http://europa.eu.int/comm/budget/evaluation/Key_documents/evalguide_study_en.htm

Court of Auditors Report 2003: http://www.eca.eu.int/index_en.htm

Meta-Evaluation on the Community Agency System

http://europa.eu.int/comm/budget/evaluation/pdf/meta-evaluation_agencies.pdf

Special and Other reports

Cost benefit Analyses of Executive Agencies as submitted to Parliament for Education and Culture, Public Health Action Programme, and ‘Intelligent Energy for Europe’.

Interviews with and submissions from NGOs (see Appendix 3 for Project Grants and Chapter 9 for Operating Grants in the report)

Interviews with Commission staff involved with grants (9 staff face to face plus telephone and informal contacts)

Interview with the Ombudsman’s department

Interviews with and research on:

Department for International Development (UK Government)

Swedish International Development Agency

Danish International Development Agency

Big Lottery Fund (UK) – ex employee

Extracts from a survey: A Learning Mall, an Eastern European survey of beneficiaries of DG EAC funding

Concord conclusions and correspondence on grant funding issues by the Funding for Development and Relief (**FDR**) Working Group

Investigated information sources in search of the Efficiency measures introduced by the Commission as required by the Financial Regulations.

Formal written questions to the Commission.

Appendix 3

Project Grants: Summary of Findings

NGO Interviews

1. European Association for Education of Adults
2. European Public Health Alliance
3. Women's Lobby
4. Solidar
5. WWF
6. European Centre for Not-for-Profit Law
7. Transparency International
8. Quaker Council for European Affairs
9. Polish

Ombudsman dept

10. Thematic summary of complaints and examples

Development NGOs

11. EuronAid
12. Concord – survey of members

Submissions

13. The Learning Mall (Hungary)
14. Civilian Defence Research Center (Italy)
15. Issues with the CARDS programme

Desk Research

16. Strategic Evaluation of Management Methods of Programmes (Technopolis June 2004). A report for the Commission based upon case studies.

Concord: These are the major issues raised by Concord, an organisation that represents more than 1,500 NGOs vis-a-vis the European institutions.

A Learning Mall is a report describing the results of a survey of people and organizations which participated in the Phare, Leonardo or Grundtvig programmes from 1997 to 2001. 287 responses from 9 countries were received and analysed.

Representatives of the Ombudsman's department produced a summary of the major themes of complaints that they receive supported by examples of specific claims. They also contacted EuronAid, a complaint still in progress, to see if they could release the details to me. They did this without it being requested, but in order to facilitate the study. Their constructive support was greatly appreciated.

Summary of Issues raised by NGOs

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
<u>Payment</u>																
Late Payment	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
Funding project while awaiting payment	√						√	√	√		√	√	√	√		
Withholding payment – contra/suspension			√							√	√	√				
Failure to communicate reasons under payment		√	√	√					√							
Commission recover monies after signed off contract.			√	√												
Contractual Disputes							√			√	√					
Too detailed payment support requirements	√			√					√				√	√		√
Inability to give status of payment claim				√												
Loses on 10-15% rule or dispute over category				√	√			√				√	√			
Audit required prior to payment				√			√				√	√				
<u>Transparency</u>																
Lack of transparency						√				√	√		√		√	
Reducing grant budgets arbitrarily	√			√	√					√	√		√			
Poor feedback of rejected proposals					√								√			
Failure to act consistently. Subjective decisions	√	√	√	√	√					√	√	√	√		√	√
Lack of support / access to Commission / non-replies to questions		√			√					√	√	√	√			

Applications	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Inconsistent objectives or low relevance to environment				√		√			√		√		√	√	√	
Onerous/costly inappropriate application requirements	√	√		√	√	√						√	√	√		√
Misinformation on grants by Commission							√		√		√		√			
Planning at NGO cost	√	√		√	√							√		√		
Short timescale of application					√				√				√			
Long timescales for Commission					√								√			√
Commission's failure to meet own deadlines	√	√		√	√				√				√			
Inability to give status of contracts					√											
Cost budget too detailed		√		√		√								√		
Applications inappropriate to beneficiary													√	√		√
Minimum project too large									√					√		
Flexibility																
Inflexibility - re plan/budget changes	√			√	√	√					√	√	√		√	√
Need for contingency, learning and environment changes, or exchange				√								√	√			

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Other																
Co-financing – difficulty in raising or constrained	√	√		√	√				√							
No recognition of value of contribution		√		√												
Commission or experts do not understand subject and no dialogue				√	√				√		√		√	√		
Overhead recovery too low	√	√		√							√					
Double Funding Rules			√		√											
Financial Guarantees required									√		√	√			√	√
Separate bank accounts											√	√				
Accounting for Interest							√					√				
Inappropriate management / tendering requirements. Lack of understanding of subject, local conditions	√	√									√	√				

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Lack of co-ordination between Brussels and delegated agent						√						√	√			
Lack of clarity or transition in implementing new rules												√				
Heavy and complex audit requirements					√						√	√				
Commission nomination of Auditors and lack of clarity in remit											√	√				
Refusal to use framework agreements												√				
Contract must be signed prior to work beginning												√				
Published exchange rates impact on costs												√				
Three year limit for payments												√				

√ Development NGO(s)

Appendix 4 Commission Funding Department's Efficiency

<u>€000</u>	<u>Intelligent Energy</u>	<u>EAC Agency</u>	<u>SANCO Agency</u>	<u>ECHO</u>	<u>RTD Frameworks</u>
Grants Committed per Year	60,780	291,200	71,000	570,000	
Employed people	68	443	132	175	
External Experts if known					
Total People	68	443	132	175	
Grant value per person	894	657	538	3,257	
Total Cost of operation					
Reported					
Estimate	10,337	45,030	17,504	26,203	
Efficiency					
Reported					
Estimate	17.0%	15.5%	24.7%	4.6%	6.5%
These efficiency levels assume organisational support department overheads at			7%		
Calculations indicate that 'Support Department' overheads are actually			29% of 'Direct' DG operating costs		
Staff Costs					
Remuneration of staff (€000)	5,962	27,264	10,615	14,604	
Remuneration cost per person (€000)	88	62	80	83	
Estimated costs using calculated support department cost per person					
Commission overhead / person actual basis	2,796	18,218	5,427	7,195	
Total fully overheaded cost	13,133	63,248	22,931	33,398	
Efficiency, fully overheaded, actual rates	22%	22%	32%	5.9%	

The calculation method of the RTD framework funds' efficiency is not known. It is not clear if overheads or Commission staff costs are included.

Appendix 4
Commission Executive Agency Costs
Extracts from Cost-Benefit Analyses prepared for Parliament and 2005 Budget

	<u>Intelligent Energy</u>	<u>EAC Agency</u>	<u>Sanco</u>	<u>Executive Agency Total</u>	<u>ECHO</u>
Annual Grants	60,780,000	291,200,000 (vi)	71,000,000	422,980,000 (v)	570,000,000
Staff Numbers					
Commission	30	143 (vii)	98		
Agency	38	300	34		
Total	68	443	132		175
Grant value per person (000)	894	657	538		3,257
Staff %ages					
Commission	44%	32%	74%		
Agency	56%	68%	26%		
Total	100%	100%	100%		
Average salary per person					
Commission	99,485	78,973	86,687		83,450
Agency	78,354	53,210	62,347		
Total salaries per person	87,676	61,530	80,418		83,450
Staff Costs					
Commission	2,984,549	11,301,492	8,495,359		14,603,804
Agency	2,977,439	15,962,995	2,119,807		
Total	5,961,988	27,264,487	10,615,166		14,603,804
Other costs given					
Facilities Overhead per Person	28,216	21,167	28,216		18,673
Facilities Overhead	1,918,704	9,379,223	3,724,544		3,267,857
Total Costs given in Cost-Benefit	7,880,692	36,643,710	14,339,710		17,871,661
Other costs estimated (i)					
Overhead - support	7% 551,648	2,565,060	1,003,780	7%	1,022,266
Extra staff inc overhead (iii)	6 639,419				
Pension and schools (iv)				33,591	5,878,488
Missions, Publications etc	9% 545,960	2,496,704	972,068		1,430,752
External costs inc translation	10% 567,829	2,596,714	1,011,006		
Evaluations - % grants (ii)	0.25% 151,950	728,000	177,500	included	
	10,337,499	45,030,188	17,504,063		26,203,167
Cost as a % of grants	17.0%	15.5%	24.7%		4.6%

Wastage if benchmark	6.5%	6,400,000	26,100,000	12,900,000	45,400,000	3.0%	9,100,000
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Please note that 7% is the Commission standard overhead, a calculated overhead is 29% (attached)

Facilities' overheads are taken from the feasibility studies, but the Commission average is € 30,980

Appendix 4
Commission Executive Agency Costs
Notes to attach analysis

- (i) Missions & publications, and External costs are the average percentages of staff costs as for the Commission overall (see attached).
- (ii) €30.97m was spent on evaluations in 2003, as the value of grants made is not known, it has been assumed 0.25% of grants is a very prudent estimate.
 If grants subject to evaluations totalled €3 billion, then a reasonable percentage of grant awarded would be: 1.0%
- (iii) IEE staff has been increased to cope with a higher value of grants decided after the cost-benefit was produced.
- (iv) Cost-benefit analyses include an estimate of the cost of pensions, but ECHO's costs come directly from the budget 2005.
- (v) ECHO's budget is €490 million, but appropriations are forecast to rise in the year to nearer €570m according to an ECHO official.
- (vi) Sanco's cost-benefit analysis refers to €312 m of grants over 6 years (or just the €51m public health grants). Above includes consumer grants.
- (vii) Commission staff numbers were not given, so were estimated based upon overheads and the rate per person assumed in the analysis.

Fully Overheaded costs per person

Commission and Agency Staff	Intelligent Energy	EAC Agency	Sanco
Fully overheaded cost per person	115,893	82,697	108,634
Average for the Commission	126,484	126,484	126,484
Difference	(10,591)	(43,786)	(17,850)

Staff costs are lower than the Commission average because of the use of contact staff, ECHO is a Commission dept, so higher. However, EAC average cost per Commission person is lower than the other agencies, the rationale for which is not available.

Commission Staff only

	Intelligent Energy	EAC Agency	Sanco	ECHO
The fully overhead costs above are:	136,640	107,150	122,947	135,715
Commission administration budget:	126,484	126,484	126,484	126,484
Difference	(10,157)	19,334	3,537	9,231

While costs used by Intelligent Energy's cost per Commission person look high, EAC's costs look low.

Appendix 4
National Government Funding Department's Efficiency

€000	DFID Challenge	DFID Partnership	DFID Total	Sida All	Sida Umbrella	Big Lottery Fund 2003/4 (€)		
						Community	Opportunities	Combined
Grants Committed per Year	<u>20,735</u>	<u>114,753</u>	135,488			<u>394,826</u>	<u>919,277</u>	<u>1,314,103</u>
Average Grant €'000		6,040				69		
Employed people	<u>9</u>	<u>3</u>				<u>518</u>	<u>325</u>	<u>843</u>
External Experts if known	6	-						
Total People	<u>15</u>	<u>3</u>	18			<u>518</u>	<u>325</u>	<u>843</u>
Grant value per person	<u>1,382</u>	<u>38,251</u>	<u>7,527</u>			<u>762</u>	<u>2,829</u>	<u>1,559</u>
Total Cost of operation								
Reported						41,228	48,468	89,696
Estimate	1,023	292	1,315					
Efficiency								
Reported								
Estimate	4.9%	0.3%	1.0%	3.3%	5.5%			
Remuneration of staff (€000)	682	195	1,052			23,989	16,816	40,804
Remuneration per person (€000)	45	65	58			46	52	48
Efficiency, fully overheaded i.e. including all support departments						10.4%	5.3%	6.8%
Euro / £	1.45							

Appendix 4
Provisional Budget 2005 of the Commission
Administration Appropriations

The budget shows:		<u>€000</u>	<u>€000</u>	<u>Staff Costs</u>	<u>Other</u>	<u>Facilities</u>	<u>External Missions &</u>	<u>Publication</u>	<u>'Fixed' Cost</u>	
				<u>Remuneration</u>	<u>Staff Costs</u>		<u>Services</u>		<u>Per Person</u>	
Members			16,809							
Staff	Remuneration	1,780,617		1,780,617					1,780,617	
	Recruitment	8,588			8,588				8,588	
	Training costs	23,106			23,106				23,106	
	Social	17,747			17,747				17,747	
			1,830,057							
External	External	212,528					212,528		-	
	IT services	44,842				44,842			44,842	
	Interpretation	33,796					33,796		-	
	Translation	17,833					17,833		-	
			308,999			308,999			308,999	
Buildings	Rent and fittings	303,350							-	
	Buildings related	127,340							-	
			430,690			430,690			430,690	
Administration	Missions	139,863						139,863	-	
	Publications & studies (e.g. OJ)	69,672						69,672	-	
	Equipment	131,216				131,216			131,216	
	Other	44,448						44,448	-	
			385,200						-	
Special	European Schools	127,000		7%	127,000				127,000	
	Grants	50,253							-	
	Pensions	865,927		49%	865,927				865,927	
			1,043,180						-	
			4,014,935		2,773,544	49,440	915,747	264,157	253,983	3,738,731
	Staff numbers (all)				29,559	29,559	29,559	29,559	29,559	29,559
	Cost Per person (€)						€ 8,937	€ 8,592		
	Cost Per person (€)			€ 93,831	€ 1,673	€ 30,980			€ 126,484	
					2%	33%	10%	9%		

N.B. the provisional budget was used, as the same level of detail was not available for the final budget. The differences are relatively small and would not change the conclusions.

Other figures from the budget 2005 on the Europa website indicate that the administration costs in total could be as high as

€ 4,850 million

Administration by department appears to add up to €4,850 million i.e., there appears to be an error within the Commission's budget presentation. If there is, then average staff costs could be higher by

21%

Extract from: 'Preliminary Draft general budget of the European Communities for the financial year 2005 page 57 (http://europa.eu.int/comm/budget/pdf/budget/budget2005/apb/vol0/APB-Vol0_EN.pdf)

Appendix 4
Commission's Provisional Budget 2005
Administration Appropriations per Person

Extracts from budget detail, Europa website

	Admin Budget €million	Human Resources	Cost per Person €000	Direct DGs			Support DGs		
				Admin Budget €million	Human Resources	Cost per Person €000	Admin Budget €million	Human Resources	Cost per Person €000
1 Economic and financial affairs	61.22	549	112	61.22	549	112			
2 Enterprises	122.73	1,028	119	122.73	1,028	119			
3 Competition	90.29	866	104	90.29	866	104			
4 Employment and social affairs	110.22	918	120	110.22	918	120			
5 Agriculture and rural development	153.11	1,283	119	153.11	1,283	119			
6 Energy and transport	140.55	1,206	117	140.55	1,206	117			
7 Environment	89.48	697	128	89.48	697	128			
8 Research	238.79	1,798	133	238.79	1,798	133			
9 Information society	134.55	1,107	122	134.55	1,107	122			
10 Direct Research	263.03	2,334	113	263.03	2,334	113			
11 Fisheries	41.44	348	119	41.44	348	119			
12 Internal market	63.93	594	108	63.93	594	108			
13 Regional policy	91.39	695	131	91.39	695	131			
14 Taxation and customs union	61.46	581	106	61.46	581	106			
15 Education and culture	114.25	771	148	114.25	771	148			
16 Health and consumer protection	114.86	896	128	114.86	896	128			
17 Press and communications	121.42	970	125	121.42	970	125			
18 Area of freedom, security and justice	49.64	444	112	49.64	444	112			
19 External relations	424.23	2,396	177	424.23	2,396	177			
20 Trade	65.83	575	114	65.83	575	114			
21 Development and relations with ACP States	262.38	1,434	183	262.38	1,434	183			
22 Enlargement	62.77	280	224	62.77	280	224			
23 Humanitarian aid	24.57	175	140	24.57	175	140			
24 Fight against fraud	50.03	415	121	50.03	415	121			
25 Policy co-ordination & legal	189.57	1,664	114				189.57	1,664	114
26 Administration	616.97	3,985	155				616.97	3,985	155
27 Budget	81.69	666	123				81.69	666	123
28 Audit	10.4	98	106				10.4	98	106
29 Statistics	83.97	786	107	83.97	786	107			
30 Pensions	914.97		31	716.46			198.51		
TOTAL	4,849.74	29,559	164	3,752.60	23,146	162	1,097.14	6,413	171
Support costs per direct DG person (€000)							47.40		
Support staff per 'Direct' person							0.28		
Support as a Percentage of 'direct' costs excl pension & support							29%		

Extracted from: PRELIMINARY DRAFT general budget of the European Communities for the Financial year 2005
http://europa.eu.int/comm/budget/pdf/budget/budget2005/apb/vol0/APB-Vol0_EN.pdf

Note: administration costs are ALSO given by the Commission as totaling €4,014 million but this total appears to understate departments 8,9 and 10 (Research & Info society)



**ActionAid
International**

**Adra
Aprodev
Austria
Belgium
Caritas
CBMI
Cidse
Czech Republic
Denmark
EU-CORD
EuronAid
Eurodad
Eurostep
Finland
Forum
France
Germany
Greece
Hungary
IPPF
Ireland
Italy
Luxembourg
Malta
the Netherlands
Oxfam
International
Plan Europe
Portugal
Save the Children
Slovakia
Solidar
Spain
Sweden**

Appendix 5

**Issues raised by the
“Funding Development and Relief” (FDR) working group of
CONCORD**

List of documents :

- **Letter from CONCORD to Commissioner Nielson** (March 17 2004) with 2 annexes (on major difficulties raised and procurement rules) (*pages 39 to 42*)
- **CONCORD “reader”** : Major concerns raised by NGDOs on the Financial Regulation respective the Standard Contract for Grant Management (*pages 43 to 59*)
- **Follow up first meeting CONCORD / EC (June 5 2004)** table from EC on **Complaints : Explanations provided, actions to take, points of disagreement** (*pages 60 to 63*)

Since April 2004 a positive dialogue has been opened between EC and CONCORD on the impact on NGOs of the current Financial Regulation and Implementation Rules. This dialogue has taken the shape of exchange of mails and meetings between EuropeAid and a specialized “Financial Regulation” working group of CONCORD.

Some topics raised and listed in the following documents have been solved, but most of them are still valid and remain subject of work of both actors that continue to dialogue.



Brussels, 17 March 2004

Commissioner Nielson
European Commission
200, rue de la Loi
1049 Brussels

Ref : 0403 070 FDR - FPO

Subject : Impact of the financial regulation and its derived documents and procedures on NGOS

Dear Commissioner Nielson,

You are certainly aware that NGOs are confronted with huge difficulties with the application of the new Financial Regulation and its derived documents, in particular when it comes to the Standard Grant Contract, its General Conditions and Annexes. It is an important and burning issue we would like to address in this letter, which puts at stake the efficiency and effectiveness of the cooperation between NGOs and the European Commission.

We all experience, in our different sectors, strong and rigid financial and managerial constraints, which our direct counterparts in the various services under your responsibility, either in AIDCO or in ECHO, are unable to solve. It is quite clear that the very restrictive application of the Financial Regulation not only causes problems within the NGO community, but also causes enormous difficulties within and among the EC services, leading to increased bureaucracy and rigidity, resulting in turn in increased lack of efficiency and effectiveness of European aid. We can say without doubt that the efficiency of aid is severely hampered by the way the rules of the Financial Regulations are interpreted and imposed through the General Conditions and Annexes of the Standard Grant Contract.

The biggest surprise regarding the financial regulation is the fact that the current interpretation and implementation of rules and procedures directly contradict the policy of the Commission. For instance, when NGOs are forced to buy all inputs for their programmes implemented in developing countries on the European market (the "procurement issue"), we see a clear contradiction with the policy that you have consistently promoted towards untying of aid. Similarly heavy financial constraints such as high bank guarantees and very frequent audits conditioning the payments will surely create serious obstacles to the cooperation between the EC and NGOs and clearly cause a huge increase in spending on administrative procedures rather than concentrating the spending on the actual project purpose. In addition, though it is quite apparent that the Commission's policy throughout the past decades is to strengthen the NGO sector and to increase the dialogue opportunities and synergies with NGO actions, the result of the interpretation and implementation of rules and procedures jeopardize the very existence of NGOs and their regroupings, effectively depriving the Commission of a full choice of funding channels and the available expertise among the whole NGO community.

We would like to clearly state that we have always supported the need to ensure compliance with sound management of Community funds, yet we strongly believe that this should neither prevent

an effective and efficient execution of the aid programmes nor compromise the continuity of NGOs whose sound management was demonstrated over years of partnership with the EC.

We are conscious of the fact that the Financial Regulation itself as well as internal directives provided by DG Budget have underlined the need for proportionality between the procedures and the actual situations. When reading the Financial Regulation, we find many “windows of opportunities” to release too strict rules when needed. It is unfortunate that these “windows” have not been sufficiently recognised nor put to good use. We are currently working on a document containing relevant articles and examples/identification of the problems which clearly point out that the constraints imposed do not match with the overall objective of responding efficiently or effectively to the complex situations we find in the South. In annex you will find a first quick overview of identified problems. In addition, you will find a note explaining in more detail the importance and urgency of a burning problem of this moment related to the “procurement rules”, which needs your immediate attention.

We know that the Commission values our work and we are fully aware of your strong personal commitment to the dialogue with NGOs on Development and Humanitarian Aid and the LRRD process, with the aim to find ways of constantly improving the quality and coherence of EU aid.

It is with this in mind that we kindly ask you for an urgent intervention by the Commission to de-block the situation. An immediate discussion with the relevant and competent EC services on “the impact of the Financial Regulation on NGOs” is needed, where we should collectively identify “the windows of opportunity” and come up with workable, efficient and effective rules and procedures which respect the overall development policy objectives of the EC and allows us all to concentrate on the content of the actions rather than being forced to spent all our time and resources on needlessly burdensome administrative requirements.

Yours sincerely,



Frans Polman

President of CONCORD

CC: Mr Prodi, President of the European Commission
Commissioner Schreyer, DG Budget
Commissioner Patten, DG RELEX
Mr Richelle, Director General of DG Development
Ms Adinolfi, Director of ECHO
Mr Bonnacci, Director General of AIDCO
Mr De Angelis, Director of AIDCO-F

Annexes: 1) List of major difficulties for NGOs raised by the application of the Financial Regulation and Grants Contracts
2) Note on procurement rules under the new Financial Regulation

Annex 1

List of major difficulties for NGOs raised by the application of the Financial Regulation and Grants Contracts

All the following points have been reported by NGOs and/or extracted from detailed explanatory documents, which are available on request for any in-depth consideration. It is a first quick overview of points raised. We are working on a more detailed document which pulls together all the concerns and will contain references to the actual articles of the financial regulation and/or the Standard Grant Contract.

- Lack of transitory period for application of new rules under contracts managed by AIDCO (as opposed to ECHO)
- Retroactive application of new rules and requirements to on-going contractual obligations taken before 2003
- Heavy and complex audit requirements (country-based in multi-countries programs)
- Payment of advances suspended to heavy audit requirements – cash flow implications
- Nomination of auditors and ToR drafting by the EC – time constraint and lack of clarity on the scope of the audit(s)
- Superposition of EC constraints and NGO own auditing system
- Financial guarantee required is disproportionate compared to actual risk, and hampering the NGO credibility and access to credit line with the bank
- Costs of action-specific bank accounts and impact on cash flow
- Retention of the last payment (tranche) until final report approved by the EC (10% up to 90 days) – worse in Emergency (20%)
- Southern NGOs prevented to access “open” budget lines because of financial requirements
- Suspension of payments due to EC budget’s availability (end and beginning of financial year)
- Preoccupation concerning the “multi-donor” co-financing requirement (ECHO), the meaning of “non discrimination among donors”, and the rules applicable according to the % of (co)funding
- Procurement procedures contradicting EC policy (on untying of aid) and preventing Development and Humanitarian Aid objectives (participation of local suppliers rendered impossible by heavy financial and administrative constraints; rapid procedures needed for emergency situations)
- Absence of standard procurement documents for Humanitarian Aid
- Absence of specific procurement rules and procedures for Food Aid under AIDCO
- Management overload in the EC preventing the acceptance of required amendments and the granting of (foreseen) derogations
- EC refusal to sign Framework Partnership Agreement with NGOs working on budget lines managed by AIDCO despite provision of Financial Regulation lightening financial requirements (audit, NGO capacity, advance guarantee) – while ECHO FPA proved to be more efficient
- EC reluctance to recognize “de facto monopolies” (absence of criteria) and clarify direct award of grants to these NGOs
- Lack of clarity on the concept of crisis situation, lack of transparency on decision-making, unpredictability of responses and adequate procedures
- Lack of flexibility to address crisis situations (other than under Humanitarian Aid’s Regulation) through adequate procedures despite Financial Regulation provisions offering a wide definition of the crisis concept (and LRRD approach to be promoted)
- Currency exchange rate ignoring transactions between European NGO and local partners
- Reinforced reporting requirements not accompanied by adequate means – for qualitative reports, monitoring, evaluation and impact assessment
- Exclusion of the contingency reserve from the budget does not reflect implementation of (multi-annual) programs in the field and makes the respect of the budget ceiling more difficult
- Performance of on-going projects jeopardized by delays in deliveries due to administrative problems
- Commitment taken by the EC with NGOs and vis-à-vis local partners and beneficiaries on crisis situations delayed for 6 months
- Image and credibility of NGOs deteriorated by giving highly restrictive administrative considerations a higher priority than to urgent actions required by field situations and the fight against hunger and poverty.

Annex 2: Procurement rules under the new Financial Regulation and their impact on Development Cooperation

Example: Contracts for Budget line 21-02-03 (ex B7-6000, NGO co-financing)

Background:

Article 168 of the Financial Regulation states that *“Participation in tendering procedures shall be open on equal terms to all persons coming within the scope of the Treaties and, in accordance with the specific provisions in the basic instruments governing the cooperation sector concerned, to all such natural and legal persons who are nationals of the beneficiary third countries or of any other third country as are expressly mentioned in those instruments.”* This rule has been translated into Annexe IV of the Standard Grant Contract for External Actions, Article 2.1 on the nationality rule and Article 2.2 on the rule of origin.

These rules present an acute problem for the signature of contracts under the NGO co-financing line. Since the legal base for Budget line 21-02-03 does not foresee other options of origin, NGOs are presently informed that any purchase of equipment, consumables and supplies not originating from within the EU requires a prior agreement of the Commission services. Asking for further clarification, NGOs are told that this rule applies indeed to all purchases, independently of the financial volume involved. Even products of local/regional origin would need prior agreement.

Comment:

Restricting the origin of goods and supplies to the European Union clearly goes against all principles of a poverty-focused development approach aiming at sustainability on all levels while at the same time protecting the local markets from negative impacts. One could also say that with this restriction the EC is tying its aid to European businesses, ignoring that the practice of Tied Aid has been accepted by the International Community to be unacceptable. It also clearly contradicts Article 27 of the Financial Regulation according to which *“Budget appropriations shall be used in accordance with the principle of sound financial management, namely in accordance with the principles of economy, efficiency and effectiveness.”*

In addition, without putting any reasonable thresholds, the implementation of these rules will lead to ridiculous situations constantly hampering the daily project work, for example when a Southern partner has to make sure to take the gasoline from a Shell garage and not a Texaco or local one. Together with the other rules for tender procedures as outlined in Annex IV of the Standard Grant Contract this will only turn the project implementation into an administratively unworkable paperwork for both NGOs and the EC. Project staff on both sides will find themselves concentrating more on the management of the grant contractual conditions than on the content of the programme and purpose of the grant itself.

Demand:

Development cooperation contracts in general must be given exemption from this area of the Financial Regulation, to ensure the realization of an economically and politically sound development approach as well as to avoid both complete inefficiency of development spending, and the EC tying its aid to European businesses.

In the case of BL 21-02-03 an immediate action is needed, also in order to avoid that the EC administrative system is flooded with requests for derogations for each and every purchase under 200 different projects. It is imperative that a special one time overall derogation of this rule will be possible for the duration of the project period for the 200 projects about to be signed for this budget line. Perhaps it should be remembered that by the time when the Council Regulation 1658/98 was adopted, the General Conditions for budget line B7-6000 in force clearly stated under § 15.3. that *“the NGO must take all the necessary measures to ensure that the materials and equipment are those which best meet local needs and are most appropriate in terms of quality, cost, availability and maintenance. Normally, where these conditions are met, preference shall be given to equipment and materials of local origin and, failing that, to those of Community origin.”* This principle should still be valid and therefore might open the “window of opportunity” for resolving this burning problem.

Major concerns raised by NGOs¹ on the Financial Regulation respective the Standard Contract for Grant Management

Abbreviations:

FR = Financial Regulation

IR = Implementing Rules

SC = Standard Contract for Grant Management

A. GENERAL REMARKS

With the introduction of the new Financial Regulation 1605/2002, in force since 1st of January 2003, and translated into the revised Standard Grant Contract for External Actions, NGOs are confronted with a set of strong and rigid financial and managerial rules which put at stake the efficiency and effectiveness of cooperation between NGOs and the European Commission. The volume and rigidity of the rules to be observed could turn the implementation of development cooperation and humanitarian aid into an administratively unworkable system of paperwork for both NGOs and the EC. Project staff on both sides will find themselves concentrating more on the management of the grant contractual conditions than on the content of the programme and purpose of the grant itself. On the Commission's side management overload may rapidly prevent acceptance of required amendments and the granting of (foreseen) derogations. The image and credibility of NGOs on the other side could suffer by being forced to give highly restrictive administrative considerations a higher priority than urgent actions required by field situations and the fight against hunger and poverty.

Besides a number of specific problems related to individual rules (which will be elaborated in detail below) there are some general concerns needing attention:

- It is a general impression that the Standard Contract does not take into account the way in which the majority of projects implemented by European NGOs together with their Southern partners are administered. As a consequence many rules laid down for the financial transactions and reporting (e.g. frequency of transfers, exchange rates, audit requirements, reporting deadlines, see below) are not suitable to the majority of NGO funded projects and may negatively affect the very efficiency that makes them a positive tool for EC development spending.
- In addition, the combination of tendering procedures, audits, bank accounts, financial guarantees mean that money intended for development projects is being increasingly spent on these support costs, as already found in food security projects.
- In its efforts to standardise the contractual and project administration framework, the EC tends to impose only new constraints on all counterparts, ignoring that these counterparts also work together with other donors which may have their own (rigid) rules.
- There is a total lack of transitory periods for the application of new rules under contracts managed by AIDCO leading not only to great confusion as to which rule will now apply to which contract, but also to an increased need for adjustments. For example, in the case of BL 21-02-03 (ex B7-6000) the budgets of all applications submitted with the Call 2002 now have to be adjusted before the contract can be signed (due to the new audit requirements and the abolishment of the contingency reserve). This is worsened by the threat to retroactively apply new requirements to on-going contractual obligations taken before 2003 (e.g. procurement rules).
- NGOs are concerned how the deconcentration will affect the "standard" nature of the contract. Delegations are already interpreting its clauses differently and it is feared that in the light of

¹ Many of the problems are also faced by NGOs engaged in other sectors, e.g. social NGOs that have already addressed DG Budget on these issues in October 2003. This paper, however, concentrates specifically on problems faced by NGOs working in the field of development cooperation.

many Delegation's inexperience with (European) NGO co-funded projects there will be a lot of misunderstandings and misinterpretations.²

- The political intention to increase the access of Southern NGOs to "open" budget lines will certainly be hampered by the even greater problems these Southern NGOs will face in complying with the financial and administrative requirements of EU external assistance.

B. SPECIFIC PROBLEMS FACED IN THE APPLICATION OF THE FINANCIAL REGULATION AND STANDARD GRANT CONTRACT

The following list includes the main issues of concern expressed by a variety of NGOs. Wherever possible, reference is made to specific articles of the FR or IR. In other cases the respective article of the Standard Grant Contract (2003) is referred to. For some issues (e.g. exchange rates, contract amendments) reference is also made to the contract version 2000 since many projects ruled by this contract are currently facing problems with these rules. The order of the list more or less follows the "lifespan" of a project from its starting date to the contract closure and is not seen to be exhaustive. At the end more general issues will complete the picture.

Start of the project (SC Special Conditions, Article 2.2)

FR Article 112 (Part I, Title VI Grants, Chapter 2 Award principles): (1) A grant may be awarded for an action which has already begun only where the applicant can demonstrate the need to start the action before the agreement is signed. In such cases, expenditure eligible for financing may not have been incurred prior to the date of submission of the grant application, save in duly substantiated exceptional cases as provided for in the basic act or for the expenditure necessary for the proper implementation of crisis management or humanitarian aid operations as laid down in the implementing rules.

FR Article 166 (Part II, Title IV External Actions, Chapter 2 Implementation of actions):

(2) Financing agreements with the beneficiary third countries referred to in paragraph 1(a) shall be concluded by 31 December of year n+1 being the one in which the budgetary commitment was made. The individual contracts and agreements which implement such financing agreements shall be concluded no later than three years following the date of the budgetary commitment. Individual contracts and agreements relating to audit and evaluation may be concluded later.

Main problems:

- Hampering of the development process
- Undermining the NGO's credibility towards the ultimate beneficiaries

Explanation:

While there seems room for manoeuvre, the actual interpretation of the rules makes it difficult for NGOs to judge under which circumstances they are still allowed to start the project after having submitted the application but before having signed the contract. Programmes or projects which are of an ongoing nature cannot be interrupted for 8 to 12 months in order to wait for EC approval. The situation is worsened by the fact that now the signature of the contract can be delayed until the end of the year following the one in which the budget commitment was made.

Concrete examples:

The last Call for proposals for BL 21-02-03 was published in December 2002. By that time most of the projects to be submitted had already undergone their planning stage, in the ideal case with active participation of the ultimate beneficiaries, i.e. poor communities in the South. The notification of approval for these projects was given in December 2003, the contracts are still under

² Some delegations that manage deconcentrated budget lines asked for instance the list of budget headings within the budget that are covered by EC co-funding. This is contradictory with the principle of article 17 of the Standard Grant Contract according to which the co-financing of the European Commission is based on a share of the total budget of the action, independently of each individual budget headings allocations.

preparation. As already signalled by the Commission, the signature of many contracts is likely to be further delayed because of the deconcentration process. That means that the NGO can only opt between a) having to start at their own financial risk (e.g. when the local setting does not allow a further delay (financial year, agricultural calendar)) without being sure that the costs incurred before the actual signing of the contract will be approved or b) waiting until the contract is signed which could easily lead to a situation where the actual project implementation can only start 2 years after its planning. In the latter case one likely consequence is an increased need for adjustment which will just lead to another problematic aspect of the EC contract rules (see below).

Recommendation:

Considering the long « evaluation/decision/contract phase », there is a need for a more flexible approach in allowing the project to start and to accept the costs incurred in the period between the submission of the project for funding and the actual signing of the contract, provided it is accepted that this is at the NGO's risk.

Financial guarantees (SC General Conditions Article 15.7)

FR Article 118 (Part I, Title VI Grants, Chapter 4 Payment and Control): The authorising officer responsible may require the beneficiary to lodge a guarantee in advance in order to limit the financial risks connected with the payment of pre-financing.

IR Article 182 Advance guarantee: 2. (...) For NGOs operating in the field of external action, that guarantee shall be demanded in respect of pre-financing exceeding EUR 1.000.000 or representing over 90% of the total amount of the grant.

Main problems:

- The financial guarantee required is disproportionate compared to the actual risk
- Financial guarantees hamper NGO credibility and access to credit line with the bank
- The bank guarantee disproportionately affects smaller NGOs.

Explanation:

The new bank guarantee rule seems to be adding more bureaucracy for no apparent reason. The requirement of a bank guarantee adds to the already impractical and financially costly process of engaging with EC funding. In order to get a project underway and receive advance payments for these projects, NGOs have to provide up to 1 million euro as a cash deposit to banks in order to obtain a guarantee that the amounts budgeted for will be provided, and work can still continue on projects, whatever happens to the agency in that 3, 4, or 5 year period.

Furthermore, if the calls are expected to be open to all eligible NSAs, the need for a bank guarantee goes against this principle, through prejudice against small NGOs. Therefore it could also disproportionately affect accession country NGOs.

Concrete examples:

1) The formal value of EuronAid's contracts, including all EC Food Aid in-kind implemented by NGOs, is very high (EUR 50 millions). A strict compliance with the Financial Regulation would mean that EuronAid should have a financial guarantee equivalent to the first pre-financing on each of its contracts – based on practice until 2002. This means a total of EUR 30 millions only for the Global Contract signed in July 2003. Since the maximum bank guarantee EuronAid was able to obtain amounts to EUR 6.5 millions only, the EC decided to decrease the first advance to EUR 20 millions, recognizing this amount as the minimum in order not to hamper the operations' implementation. The actual "risk" is then considered by the EC as amounting to 13,5 million (20-6.5) – no consideration paid neither to the 23 years of cooperation with EuronAid nor to the financial management system in place. As it cannot get any additional financial guarantee, EuronAid has asked for the Specific Conditions to indicate that this single bank guarantee will be used for all contracts signed from 2003 onwards. This pre-financing ceiling -- equivalent to a 3 months EuronAid cash flow only -- however, will become a handicap as soon as the number of contracts run in parallel will increase.

2) A Danish NGO is the beneficiary of a 5 million € grant for a HIV/AIDS prevention project in Tanzania and Zambia. In order to approve the bank guarantee over 4.5 million € (0.5 million € being the balance payment not to be covered by the guarantee), the bank in charge demanded 1.5% a year which would have constituted 67,500 €. Only after lengthy negotiations the NGO managed to reduce this cost to 0.75% or 33,750 €. This is still quite a substantive amount that is being deducted from a development aid project budget – ending up in the bank system in Denmark. And again, the requirement of a formal bank guarantee ignored the regular financial capability and stability of the NGO in question whose net capital alone constitutes approx. € 6 million.

Recommendation:

NGOs recommend that a bank guarantee is only required for single instalments of over € 1 million, not € 1 million over the life of the project, so that it reflects actual risk, which is basically the amount of the grant contracted within each reporting period. If the project has not spent 70% of the previous year's grant on the activities agreed, it won't receive the next grant anyway.

Action specific bank account (SC General Conditions Article 15.8)

IR Article 234 Bank accounts (referring to FR Article 166, Part II, Title IV External Actions, Chapter 2 Implementation of actions): (1) For payments in the currency of the recipient State, accounts denominated in euro shall be opened with a financial institution in the recipient State in the name of the Commission or, by common agreement, of the recipient. The titles of these accounts shall make it possible to identify the funds in question. (2) The accounts referred to in paragraph 1 shall be endowed to meet actual cash requirements. Transfers shall be made in euro and converted, where necessary, into the currency of the recipient State as and when payments fall due, in accordance with Article 7 and 8.

Main problems:

- Costs of action-specific bank accounts and impact on cash flow
- Ignorance of standard healthy financial practice

Explanation:

So far it has always been sufficient to dispose of a project-specific booking account. To ask now for a "real" bank account for each project only increases bureaucracy and administrative costs. Especially where NGOs have several EU-funded actions the number of individual bank accounts could be considerable. On the other hand, the EU payments can easily be followed on a non-specific account. Also the interest earned on the EU contribution to a specific project can be calculated without a project-specific account.

Moreover, the management of specific banks accounts is fastidious and not always thorough. Each treasury movement corresponding to the project should be managed by this account. However, when an expense is co-financed, it is not possible to split its payment. It becomes necessary to implement treasury follow-up (according to a feasible periodicity), which does not reflect the daily follow up.

Concrete examples:

Insisting on NGOs to open separate bank accounts for each EC grant which for a large NGO can easily mean up to 10 new bank accounts is actually counter-productive as good accounting practice generally holds to keeping bank accounts to a minimum to ease financial management. It can also cost money which all comes from the development budget and in some case banks may turn the requests down. Some banks in the UK have already stated they will start to charge to open more than a certain number of accounts, to prevent this practice. This sort of bank charge is not an efficient use of development resources, whether they are from the NGO or the EC funds.

There are also cases reported where each request for a new bank account has to be approved by the organisation's Board of Trustees and senior management, and where it takes several weeks for the NGO and the bank in charge to process.

Finally, the question arises what should happen once a grant has ended - can the bank account be used for subsequent grants, or must it be closed?

Recommendation:

There are other ways of ensuring transparency per project and many NGOs already dispose of elaborated accounting systems which actually enable to follow EU payments and evaluate interest earned on EC grant without project-specific bank accounts. For instance, there exist accounts systems encompassing two management accounting plans in addition to the compulsory general accounting plan :

- the «management accounting plan - sections» which identifies the association's different sectors of activity and enables the NGO to allocate costs and income in its accounts entries,
- the «management accounting plan - funding» which enables to identify the social missions, the actions carried out within each mission and finally, the expenditure financed by the institutional donors.

Other NGOs are very well used to receive all EU grant funds into one bank account, clearly identified for EU grants. The internal accounting system then assigns a unique reference to each grant, allowing the movement of grant funds within the organisation to be tracked for the life of the grant.

However, if separate bank accounts are required they should at least be restricted to projects with a grant of more than € 1 million.

Currency selected for payment / exchange rates (SC Special Conditions Article 3.1, General Conditions Article 15.9)

FR Article 16 (Part I, Chapter 4 Principle of unit of account): The budget shall be drawn up and implemented in euro and the accounts shall be presented in euro. However, for the cash-flow purposes referred to in Article 61, the accounting officer and, in the case of imp rest account, imprest administrators shall be authorised to carry out operations in national currencies as laid down in the Regulation laying down the rules for implementing this Regulation, hereinafter referred to as 'the implementing rules'.

IR Article 7: Rate of conversion between the euro and other currencies: (1) **Without prejudice to specific provisions arising from the application of sectoral regulations, conversion between the euro and another currency shall be made using the daily euro rate published in the C series of the Official Journal of the European Communities.** (2) **If no daily rate is published in the Official Journal of the European Communities for the currency in question, the Commission shall use the accounting rate referred to in paragraph 3.** (3) **For the purposes of the accounts provided for in Articles 132 to 137 of the Financial Regulation, conversion between the euro and another currency shall be made using the monthly accounting rate of the euro. This accounting rate shall be established by the Commission by means of any source of information it regards as reliable on the basis of the rate on the penultimate working day of the month preceding that for which the rate is established.**

Main problem:

- Currency exchange rate ignoring transactions between European NGOs and local partners
- Prescribed conversion system contradicting international accounting standards

Explanation:

As with the first version of the Standard Contract, the new rules of conversion completely ignore the reality of NGO project relations in general as well as the income side of a project's account in particular. As a rule EC payments received by an European NGO in euro will be forwarded to the Southern partner in tranches over a certain period of time according to the actual needs of the project. The partner will spend these funds in his local currency over a certain period of time before accounting for it towards the European NGO (also in the majority of cases still in the local currency with the conversion into euro being undertaken by the European NGO). In these circumstances the

weighted average exchange rate of transfers (within a given period) represents the only means to realistically reflect the value of expenditures in euro. All other conversion systems will easily lead to a distorted accounting of expenditures, thus making a proper closing down of projects difficult.

Concrete examples:

1) The projects currently under implementation and ruled by the Standard Contract of the year 2000 do have to use the "(EUR) rate published by the European Central Bank in the "C" series of the Official Journal on the first working day of the month in which the request for payment is made. In the case of currencies not quoted in the Official Journal, conversion shall be based on the rates published in the Financial Times on the first Tuesday of the month in which the request for payment is made. "(Art 15.6)

To give only one example what this can imply in reality: A BL 21-02-03 project in Cambodia disposed of a budget of 1.325.720 US\$ (excluding the contingency reserve). The final accounts showed expenditures of 1.311.469 US\$, thus the contingency reserve had clearly not been touched. However, when converting the expenditures into euro using the prescribed exchange rates, the figures in euro showed expenditures of 1.458.648 € against a budget of 1.423.594 € (excluding contingency reserve), thus creating the impression that more money had been spent than budgeted and the contingency reserve had been used without prior permission. The reason behind this deviation was only based in the exchange rate: while during the second period the euro had been transferred to Cambodia with an average exchange rate of 1,0324, the exchange rate which would have had to be used according to the SC had been 1,107 instead.

- 2) The budgets of contracts under BL 21-02-03 presently awaiting signature had to been drawn up in euro. Taking into consideration the practice of financial transactions as outlined above the application of Art. 15.9 of the revised Standard Contract would mean that either
- a) the local partner would have to do the monthly conversion of all expenditures into euro before for example submitting his compiled half-yearly or annual accounts to the European NGO. For the European NGO, however, this may not be acceptable for the sake of transparency of the actual expenditures on the spot; or
 - b) the local accounts (and audits) in the local currency would have to specify all expenditures per month, which - like option a) - would only increase the administrative burden of the Southern partner.

In future especially for deconcentrated projects the other option offered by Art. 15.9 may be chosen, i.e. project budget and accounts will only be in the local currency of the developing country. This, however, would imply that also the payments made by the Delegation (via Brussels?) to the European NGOs would have to be in the local currency (US\$, Pesos, KSH etc.) which seems quite absurd. Or the payments to the European NGO will be made in euro while the accounts are done in the local currency? What about payments made directly in Europe? And for NGOs in countries outside of the EMU this means that most reports have to go through 3 currencies.

NGOs are also concerned that local Delegations could insist on grants being paid into bank accounts set up in the country of operation, rather than in the country of the European NGO as at present. Again, this would go against good auditing and accounting practice and would make the internal tracking of grant funds less transparent.

Recommendation:

It is obvious that (once again) the rules laid down for currency conversion are artificially chosen and particularly ignore the financial transactions between European NGOs and their Southern partners. It is thus strongly recommended to allow for a deviation from Art. 15.9 in case of projects co-funded with European NGOs, for example by accepting the weighted average exchange rate of transfers as basis for the conversion of expenditures in local currency into the euro. As regards the currency selected for payment, the national context in which the European NGO works as well as its financial relations with the local partner must not be ignored but have to be taken into account.

FR Part I Title V; on the rule of origin specifically Part II, Title IV, Article 168 :

1. Participation in tendering procedures shall be open on equal terms to all persons coming within the scope of the Treaties and, in accordance with the specific provisions in the basic instruments governing the cooperation sector concerned, to all such natural and legal persons who are nationals of the beneficiary third countries or of any other third country as are expressly mentioned in those instruments.

SC, Annex IV, Article 2.2: If the basic act or the other instruments applicable to the programme under which the grant is financed contain rules of origin for supplies acquired by the Beneficiary in the context of the grant, the tenderer must state the origin of supplies. Contractors must present a certificate of origin to the Beneficiary no later than when the first invoice is presented. The certificate of origin must be made out by the competent authorities of the country of origin of the supplies or supplier and must comply with the international agreements to which that country is a signatory or to the relevant Community legislation if it is an EU Member State.

Main problems:

- Different application of procurement rules for individual budget lines managed by AIDCO
- Confusion as to since when these rules need to be applied
- Absence of specific procurement rules and procedures for Food Aid under AIDCO
- Performance of on-going projects jeopardized by delays in deliveries due to administrative problems
- Contradiction between Part I, Title V, Article 88 “This title does not relate to grants” and Part II, Title VI Article 120 “Where implementation of the action requires the award of procurement contracts by the beneficiary, the award shall be subject to the principles set out in Title V of this part”.

Explanation:

The complexity and rigidity of rules (as laid down in Annex IV of the SC) cause a lot of confusion and uncertainty among NGOs. This is specifically the case as the procurement rules are different according to each individual budget line managed by AIDCO. Thus, there is the need for more clarification, especially when taking into account the local circumstances of smaller Southern NGOs who might not be always be in a position to fully comply with these rules.

Although NGOs welcome the re-interpretation of the rules of origin, that will allow the purchase of goods from developing countries for BL 21-02-03, there are still issues that remain. Other budget lines like 19-02-04 “antipersonnel landmines”, still require an official interpretation of the rule of origin. Again for others like BL 21-02-07-03 (reproductive health) and BL 21-02-02 (Food Security) supplies from other third countries (neither belonging to the Member States nor to developing countries) seem possible in exceptional cases.

Finally, the administrative requirement of having to obtain certificates of origin for every purchase (whatever the amount of the supplies/services to be purchased or works to be carried out) is unnecessarily burdensome and will lead to serious problems with procurement and consequently to project delays.

Concrete examples:

The fact that derogation requests are from now on approved by the Director of AIDCO F (and not the desk with one unit of the Direction F) bears the risk of further delays in the answers of the EC to derogation requests. It is said that there would be “quotas” of derogation approvals per direction, and that Direction F would have already reached its “quotas”. This is specifically problematic when a project wants to buy Toyota vehicles for instance.

In April 2003 a German NGO had asked for a derogation to buy a non-European vehicle for a food security project in Laos. In October they received a negative response to which the NGO protested. In the meantime they received a verbal approval but still do not have anything in writing.

Luckily the project can use another vehicle for the time being, otherwise it would have already come to a heavy distortion in the project implementation.

A British NGO has serious problems with procurement for a BL 21-02-03 grant for Tajikistan as cost effectiveness dictates that they buy 4x4 vehicles from local suppliers. However, the only supply available is of Russian origin which will require a derogation to purchase the vehicle as it is not produced in a developing country. Similarly, they also need to purchase specialist wheelchair equipment and tools from local suppliers. These are made in the United Arab Emirates, also requiring a derogation.

There also seems to be confusion within AIDCO as to the exact date of application of this rule. NGOs were recently informed by F/2 that also projects for which payments have been made in 2003 would have to observe the procurement rules!

Recommendation:

The European Commission should clearly inform NGOs about the list of eligible countries for the procurement contracts per budget line managed by AIDCO.

In any case priority should be given to ensuring that the materials and equipment acquired under a project are those which best meet local needs and are most appropriate in terms of quality, cost, availability and maintenance.

A threshold for the application of the rule of origin and the rule of nationality must be set, because a certificate of origin cannot be given for small purchases. In that respect, we recommend to apply the rule of origin and nationality only when a consultation to the market is required (that is to say above the 5.000 euros threshold for service, supply and work contracts). In addition, certificates of origin should only be required for single-item purchases of over €5,000, and multiple-items in a single purchase of over €10,000.

Finally, in line with all other new rules imposed by the FR there should be no retroactive application to projects already under implementation as this will only lead to more problems.

Contingency reserve (abolished) (SC General Conditions Article 14.4)

Main Problem:

- Exclusion of the contingency reserve from the budget does not reflect the needs during implementation of (multi-annual) programmes in the field (unforeseen events or unexpected costs increases)
- It will make it much more difficult to respect the actual budget ceiling

Explanation:

The contingency reserve is an important part of each operation in order to a) respond to unforeseen incidences and b) to compensate for unexpected costs increases. Taking contingencies out of the project budget would reduce the flexibility of the budget line even further and does not reflect the realities of development planning and implementation.

Concrete examples:

In November 1999 a B7-6000 grant application for a project in Peru had been submitted the budget of which had been calculated with the exchange rate of 1 EUR = 1,05549 US\$ valid at that time. The transfers of funds effected between May 2000 and March 2003, however, showed an average exchange rate of 1 EUR = 0,92637 US\$ only. As a consequence the project had received about 89.000 US\$ less than originally foreseen. Without having being allowed by the EC to use the contingency reserve to compensate for these exchange rate loss the project would not have been able to complete its activities.

Recommendation:

Reinstatement of the contingency reserve is necessary and would restore to some degree the flexibility of EU funding.

Payment procedures (SC General Conditions Art. 15.1 and 15.2)

SC, Art. 15.1 (Option 2 as example): The Contracting Authority shall pay the grant to the Beneficiary in the following manner:

- an initial pre-financing instalment of 80% of that part of the estimated budget for the first 12 months financed by the Contracting Authority (...) within 45 days of receipt by the Contracting Authority of (...);
- further pre-financing instalments of the amount specified in Article 4 of the Special Conditions within 45 days of the Contracting Authority approving an interim report in accordance with Article 15.2 (...);
- the balance within 45 days of the Contracting Authority approving the final report in accordance with Article 15.2 (...).

SC, Art. 15.2: Any report shall be considered approved if there is no written reply from the Contracting Authority within 45 days of its receipt accompanied by the required documents.

Main problems:

- Retention of the last payment until final report approved by the EC (10% up to 90 days)
- Delay of payments at least up to 90 days after accompanying report has been recorded at EC

Explanation:

Payment procedures allow the EC to retain 20% of funding from year 1, and a minimum of 10% of the entire contract value until the project implementation report is accepted. The payment of each tranche is withheld until the accompanying report is accepted. Once accepted, payment should be received within 45 days, however, every time the report is questioned this 45 days deadline starts again, thus producing more delays with payments, while the programme continues, using NGOs or other donor funds. The cumulative effect of end loading of payment is damaging, particularly as (contrary to private companies) many NGOs lack the financial capacity to bridge finance.

Cash flow problems caused by delays in the release of planned tranches can also create a bottleneck at the partner level and the problems experienced by Northern NGOs are passed on to their Southern partners. In some ways these problems are felt more acutely because all of their funds are assigned. They do not have the unrestricted reserves to compensate for cash flow problems, and many will be tempted to divert designated grants. This can have unhealthy implications for financial controls and monitoring systems for the organisation.

Concrete examples:

One British organisation currently has 3 funding contracts with the EU which has resulted in a pre-financing of 380.000 € worth of projects. This amount is much bigger than the organisation's unrestricted reserves and the resulting cash flow problem has effectively put a barrier on any new applications the organisation wants to undertake. Organisations can respond to cash flow problems by either being in possession of substantial unrestricted reserves, or by taking out bank loans. However, the very nature of voluntary organisations means that they can find it very hard to secure a bank loan. According to member-research by the UK Charity Finance Director's Group, many banks do not understand the idea of restricted funds, and are unwilling to give loans unless the organisation has no money in reserves at all.

The problems raised here also combine with the financial guarantee issue, so that an NGO with a €1 million EC contract may have to put €1 million on reserve in a bank and then pre-finance an additional €100,000, based on the very amount they've had to put in reserve.

On the partner's side another implication could be in terms of statutory compliance. In India for example the government permits tax exemption for charities as long as 80% of the annual income is expended in the financial year. End loading of payments challenges this, as "income" for the first year may not be received until three or four years later. Southern charities could therefore be left with large unjustified balances at the end of the financial year and be required to pay taxes on the total income.

Recommendation:

For the sake of a smooth project implementation the pre-financing rules should be deleted completely. If this is not possible, NGOs should at least be given the right to charge interest on the pre-financed amount from the moment the first tranche is paid until the balance is settled.

Amendment of the contract (SC General Conditions Article 9)

SC, Article 9.1: (...) If an amendment is requested by the beneficiary, he must submit that request to the Contracting Authority one month before the date on which the amendment should enter into force, unless there are special circumstances duly substantiated by the Beneficiary and accepted by the Contracting Authority.

Main problems:

- Lack of flexibility in the contract interpretation and application lead to an inflation of requests for contract amendments
- Contrary to the obligation of the beneficiary to respond to requests as a rule within 30 days, there seems to be no deadline for the contracting authority to respond to request from the beneficiary

Explanation:

All changes to the planned programme must now be incorporated into a full contract amendment, involving a submission of the changes, discussion with the Commission and, if approved, three copies of the contract amendments being drawn up and signed. As a consequence of the strict rules to be followed, a huge number of contract amendments is being drawn up by NGOs each year.

The request for a contract amendment must be submitted to the EC one month before it shall enter into force. However, since there seems to be no deadline for the contracting party, the EC can take longer than one month to provide answers so that by the time NGOs receive an official answer the amendment would need to have been in force – i.e. the project is either held up or gambles on assent from the EC.

In this context it is also interesting to note that contrary to the 1 month deadline stipulated in the SC, F/2 is recently insisting to receive the requests for contract amendments at least 2 months before the change shall enter into force – it seems that otherwise they are not in position any longer to deal with the amount of requests.

The EC have informed some NGOs that they can only deal with one amendment request on a contract at a time and cannot process a new request until the previous one has been dealt with. This makes the contracts unmanageable as changes to projects often have to be made for developmental reasons and will not necessarily wait for the procedures of the Commission, which either leads to project delays, or the NGO effectively gambling that the EC will agree. Thus to get 3 amendments agreed, it is necessary to either combine them (which some EC desk officers won't allow) or request the first amendment 3 months in advance (in the case of AIDCO F/2 even up to 6 months) which is just not always possible.

Concrete examples:

A project under BL 21-02-03 was meant to finish at the end of March 2004. The NGO requested an extension more than 2 months before, but as they had also requested changes to the budget (which were rejected for reasons not clearly explained) they were told they could only submit one request at a time. They are still waiting to hear about their extension request. Therefore by the end of March they still did not know whether the project was finishing in a week's time or in 6 months, despite following the Commission's procedures.

Another NGO was recently informed by AIDCO/F2 that the number of items per budget heading was contractual. So for instance if you want to buy 4 (cheaper) computers instead of the 3 (more expensive) computers initially planned, this would need a formal prior approval of the EC.

Recommendation:

The only way to deal with these problems is to absolutely minimise the conditions under which an amendment is necessary, to reduce the administrative workload and allow development programmes to be what they must always be, flexible and reactive to situations and new knowledge on the ground. This is not to say that the project can change in its substance, or main objectives, but that for example changes in financial allocations must be able to be made in advance and reported on in annual accounts. Reporting should be based around the impact and process of the project, not almost purely on accounting, as agreed in the Palermo discussions.

In addition we would plead for the possibility for desk officers to be able to approve minor amendments and not to make them object for a compulsory official contractual change. Big changes, such as new budget headings or requests for extension of the programme, should naturally be subject to official contractual change.

Budget deviations of more than 15% (SC General Conditions Article 9.2 and Annex III)

SC, Art. 9.2: However, where the amendment does not affect the basic purpose of the Action and the financial impact is limited to a transfer within the same budget heading, or a transfer between budget headings involving a variation of 15% or less of the amount originally entered under each relevant heading for eligible costs, the Beneficiary may apply the amendment and inform the Contracting Authority accordingly in writing. (...)

Main problem:

- Lack of flexibility in budget margins
- Heavy administrative workload due to frequent requests for contract amendments

Explanation:

NGOs appreciate the increase of the margin from 10% to 15%, however, still believe this margin as much too narrow. Even if the rule only applies to the main headings (i.e. 1. "Human Resources" to 5. "Other Costs") – which still needs to be made clear to NGOs! – the margin of 15% is very small and can easily be reached depending on the amount originally budgeted.

Concrete examples:

Take for example budget heading 5 – where often only audit costs are included. Say you have included €3,000 for 3 audits. This would only have to change by €451 to require a contract amendment.

Also the time-consuming approval process (see above, start of the project) makes it very likely that the budgets are soon out of date and need adjustment (e.g. because of exchange rate deviations, increase in prices or new fees or duties introduced since the project had been planned). Especially in the case of purchases of equipment the 15% is then easily reached.

Recommendation:

NGOs recommend a greater flexibility in this matter, for example by stating that deviations between budget headings must not seek prior approval as long as excess expenses in one heading are compensated by savings under another heading. Otherwise this rule will continue to produce contract amendment over contract amendment. It also has to be made very clear to which headings the 15% (or any other) deviation rule applies to, i.e. to the main headings (1.-5.) as already explained in the frequently asked questions regarding the calls for proposals under the co-financing budget line.

External audit of the action's account (SC General Conditions Article 15.6; Annex VI)

FR Article 56 (Part I, Title IV Implementation of the Budget, Chapter 2 Method of implementation), paragraph 1 (d): (1) Decisions entrusting executive tasks to the bodies and agencies referred to in Article 54(2) shall include all appropriate arrangements for ensuring the transparency of operations carried out and must comprise: (...) (d) an independent external audit

IR Article 180 Supporting documents for requests for payments: (2) (...) An external audit shall be compulsory: (a) in the case of grants for an action, in respect of the following payments: (i) pre-financing or interim payments the sum of which exceeds EUR 750.000 per financial year and per agreement; (ii) payments, of balances, which exceed EUR 150.000; (b) in the case of operating grants, in respect of payments which exceed EUR 75.000 per financial year.

Main problems:

- Heavy and complex audit requirements (country-based in multi-countries programs)
- Payment of advances suspended to heavy audit requirements – cash flow implications
- Nomination of auditors and ToR drafting by the EC – time constraint and lack of clarity on the scope of the audit(s)
- Superposition of EC constraints on NGO own auditing system
- Article 15.6 of the Standard Contract being even stricter than the Financial Regulation's implementing rules

Explanation:

It is understood that contrary to the previous contract version an organizational annual audit of the applicant NGO is not accepted anymore but that in any case the audit has to be project-specific. Based on the scope of the programme this may become a very complex process (e.g. country-based audits in multi-country programmes). The heavy and complex audit requirements also disregard the way in which the majority of European NGOs work with their Southern partners in this regard. (see Article on exchange rates). In this context it is interesting to note that while in the case of the balance payment the IR only ask for an external audit when this balance payment exceeds 150,000 euro (i.e. if the contract is worth at least €1.5 million), Art. 15.6 of the SC requires such an audit for the balance payment when the entire grant is more than 100,000 euro.

Requiring the auditor to be an « *approved auditor, member of an internationally recognised supervisory body for statutory auditing* » (SC, Art. 15.6) bears the risk that this type of auditor are generally more expensive and do not know very well the functioning and specificities of NGOs.

Finally, in many instances the EC rules are superimposed on the regular auditing system of the NGO (in the North as well as in the South) in their national context. It is clear that all this means a significant increase in audit costs and significantly more bureaucracy. Also the new audit forms seem to be adding more bureaucracy for no apparent reason.

Concrete examples:

1) ActionAid has two multi-country projects that are covered by the new standard contract. The first is funded under the Food Security Budget line involving 11 core countries and 21 other participant countries from the south and 7 other participant countries from the north. The second is a Block Grant funded under BL 21-02-03 and involve range of projects on education in 8 Countries. As the intermediate payments will take the pre-financing in total to over €750,000, ActionAid must perform an audit for the reporting period in both cases. EC AIDCO Unit F5 informed them that for the Food Security Network, the audit must be separate from the overall ActionAid Audit, yet provide certification of all local expenses in all countries where funds have been spent during the reporting period. This could mean an audit for a possible 39 countries that would lead to huge expense – not just in audit fees but also in co-ordination and information collation costs. Given the level of budget, and the amount of countries it is split between, it is feasible that in some countries the cost of an annual in-country audit could be greater than the project cost spent in each country.

2) Where there is the need for annual audits (pre-financing exceeding 750.000 euro or operating grants with payments of more than 75.000 euro per year) the audit requirement will easily lead to cash flow problems: Example: A project's accounts are audited as per 31st of December 2003. Based on experiences the audit report will not be finalized before the end of February 2004. After submission of the respective report towards the EC it may take up to three more months until the next payment is received (see payment procedures above), meaning a delay in the cash flow of up to five months. The situation becomes worse if the audit does not show the expenditure of at least 70% of the previous EC payment. Then the NGO will either have to wait for the next regular audit of the Southern partner or ask for an extraordinary audit as soon as the 70% are spent, increasing once again an increase in audit costs. This only adds to the cash flow problems NGOs are already facing because of the payment procedures as already outlined above.

3) For a 5 year project with €750,000 contributed by the EC, only 1 audit would be mandatory. However, 1 audit to cover 5 years of a project would be incredibly expensive and time consuming (particularly considering the final report would be due 3 months after the project finished). Thus NGOs would be forced to undertake annual project audits, even where they aren't required, in order to avoid auditing the entire project at once.

Recommendation:

It seems very important that the EC clarifies a) what exactly they consider as a project-specific audit, b) the nomination of auditors and the Terms of Reference for auditing, and c) the scope of the audit(s). The EC should also respect NGOs accounting procedures. For example in the UK legal bodies regulate charities, and ensure that standard accounting practices and procedures are followed. In this case an annual organisational audit and proper financial reports should be sufficient. If Audit reports are required they should not be exaggerated and inflated, but be appropriate, realistic and respecting the national context of the action in question.

Many NGOs have regular external and internal audit processes which fulfil their statutory reporting requirements and the requirements of other institutional donors. For ActionAid for example KPMG have a rota for auditing each of their country programmes and the internal audit team audit each programme every 2 years. The Commission should place reliance on such kind of regular audit processes already existing in NGOs and not impose costly additional processes.

Deadline for final report (SC General Conditions Article 2.4)

SC, Art. 2.4: (...) the final report shall be forwarded no later than three months after the implementation period as defined in Article 2 of the Special Conditions. The deadline for submission of the final report is extended to six months where the Contracting Authority is a service at the headquarters of the European Commission.

Main problem:

- Excessive administrative workload due to inevitable requests for extended reporting deadline due to exceedingly short reporting intervals

Explanation:

The deadline of 3 months to submit the final report is much too short and ignores the modalities of project cooperation between European NGOs and their Southern partners. It is insufficient time to undertake reporting, evaluation and final project audits. And with the deconcentration, the number of contracts that will fall under the "3-month requirement" (instead of the previous 6-month delay) for final reports will rise.

Concrete examples:

As a rule, the local partner would have the local project audit executed after the project books have been closed and the internal accounting has been consolidated. Depending on the size of the programme this audit might take several weeks and it cannot be expected to start at day 1 after the project implementation is finished. Afterwards the audit might have to be scrutinized by the European partner and supplemented by its own financial data which again would become subject

of an audit. Also in light of end-of-project evaluations the deadline of 3 months of (executing?) and reporting on that evaluation is too short. As a consequence, this strict rule may only result in an increased number of request for extended reporting deadlines to be administered by the Commission (or Delegation in charge). Finally, it is surprising to note that (referring to BL 21-02-03) for development awareness projects where the Contracting Authority is supposed to remain the European Commission the deadline shall remain 6 months.

Recommendation:

It is strongly recommended to retain the 6 months period for submission of the final report for all types of projects.

Technical and financial checks (SC General Conditions Articles 16.2, 16.3)

Main problem:

- EU inspections up to 7 years after balance payment require an extended duration of keeping the records
- Some of the prescribed documents to be kept seem to only increase paperwork and may contradict national book-keeping standards

Explanation:

Why can audits now take place up to 7 years after that project has been finished, rather than 5 years? This means keeping paper records for up to 12 years (for a five year project) which seems excessive. These rules do not seem to take proper account of regional differences and national practices. It cannot be that local partners only for the sake of complying with the rules of a single EU-co-funded project eventually have to re-structure their entire accounting and book-keeping system. Some rules like the details required for the consumption of fuel and oil also seem to only add more bureaucracy for no apparent reason.

Concrete examples:

In Germany records must be kept for potential audits up to 5 years after final project accounting. In the UK it is 6 years. Also in the beneficiary countries the deadlines are shorter, e.g. Ecuador 6 years, Columbia 5 years.

Recommendation:

It needs to be ensured that the EC rules are in line with the national rules regarding inspections after balance payment. The proper keeping of books and accounts must be appropriate and not be exaggerated.

Ownership – proof of transfers (SC General Conditions Article 7.3)

SC, Art. 7.3: By the end of the implementation of the Action, the equipment, vehicles and supplies paid for by the Budget for the Action, must be transferred to any local partners of the Beneficiary of the final recipients of the Action. Copies of the title transfers must be attached to the final report.

Main problem:

- Attaching copies of title transfers to the final report only increases the paper work for no apparent reason, especially since there seems to be no threshold involved.

Explanation:

While accepted as a principle in project implementation (and thus part of the agreement between the European NGO and its local partner), to proof the transfer of properties, equipment, supplies etc. by submitting copies of title transfers is just more paperwork. The proof is for example not in all circumstances required by DFID or BMZ, so why for the EU?

Concrete examples:

Multiple purchases will be the most difficult. How can you draw up a title of ownership for an open half bag of cement?

Recommendation:

It is recommended not to ask for the proof of transfer with the final report, but to insist on the fact that proofs of transfer must be kept by the NGO in case of an audit (as any normal supporting documents). The need for proof should also be restricted to high value items of say €5,000 (single value) or greater.

Repayment of interests earned (SC General Conditions Article 15.10)

SC, Art. 15.10: Any interest or equivalent benefits accruing from pre-financing paid by the Contracting Authority to the Beneficiary shall be mentioned in the interim and final reports and refunded to the Contracting Authority at its request, in accordance with Article 18. They are not taken into account when calculating the sum total of pre-financing under the Contract.

Main problem: Contrary to the previous version of the standard contract, the current contract no longer allows interest earned to be used in addition to the funds granted by the EC. Instead the interest earned is set off against the EC contribution approved. Especially in light of the fact that no threshold is given and that the calculation of interest earned on EC funds transferred to the beneficiary country is always artificial, this restriction seems unnecessary and only derives the project from some more potential income in favour of the activities to be executed.

Recommendation:

It is recommended that like before NGOs are allowed to use the interest earned on EC funds to the benefit of the project as long as the EC's percentage share to the total costs is not negatively affected, i.e. increased. If interest needs to be refunded there should at least be a threshold in order to avoid unnecessary complex calculations on small interest amounts.

Recovery (SC General Conditions Article 18.3)

FR Article 73 (Part 1, Chapter 4 Liability of financial actors): (1) (...) The accounting officer shall recover amounts by offsetting them against equivalent claims that the Communities have on any debtor who himself/herself has a claim on the Communities that is certain, of a fixed amount and due.

Main problem:

- Off-setting re-payments against payments could potentially cause great delay in activities and negatively affect projects which run smoothly.

Explanation:

The possibility to offset re-payments for one project against payments due for another project may unnecessarily negatively effect the implementation of this second project. Particularly as this now relates to all EU contracts, not even just those under the same budget line (e.g. ECHO contract money offset against a 21-02-03 contract). This will make it far more complex to reconcile the project specific bank account that the EU is mandating for all projects, as the income shown in the bank statement will not equal the actual contribution of the EU to the project as shown in any audit or financial reports.

Recommendation:

It is recommended that the EU should wait for NGOs to reimburse the amount owed, as before. If this is not possible, the NGO should at least be allowed to "top-up" the project specific bank account with the amount deducted, which then makes the project specific account an open one for transactions, rather than just for the EU payment.

Right of contract termination (SC General Conditions Article 17.4)

SC, Art. 17.4: In addition and without prejudice to the right to terminate the Contract in accordance with Art. 12.2, the Contracting Authority may, by a duly reasoned decision, if the Action is not implemented or is implemented poorly, partially or late, reduce the grant initially provided for in line with the actual implementation of the Action on the terms laid down in this Contract.

Main problem:

The rule that the contracting authority can reduce the grant initially provided if it feels that the action is “not implemented, implemented poorly, partially or late” raises some concerns. NGOs fear that this rule gives a lot of space for subjective decisions of EC staff in charge to judge a) whether a project is poorly implemented or b) whether the risks stipulated in the application’s log frame sufficiently justify problems in the project implementation.

Recommendation:

Ideally if there is poor, partial or late implementation this should be solved with the relevant NGO. Based on a dialogue process the problems should be addressed, even going as far as keeping the option open of closing down the project, but then it should be with the consent of the relevant NGO.

C. ISSUES OF A MORE GENERAL NATURE

Language of supporting documents (no reference in SC except for Article 2.3 stating that the reports shall be drafted in the language of the Contract)

Main problems:

- Disrespect for officially recognised EU working languages
- Time consumption and additional cost in having documents translated

Explanation:

While it is understood that for the sake of a transparent communication between the European NGO and the Southern partner all project relevant information (application, budget, project agreement between the two partners, reports) should be in the language of the developing country, there is great concern among European NGOs on the tendency to restrict also official documents on the European level like the Standard Grant Contract to the four languages English, French, Spanish and Portuguese. This contract, however, is to be signed by the European NGO and it should go without saying that such an important document should be available in the language of the contracting party.

Also the tendency of some budget lines to require even the translation of the NGO’s legal documents like statutes, by-laws, annual report and audit reports shows disrespect for other official working languages recognised by the European Commission.

Concrete examples:

For the Calls for Proposals on budget lines Environment/Tropical Forests (21-02-05) and Population/Reproductive Health (21-02-07-03) German and Austrian NGOs have been required to translate also their organisational audit report into English or French.

Under budget line 21-02-03 it is foreseen that even for development awareness projects implemented by European NGOs in their own country or together with other European countries the language of contracts (and subsequently of all reports) shall be restricted to English, French, Spanish and Portuguese.

Recommendation:

The officially recognised EU working languages have to remain acceptable languages at least for grant contracts as well as for all types of supplementing documents in all budget lines.

Visibility (SC General Conditions Article 6)

SC, Art. 6.1: Unless the European Commission agrees or requests otherwise, the Beneficiary must take all necessary steps to publicise the fact that the European Union has financed or co-financed the Action. Such measures must comply with the relevant rules on the visibility of external actions laid down and published by the Commission.

Main problem:

- Additional burdens on local partners due to excessive EU visibility requirements.
- The EU visibility guidelines for external actions referred to comprise a set of compulsory guidelines hardly manageable by many NGOs and their local partners.

Explanation:

As can be proven by statistics, the EU contribution for projects funded under BL 21-02-03 on average represent only 50% of the total project costs. While it is understandable that the EU is interested in making their development efforts visible this should be kept in reasonable limits. The expectations expressed in Article 6 of the SC and particularly in the EU Visibility Guidelines for External Actions are exaggerated in the eyes of many European NGOs and may impose unnecessary additional burdens on their local partners.

Concrete examples:

It is quite known that in conflict areas a high degree of visibility could make the NGOs a target if there is opposition to the EU, or if EU peacekeepers are involved, it could be seen as a military target.

Also, it is going to be costly for new contracts, as it won't have been included in the budgets.

Recommendation:

Provided that there is no risk for the local partner or the beneficiaries involved (e.g. conflict areas) NGOs agree that

- the final recipients of the project shall be informed on the European Union's financial contribution
- this information is also provided in internal or annual reports as well as when dealing with the media
- official, published documents should bear the credit and disclaimer "this was funded partly by the Commission, but doesn't reflect its opinions etc." (ref. SC, Art. 6.3)

Other items, such as flags, stickers etc should be voluntary for a co-financed project, not mandatory. And the EC should provide these items ready-made, when requested.

D. CONCLUSIONS

NGOs fully recognise the importance of ensuring the accountability of the execution of the EU's budget. However, the Financial Regulation and in particular the new Standard Contract is excessively administratively burdensome for external actions when compared to other donors contractual procedures. The examples above clearly show that the requirements place the majority of reporting effort on detailed accounting, not on programme learning. The examples also plainly illustrate that an increasing amount of financial and human resources are forced to be dedicated to support costs and administrative burdens, instead of focusing on the actual programme activities. This is neither an efficient, nor an effective use of resources and constitutes an unnecessary waste of aid money. While NGOs are absolutely aware that financial accountability is important we would urge the EC to ensure that the system of financial control in relation to grants for NGOs are proportionate, consistent and workable – both for prospective grant-holders and for the Commission officials.

*CONCORD FDR, subgroup on Financial Regulation issues
15th of April 2004*

Follow up first meeting CONCORD /EC (June 5 2004) annexe from a Commisionner Nielson letter to CONCORD (June 17 2004)

**NGO financing under the Financial Regulation
Complaints by CONCORD
Explanations provided, actions to take, points of disagreement**

1. points where explanations have been provided

	Complaints by CONCORD	Explanations
1.1	Lack of transitory period for the introduction of changes to the rules	The new Financial Regulation did not foresee any transitory period for its entry into force (although EuropeAid was granted 6 months to revise the Practical Guide).
1.2	Fear of retroactive application of new rules	There may have been cases where new rules were (wrongly) applied to ongoing contracts, but EuropeAid instructions are clearly that the new Financial Regulation only applies to contracts signed after 1 January 2003.
1.3	Restrictive application of the rule on retroactive financing	This is not the case. Retroactive financing is allowed provided the applicant can demonstrate the need to start the action before the contract is signed, as provided for in the Financial Regulation (art. 112).
1.4	Excessive requirements on bank guarantees	The rules applicable by EuropeAid are lighter than those applied by the rest of the Commission (see art. 182 IR). In addition the cumulated prefinancing under a contract is cleared as it builds up (on the basis of the audit reports), so that the threshold above which a bank guarantee is required is hardly ever reached.
1.5	Different procurement rules for individual budget lines managed by EuropeAid	The same procurement rules (decided by the Commission on 25 March 2003) apply to all contracts for all NGOs on all budget lines managed by EuropeAid. Rules of origin will however continue to differ from one budget line to the other until the regulation on untying is adopted, due to the differing provisions of the various legal bases in this respect.

1.6	Fear of “quotas” of derogation approvals per directorates	There are no such quotas.
1.7	Lack of clarity as to scope of audits	Audits are meant to certify that expenses incurred by NGOs in implementing projects are eligible to EC funding and have been incurred in accordance with contractual provisions, to serve as a basis for payments.
1.8	Concern about EC right to reduce grant if the action is implemented poorly, partially or late.	This provision is contained in the Financial Regulation (art 183 IR); EuropeAid introduced a contradictory procedure in the standard grant contract.
1.9	Visibility requirements are too cumbersome	The visibility guidelines for external actions impose lighter requirements than CONCORD fears.

2. points requesting actions

Complaints by CONCORD	Actions to take by the services	
2.1	Fear of inconsistent practices for contract management by devolved delegations	There is a need to increase resources for training and coordination in EuropeAid.
2.2	Excessive requirement of action-specific bank account	Modify the wording of the standard grant contract to clarify that NGOs may either open a specific bank account or sub-account, or have accounting procedures which allow EC funds to be identified and interests produced by such funds to be calculated.
2.3	Lack of a list of eligible countries for procurement per budget line managed by AIDCO	Produce a list.
2.4	Disappearance of contingency reserve in new standard grant contract	Obtain consensus among Commission services as to the possibility to include a contingency reserve in a grant.
2.5	Excessive number of project audits	Raise the threshold above which an audit report is required from the NGO together with the request for final payment, up to a level still to be determined. This should be accompanied by an increase in the number of audits carried out by the Commission.

2.6	Deadline for final report will become too short in the case of contracts signed by deconcentrated delegations	Adapt the standard grant contract so that the reporting deadline remains of 6 months for contracts signed with European NGOs and involving local partners.
2.7	Request to prove the transfer of ownership of equipment and supplies together with the final report, including for small value items, is too cumbersome	Clarify standard grant contract, distinguishing equipment and supplies.
2.8	Supporting documents not accepted in all EC official languages	Modify Practical Guide so that in the context of calls for proposals supporting documents are accepted in all EC official languages.
2.9	Lack of specific procurement rules for food aid	Procurement rules for food aid are contained in regulation n° 2519/97 ("mobilisation regulation"). Since CONCORD claims that they are not adapted to procurement by NGOs, EuropeAid will look further into the matter.
2.10	Lack of flexibility in budget margins, entailing too frequent requests for contract amendments	The standard grant contract is more flexible and does not require as many amendments as CONCORD thinks it does. It will be clarified to limit the risks of useless amendments.
2.11	Fear that recoveries by offset may impede project implementation	The applicable rules are not as strict as CONCORD thinks they are. EuropeAid is finalising instructions so as to favour repayments before offsets are made.

Action requiring Commission decision

2.12	Absence of threshold for the production of certificates of origin for equipments and supplies	Modify part V of "Rules and procedures for service, supply and works contracts financed from the General Budget of the European Communities in the context of cooperation with third countries" to introduce one.
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Action requiring Council decision

2.13	Rules of origin for procurement under grant contract are not harmonised	Adoption of the Commission proposal for a regulation on untying.
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3. points where CONCORD's contentions cannot be upheld

	Complaints by CONCORD	Commission position
3.1	Use of exchange rate not corresponding to actual rates	Use of Inforeuro as opposed to actual rates is meant to prevent fraud. Use of monthly rate is more complex to manage for NGOs than previous system of one single rate per reporting period, but it limits the exchange risk they bear.
3.2	Absence of a threshold for the application of the rules of origin and nationality	This would be contrary to the Financial Regulation (art. 168) and will become useless once the proposed regulation on untying is adopted.
3.3	Rules on prefinancing and retention of final payment	EuropeAid implements a very high level of prefinancing (up to 90 %) and low level of final payment (10 %), agreed with NGOs in 1999. It would be contrary to sound financial management to still decrease the level of final payment retained.
3.4	NGOs not allowed to charge interest on prefinanced amount	This would not be practicable.
3.5	No reliance placed on regular audits made by NGOs	Since the purpose of audit certificates is to assess the eligibility of expenses for EC purposes, this would be contrary to the Financial Regulation (art. 180 IR).
3.6	Rules on keeping documents not in line with national rules	They are imposed by the Financial Regulation (art. 49 IR).
3.7	NGOs are no longer allowed to use interests earned for project purposes	Article 5 of the Financial Regulation imposes that such interests are reimbursed to the EC Budget.
3.8	Contracts not drawn up in all official EC languages	This would not be practicable. Contracts for external actions are drawn up in the four EC languages (EN, FR, ES, PT) most spoken in the beneficiary countries.
3.9	Commission does not provide visibility items (stickers, caps, T-shirts...) free of charge to NGOs.	EC Delegation do have limited stocks of visibility items, but there are no budgetary allocations for making larger quantities available to NGOs.

Appendix 6

National Government Procedures

6.1 Department For International Development (United Kingdom Government)

The Department interviewed runs two funds: the Challenge Fund and the Partnership Fund

Challenge Fund

This is for projects aimed at enhancing peoples' rights in the Southern Hemisphere. All projects are implemented through local partners. The role of the UK organisation is to add value in terms of technical support, capacity building, where appropriate, and in ensuring that financial and narrative reports are in the required format and submitted on time

The fund:

- For 2005 the fund will have team of 9 people managing £14 million (€20 million) to be spent on discrete projects. The monies are never under spent.
- Experts are used for project evaluation.
- The maximum grant that can be given is £0.5 million (€0.75 million) spread over up to 5 years.
- It can fund up to 100% of a project but rarely does.
- Normally revenue based expenditure (not capital projects) with no lower limit but typically maximum funding sought.

Application Process

Stage 1

1. A concept note is required, of no more than 2 pages covering intention and method. It is based on a logical framework analysis which is also used for project reporting.
2. For organisations that are new to the process Articles of Association and annual accounts are requested, or for small organisations, bank statements (to prove that they exist and have means to handle monies). There is a database of organisations that have previously made applications.
3. The concept paper is assessed by an outsourced agency of experts, who pass and make recommendations for improvement or reject, always giving feedback.
4. The experts have to reply to concept notes within 4 weeks, this is occasionally exceeded when priority is placed on proposal assessment.
5. If an applicant is not happy with the experts' decision they have a right to talk directly to DFID who review the assessment and decision.
6. A concept paper can be re-submitted, but only if it reflects the feedback given, and only once.
7. An applicant can submit concept notes once every 4 weeks for different projects.

The proposals are assessed according to the broad objectives of the fund as stated in the Fund literature. As DFID work continuously with the experts, they obtain a proper insight into the level of expertise that they are paying for.

Stage 2

The second stage of the process is a full proposal

This has to be done within 18 months of the concept note being accepted.

The proposal can be submitted at any time, but the deadline is 31 July for grants to commence from the beginning of the following Financial Year, 1st April.

The assessment of the proposals is undertaken by external experts. They use specialists where they view it as appropriate. The experts are the main contact with applicants and contact them by letter and e-mail.

DFID try to avoid direct contact with applicants regarding applications at this point in the process, but will speak to them if the applicant calls them.

The proposals are also sent to DFID for review as well as to relevant DFID Country and Policy Officers. These people are not obliged to reply, but the fund like to keep them informed and gain their opinions.

This year there were 170 proposals, normally the average is 110. Average proportion of funding is 30% to 40 % of the proposals, depending upon the funds available.

The reason for not funding is not only that the projects were not good enough, but in some years funding limitations result in good projects being rejected. Of those that pass through the Concept note stage only a tiny proportion result in inappropriate applications although the quality can vary greatly.

The funding decision is made by the DFID team after consultation with the experts and taking into account input from Country and Policy Officers. It is a qualitative process. The final decision rests with DFID.

DFID will meet with unsuccessful agencies if the applicants make a strong demand to do so.

Any organisation not funded in any year may re-apply for the next year. Every applicant is given reasons for non-funding, but only very good ones are actively encouraged to re-submit.

Applications are either funded or not, there is no negotiation over amounts requested. However, once a decision has been made to fund a project, there may be requests to refine budgets that are not clear. This is not with a view to changing the funded amount but to enable clear reporting, understanding of larger amounts, and assessment later.

No expenditure prior to the project commencement can be claimed. Some costs after the final date can, however, be claimed i.e. evaluation costs.

Ongoing management

- Each of the Challenge Fund managers has their own portfolio. Each tries to meet with the project teams funded.
- Each quarter a claim is made which is checked for accuracy and compared to anticipated expenditure according to the project work plan.
- Each year a narrative report is required from the agencies of activities which are assessed by DFID. The assessment focuses on the Logical Framework Matrix which is part of the application process.
- Monies are paid quarterly based upon claims.
- Monies can be advanced based upon requests supported by reasoning from agencies.
- Bank Guarantees are never asked for.

Organisations funded

Small & medium sized organisations, non-profit making

Payment Authorisation Procedures

An advance can be made based upon a properly submitted claim. It can be authorised by the project co-ordinator if the rationale and budget support it. The claims are received quarterly, certified by the agency, input into the project monitoring system and compared to budget.

There is a plus/minus 10% rule by line, but the co-ordinator has the discretion to pay over the 10% if it can be justified expenditure in terms of the project concept, application and management. DFID recognise that budgets produced 4 years ahead of the final year need to be considered in the light of environmental changes and project lessons. The degree of change will dictate the level of re-evaluation.

Any payment claims that are refused are immediately communicated to the beneficiary and explained in order that a revised claim can be submitted immediately.

The co-ordinating officer signs the payment approval and it goes to finance to be paid like any other invoice. There are no further checks by finance other than it has been properly approved and payee details are correct.

DFID undertakes to pay all claims within 30 working days of receipt of a valid claim. In practice claims are usually paid well within the deadline.

End of Year Report

A proportion of these are sent to the external experts particularly if they are innovative projects, or subject to change. They are required to be no more than 6 – 10 pages and report against the 'log frame' (logical framework analysis) giving lessons learnt and a score. Reporting requirements are given in the funding arrangement and will be made available on the web site. The Annual report has to be certified.

A copy of the beneficiary's annual audited accounts report is required

Audit

The DFID internal Audit department develops its own work programme, checking DFID internally, but also visiting beneficiaries.

The fund staff only very rarely request internal audit to visit a specific beneficiary in response to their suspicions being aroused. In addition the co-ordinating officers do monitoring visits.

The principal UK based contracting NGO has a responsibility to ensure accountability of the organisations down the line (i.e. those in the Southern hemisphere).

Efficiency

DFID would not give the details of the costs of the neither external experts nor detailed salaries but say that their costs are 3.5% of the value of the grants. Calculations reviewing these numbers indicate that that may not be a fully overheaded number so the report adds a further 25% for overheads bringing the efficiency percentage to 4.9%.

Partnership program

Three people manage this fund, which provides longer term (5 years or more) core funding to large international aid organisations like Oxfam, Action Aid of which a total of 19 NGOs are involved. The fund was approximately £64 million in 2004/05 and in 2005/06 is £79m

There is no annual call process, at appropriate times as policy and budget allow calls for expressions of interest will be made. After an initial sift agencies will then be invited to submit a proposal. Decisions to enter into PPA negotiations are made by DFID.

Successful PPA applicants receive funding for 5 years and will renegotiate funding towards the end of the 5 year period. There is no requirement to go through the application process again.

Claims are still made for quarterly payments. Controls require an annual report, not pre-specified format, but communications are of a much more informal manner with regular communication. Communication takes place regardless of expenditure status.

Efficiency

The administration for PPAs is 0.11% of allocated budget of £79.14m according to DFID, but again this has been increased by 25% for use in the report.

Summary

The key features of the programme are:

Challenge Fund

- DFID support NGOs to carry out the NGOs own programmes in line with DFID objectives.
- External experts are used to evaluate projects. The same group of experts are used on an ongoing basis.
- Ongoing monitoring and dialogue is seen as important.
- Payment checks are focused on work done and reviewing claims.
- External audit is relied on.
- The programme is efficiently operated.

Partnership Fund

- Strategic partnership where DFID enable experts to work.
- Monies are allocated to partners for 5 years or more.
- Ongoing monitoring and dialogue is seen as important.

6.2 Sida (Swedish International Development Cooperation Agency)

Sida is an independent Agency under the Swedish Ministry of Foreign Affairs. The Government identifies priorities for the development budget and with Parliament decides expenditure by segment and region. Sida's role is purely operational.

Sector Head of NGO division in Sector: Humanitarian Aid, Conflict Management and Support to Civil Society oversees a total budget of SEK1.2 billion (approx €130m per annum). The objective is to develop Civil Society in the Southern hemisphere – all grants must recognise this as an objective.

The agency has framework agreements with 13 major Swedish NGOs. The entire budget is allocated to them. These NGOs represent different groups such as Trade Unions, Children, Christian beliefs etc.

- SEK 521 million goes to 7 umbrella organisations that distribute monies to smaller NGOs
- SEK 561 million to 6 other NGOs who operate their own programmes

Overall it is believed that the monies reach 400 to 500 NGOs and through them, 2,000 to 3,000 NGOs clear and concise user-focused operating guidelines which include:

- General Conditions (11 pages) including rules on procurement
- Programme guidelines (5 to 35 pages)
- Audit guidelines (25 pages, but requirements vary by size of grant)

Plus there is a standard contract which may have programme specific conditions

There are two types of contracts:

1. the framework contract, which regulates the procedure of cooperation between Sida and the organisation and normally covers around 6 years
2. the contract on each Sida decision on budget allocation to the organisation, which can be of one, two or three years

Formal controls

1. Dialogue
↓
2. Policy Document
↓
3. Guidelines
↓
4. Regulation ———→ Audit
↓
5. Screening of Programme Proposal
↓
6. Screening of Programme reports
↓
7. System audits
↓
8. Direct Evaluation
↓
9. Field trips

Screening of Proposals

Each of the 13 organisations submits to Sida files detailing each of the programmes they wish to support or undertake to the full total of their allocation.

Each application must include:

- Description of recipient organisation
- The activity for which the grant is sought
- Budget broken down into sub-items depending on the type of activity

The budget approved has to be followed, but the organisation can consult Sida in the cases of significant variations. The budgets submitted are not in significant detail, but sample checks are carried out that do investigate the detail and assumptions behind them.

Sida feels that too much information prevents the organisation taking an overview and results in a loss of control. Screening reports (6) are at a high level, usually by sector by region or country e.g. Child Rights in Chile. Detailed reviews are made of some reports

System audits (7) review the framework organisations. They look at each of the 13 NGO's programmes every 5 or 6 years and focus on Policy making, implementation, finance and the role of the Head Office of the NGO in Sweden. Sida can 'punish' the NGOs financially and in rare cases has done.

The Direct Evaluations (8) are key to the ongoing dialogue between Sida and the 13 NGOs. Direct evaluations are part of the proposal costs but can also be commissioned by Sida on specific programmes. They use specialists in the field to undertake the evaluations.

The Sida desk officers do field trips.

Efficiency

Efficiency at Sida is not directly measured, but this is a minor cost area.

Staff includes 1 Director, 1 assistant and 7 desk officers. Sida could not give an estimate of the fully overheaded cost but it has been estimated for the report. If the fully overheaded cost is say on average €120,000 per person then the total of €1,080,000 would only represent 0.8% of the grant. If finance and internal audit is added the Sida cost will be around 1%. This is likely to be a maximum cost and could be as little as 60% of this.

There is no significant involvement from Sida finance staff as claims are treated as any other invoice. Sida has its own internal audit, and as a governmental body we are also under the control of the National Audit System.

The guidelines limit administrative costs of the 13 Swedish NGOs

For umbrella organisations it is 9.5% (4.5% retained, 5% for sub-grantee)

For others the administration fee is 8% (similar to the Commission allowance of 7%)

Looking at the management overhead of awarding grants:

- So the administration for half the NGOs is Sida's overhead of 1.0%
- To the Umbrella organisation's it is Sida's overhead 1.0% plus 4.5% = 5.5%
- The total average administration fee is therefore, assuming 50:50 for ease, 3.25%

One or two of the organisations that supervise small grants do suffer 'indirect' costs over and above this in offering support services, like training to the smaller NGOs to which they give grants.

Reporting

Sida have to report to Parliament each year on specified objectives.

For Civil society report on activities undertaken as in the short term changes are difficult to identify. Parliament asks for special reports for which Sida require input from the NGOs. The NGOs tend to see this as onerous.

Payment

Monies are forwarded according to expenses. This is normally quarterly in advance.

As Sida has an ongoing relationship with the 13 NGOs there is no beginning or end to the process.

The NGOs are not actually informed of the exact grant they will receive for the year until 15 December of the year before. However, there is a general understanding that it will not vary by more than 10% and informal communication enables the system to work effectively.

Summary

The key features of the system are:

Effectiveness

- Delegation to NGOs who are 'experts' in their fields
- Focus on effectiveness supported by planning, reporting and evaluations
- High level review process

Compliance

- Easy to read, focused, guidelines and requirements
- Financial control mainly through planning process and external audits

Efficiency

- Administration cost limits for 13 NGOs below 5.5%

6.3 Danida: Danish Ministry of Foreign Affairs

Danida is the development assistance arm of the Danish Foreign Ministry. It is a fully integrated service of the department, and follows general rules set out for public administration. It should be noted that due to the small size of the country; the population of potential NGO collaborators is relatively small and homogenous, which may facilitate cooperation.

Presently five large NGO's have a special status in the programme as they have negotiated annual framework contracts (with a rolling budget perspective). They are selected based on their capacity and their strategies for development work, not on the basis of individual projects. The list of framework contractors is reviewed over time, and NGOs can be included or excluded. Under these contracts, and based on acceptance of institutional capacity and strategies, very little detailed control is carried out, although sample inspections do take place.

Total budget available for framework contracts 2005: DKK 356 million (€48.1 million).

Besides the framework contracts there are two calls for (other) proposals annually. Other NGOs can participate. Total budget for these projects is DKK 361 million in 2005 (€48.7 million).

In principle all budget appropriations are annual, but multi-annual projects are also financed under a budget framework where the allocation for each year is made. Budgets may include financing some strategy development, but is mainly activity based, and will never include institutional support (core financing).

Award:

The Danish NGO community is well aware of procedures and when calls for proposals are made, so advertising is only a formality. The main lines for award are published in general guidelines, revised with long intervals. Applications are evaluated internally (sometimes with input from Danish missions in recipient countries) and only in the special Aids/HIV programme is external experts involved.

The process is rather informal, and there are frequent contacts between the administration and NGOs.

The administration has generally been simplified by moving away from checks of individual projects (only by sample checks), and demanding an audit by a statutory auditor for each NGO. In other words the check is 'privatised' and has become a responsibility of the individual NGO and their auditors. The focus has moved towards review of strategies, results and outcomes.

The process of approvals takes about 6 months. There are two calls for proposals per year.

A service called 'Projectrådgivningen' has been set up. It is in fact a service that provides assistance for NGOs to improve their administrative and delivery capacity. This also means that new NGO's can get support to manage projects. They would typically be awarded smaller projects initially while they receive support. They may also be advised to enter into consortia, and this way they can develop their standing with Danida (and other donors).

In the light of the Danish experience it greatly improves the quality of managing projects, and reduces the administrative time from Danida.

Costs paid:

Financing is always 100%, so no co-financing is required. An administration fee of 7% is common, and sometimes overheads are allowed. Little budget flexibility is allowed, but a reserve of 10% is often built into the project budgets. NGOs can move up to 10% of costs from one budget line to another without consulting Danida.

Payments are made twice per year on the basis of a cash-flow plan from the NGO. Thus all financing is 'advance payment'. Payments are made very quickly, and no bank guarantees are required. However, the funds are placed at a special bank account, and Danida has a priority right to the funds in case of failures. Only three signatories are required for payments, which happens promptly.

Auditing takes place with the NGO and with the assistance of their statutory audit firm.

Performance indicators

The general guidelines for the NGO cooperation are published, and are only revised every 10 years or so. The general line is to move towards output performance reviews rather than review of individual projects and to review strategies in the light of the outcome (and sometimes impact) analysis.

Efficiency

No efficiency figures were available, however it can be seen from the process and the similarities with DFID and Sida that the costs of administration will be low.

Summary

- Combination of strategic partnerships and project funding.
- Reliance on external audit
- Funding in advance.

➤ **6.4 Big Lottery Funds**

The fund is made up of 2 funds:

- The Community Fund
- New Opportunities Fund

In 2003/4 they were independently managed, and the efficiency numbers have been taken using the published accounts for these years.

Community Fund

The principal activity is to give grants mainly to help meet the needs of those at greatest disadvantage in society and also to improve the quality of life in the community. It is a UK based fund although 6% of funds go outside the UK.

New Opportunities Fund

The principal activity is to make grants to education, health and environment projects under initiatives specified by the Government.

Efficiency

The costs used for this calculation are the full costs as they are from the organisation's published accounts. They therefore include all costs of finance and budgeting, administration and internal audit. When looking at the measures of efficiency for the Commission, these support costs may have been understated by a significant margin. The analysis uses 7% rather than the estimated 29%).

The new opportunities fund state that the administration costs are 5.2% over the life of the fund.

The Community fund has lower efficiency but gives out very small grants.

Performance Indicators

A lesson that can be taken from these funds are the performance indicators which the funds publicly report against.

Examples include:

- To meet the published commitments target date for funding under each programme.
- To communicate decisions and agree grant contracts within published timescales.
- To review our Customer Care Charter by December 2003
- To review the customer care surveys by September 2003.
- To meet the published assessment deadline dates for each programme.
- To keep running costs to between 5% and 7% of income over the lifetime of the Fund.
- To inform key stakeholders and the general public of the Fund's affairs on an ongoing basis.

It would be very beneficial if the Commission monitored and published information along these lines.

Appendix 7

The Differences between a Call for Proposal (Grant) and Tender (Purchase)

The difference is:

- A tender is for the purchase of goods or services required by the Commission
- A grant is a donation towards an action. This implies that the action was already intended by the beneficiary.

The interview process clearly showed that the projects submitted for grants are designed by NGOs to meet the requirements of the Call for Proposal, and were not already designed.

Comparing the procedures, (table was extracted from Commission literature):

<u>Grants</u>	<u>Procurement</u>
Promotion or encouragement of an action intended to help achieve an objective forming part of a European Union policy	Acquisition of a good or a service, which the Commission needs for its own operation
Existence of a counterparty	
Granting is of unilateral nature; no equivalent bond between the specific counterparts. Expenditure has generally to match conditions, such as the drafting of reports on the use of the funds; Commission has the right to control the use of the grant	Procurement is of bilateral nature; exchange of obligations between the two parties: one provides a good/work/service; the other (Commission) pays it
Initiative of the action	
Generally with the beneficiaries of the grant, who either organize or launch an action, or propose to the Commission an action that this wishes to support	With the Commission, who defines precisely the terms of reference for the goods, works or services requested
Ownership of results	
With the beneficiaries of the grant, conceded to the Commission	With the Commission
Importance of the financial participation	
Part of the total cost	100% of the price
Methods for implementation	
Call for proposals	Call for tenders

It can be seen that the Commission's view does not fit the reality. It is the Commission through the Call for Proposal that initiates the action.

In reality, the differences between a Call for Proposal and a Call for Tender are:

1. If the task is completed with a Call for Proposal with a different cost structure to that originally agreed, then the beneficiary loses part of the maximum contracted payment. In a Tender the service provider only has to deliver the service contracted.
2. In a Call for Proposal the beneficiary keeps title, but there is usually nothing that has a monetary value to keep title to, the main exception is research.
3. A beneficiary of a Call for Proposal cannot make a profit, but a service provider from a Tender can make a profit,
4. The Commission only pay part of the cost (rare exceptions being external actions)
5. If the beneficiary raises other monies that enable a profit to be made, the Commission will reduce the grant.
6. The cost is limited e.g. salaries are often limited to say a maximum of €450 a day, while in tenders there is no limit and charges are often over €1,000 a day
7. The task in a Call for Tender may, or may not be, more specifically prescribed as part of the Call

In summary, the main difference is that the Private Sector would not normally be interested in applying for grants unless the Commission came up with a programme that was very similar to what they were doing anyway e.g. Research.

The Commission's major argument in support of the grant system is that there is a high level of demand. The Commission say the calls are massively over subscribed and therefore must be valuable to NGOs. This is a strong argument, but in reality relies on the desperation of the NGOs to raise funds.

The NGO Community finds it difficult to apply for tenders as often they cannot meet the financially based eligibility criteria.

Where NGOs have an advantage over the private sector in being able to undertake an action, for example because of the membership base or the high level of trust that many NGOs have, a grant is proposed. Even where the NGOs can offer real value, they are not allowed to realise it.

In these cases, the Commission should recognise the value that it is receiving from NGOs and make the terms more attractive, with the NGOs being allowed to earn full recovery of their costs.

One Commission person said that while there is an understanding that work done through Grants can cost a fraction of the money of the work done through Tenders:

- The Commission often prefer to deal with the Private sector which tends to be more financially secure (less risk of non-performance as a result of lack of funds) and more professional
- Value for money is not a key measure at the point of programme design. It only becomes key once a Tender is in process. Hence the NGOs major asset of value for money does not need to be considered

- Smaller NGOs have a reputation for academic, innocuous conclusions to studies, disorganised work and poor claims administration.

In summary, the system traps all but the big NGOs into a cycle of low financial capability, tight resources and lowly paid staff. The result is that to work for an NGO, most staff have to make financial sacrifices. The system is perpetuating this, and taking advantage of it.

High levels of grant administration further drain these limited NGO resources.

Appendix 8

Summary of the Financial Regulation and Implementing Procedures

a. Subjects covered by the Regulation

COUNCIL REGULATION (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities

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TITLE II FINAL PROVISIONS

Appendix 8

Summary of the Financial Regulation and Implementing Procedures

b. Grants

Financial Regulations

Implementing Rules

(2) This Regulation should be confined to stating the broad principles and basic rules governing the whole budgetary sector covered by the Treaty, while the implementing provisions should be moved to a Regulation on rules for the implementation of this Regulation in order to produce a better hierarchy of rules and make the Financial Regulation easier to read.

(3) The establishment and implementation of the budget should respect the four fundamental principles of budgetary law (unity, universality, specification, annuality), and the principles of budget accuracy, equilibrium, unit of account, sound financial management and transparency.

(4) As regards the budgetary principles, in particular the principle of unity, the requirement that interest on pre-financing to be repaid to the budget be identified means that any pre-financing which remains the property of the Communities must be identified. Such pre-financing remains the property of the institution unless the basic act, within the meaning of Article 49 of the Financial Regulation, provides otherwise and unless it is paid under a procurement contract, or to staff or members of the institutions, or to the Member States. This rule should be spelled out according to the type of management (direct or indirect centralised management and shared management). It does not apply to joint management since in such cases the Community funds are merged with the funds of the international organisation. Where pre-financing which remains the property of the Communities yields interest, this interest should be paid to the budget as miscellaneous revenue.

(7) As regards the principle of specification, the institutions need to have some degree of management flexibility for transfers of appropriations. This Regulation should allow integrated presentation of the allocation of financial and administrative resources by purpose. The procedures for transferring appropriations should also be harmonised for all the other institutions so that transfers of staff and operating appropriations are a matter for each institution. As regards transfers of appropriations concerning operational expenditure, the Commission may make transfers between chapters within one and the same title within a total limit of 10 % of the appropriations for the financial year which appear on the line from which the transfer is made. The budgetary authority should be allowed to constitute reserves in only two cases: where there is no basic act or where it is not certain that appropriations are adequate.

(8) As regards the principle of annuality, the distinction between differentiated appropriations and non-differentiated appropriations should be retained. Decisions on carryovers of commitment and payment appropriations should be taken by each institution. The additional periods should be confined exclusively to the cases where they are absolutely necessary, namely EAGGF payments.

(5) For the principle of annuality, it is important to clarify the meaning of annual appropriations and the preparatory stages of the commitment procedure which, if completed by 31 December, may allow the carryover of commitment appropriations which will then have to be used by 31 March of the following financial year.

(11) The principle of sound financial management should be defined by reference to the principles of economy, efficiency and effectiveness, and compliance with those principles checked by means of performance indicators established per activity and measurable in such a way that results can be assessed. The institutions should carry out ex ante and ex post evaluation, in accordance with the guidelines determined by the Commission.

(9) As for sound financial management, it is necessary to specify the objectives of the ex ante, interim and ex post evaluations of the programmes and activities, the minimum frequency with which they are to be carried out and the information to be given in the legislative financial statement.

(14) The Commission section of the budget should present appropriations and resources by purpose, i.e. activity-based budgeting, with a view to enhancing transparency in the management of the budget with reference to the objectives of sound financial management and in particular efficiency and effectiveness.

(15)...., especially as the emphasis in management is now to be on results and not on means.

(28) As regards grants, a framework for the award and monitoring of Community grants involving specific provisions for implementing the principles of transparency, equal treatment, co-financing, prohibition of retrospective awards and control should be put in place.

(27) Finally, it is necessary to delimit the contracting authorities' powers to impose administrative penalties, in order to ensure that penalties are proportionate and dissuasive and to secure equal treatment as between the various institutions and as between departments.

28) The scope of the Title on grants should also be clarified, particularly with regard to the different methods for implementing the budget, but also with regard to the type of action or body of general European interest eligible for a grant. The characteristics of the annual work programme and of calls for proposals should be specified, as should the possible exceptions in this context and the possibility of retroactive effect, particularly in the context of humanitarian aid and the management of crisis situations, for which the constraints are very specific.

(29) Again with regard to the requirements of transparency, equal treatment for applicants and the enhancement of the accountability of authorising officers, the award procedure should be laid down, from the application for the grant to its evaluation, by a committee, in the light of previously specified selection and award criteria, before the authorising officer takes his final, appropriately documented decision.

(30) Sound financial management then requires that the Commission protect itself with guarantees: at the stage of grant applications, by arranging financial audits for applications involving larger amounts; then, at the time of paying pre-financing, by requiring advance financial guarantees; and, finally, at the stage of final payment, by arranging financial audits for the requests which involve the largest amounts and which present most risk. Sound management and compliance with the no-profit and cofinancing principles also require rules to be laid down delimiting the possible use of flat-rate payments. Finally, the sound management of Community funds means that the grant beneficiaries themselves must comply with the principles of transparency and equal treatment of

potential contractors, as well as with the principle that the contract must be awarded to the tender offering best value for money when the action is partly subcontracted.

(31) Finally, powers for imposing penalties in that context should be aligned with those conferred in the context of procurement.

(39) For external actions, the implementing rules, like the Financial Regulation itself, aim to make provision for exceptions which reflect the specific operational features of that sector, mainly as regards procurement and the award of grants

(41) As for grants, it is necessary to list the types of action for which derogation is possible from the principle of co-financing referred to in Article 109 of the Financial Regulation. This applies in particular to humanitarian aid and aid in crisis situations and actions for the protection of the health or fundamental rights of peoples.

(22) This Regulation should define the typology of payments which may be made by authorising officers. Such payments must be made principally as a function of the effectiveness of the action and the results which flow from it. The rather vague concepts of advance and payment on account should be removed; payments should be made in the form of pre-financing, interim payments and payments of the final balance, when the entire amount is not paid in one instalment.

(23) This Regulation should stipulate that the operations of validation, authorisation and payment must be completed within a time limit which will be set in the implementing rules and that in the event of failure to respect this time limit creditors will be entitled to default interest to be charged to the budget

(29) In order to avoid any cumulation, it should not be possible for grants to be awarded to finance twice the same action or for operating expenditure for the same year.

(30) In a similar manner to the rules concerning the award of public contracts, grounds for excluding certain parties from the award of grants should be laid down in order to give the institutions appropriate means of combating fraud and corruption.

(31) To ensure that the rights and obligations of the institution and of the beneficiary are clear and are observed, the grant award should be the subject of a written agreement.

Article 27

1. Budget appropriations shall be used in accordance with the principle of sound financial management, namely in accordance with the principles of economy, efficiency and effectiveness.

2. The principle of economy requires that the resources used by the institution for the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price.

The principle of efficiency is concerned with the best relationship between resources employed and results achieved. The principle of effectiveness is concerned with attaining the specific objectives set and achieving the intended results.

3. Specific, measurable, achievable, relevant and timed objectives shall be set for all sectors of activity covered by the budget. Achievement of those objectives shall be monitored by performance indicators for each activity and information shall be provided by the spending authorities to the budgetary authority. Such information, as referred to in Article 33(2)(d), shall be provided annually and at the latest in the documents accompanying the preliminary draft budget.

4. In order to improve decision-making, institutions shall undertake both ex ante and ex post evaluations in line with guidance provided by the Commission. Such evaluations shall be applied to all programmes and activities which entail significant spending and evaluation results disseminated to spending, legislative and budgetary authorities.

Article 21: *Evaluation:* (Article 27 of the Financial Regulation)

1. All proposals for programmes or activities occasioning expenditure or a reduction in revenue for the budget shall be the subject of an ex ante evaluation, which shall identify:

- (a) the need to be met in the short or long term;
- (b) the objectives to be achieved;
- (c) the results expected and the indicators needed to measure them;
- (d) the added value of Community involvement;
- (e) the risks, including fraud, linked with the proposals and the alternative options available;
- (f) the lessons learned from similar experiences in the past;
- (g) the volume of appropriations, human resources and other administrative expenditure to be allocated with due regard for the cost-effectiveness principle;
- (h) the monitoring system to be set up.

2. All programmes or activities shall then be the subject of an interim and/or ex post evaluation in terms of the human and financial resources allocated and the results obtained in order to verify that they were consistent with the objectives set, as follows:

- (a) the results obtained in carrying out a multiannual programme shall be periodically evaluated in accordance with a timetable which enables the findings of that evaluation to be taken into account for any decision on the renewal, modification or suspension of the programme;
- (b) activities financed on an annual basis shall have their results evaluated at least once every 6 years

Article 49

1. A basic act must first be adopted before the appropriations entered in the budget for any Community action may be used. Similarly, a basic act must first be adopted before the operating expenditure arising from implementation of the provisions of Titles V and VI of the Treaty on European Union (hereinafter .TEU.) may be implemented.

In application of the EC Treaty and the Euratom Treaty and Titles V and VI of the TEU, a .basic act. is an act of secondary legislation which provides a legal basis for the Community action or Union action and for the implementation of the corresponding expenditure entered in the budget.

Article 31: *Possible forms of basic acts:* (Article 49(1) of the Financial Regulation)

1. In the Community field, a basic act may take the form of a regulation, a directive, a decision (1) within the meaning of Article 249 of the EC Treaty or a decision sui generis.

2. In the field of the common foreign and security policy a basic act may take one of the forms specified in Articles 13(2), 14 and 23(2) of the Treaty on European Union.

3. In the field of police and judicial cooperation in criminal matters a basic act may take one of the forms specified in Article 34(2) of the Treaty on European Union.

2. However, the following may be implemented without a basic act as long as the actions which they are intended to finance fall within the competence of the Community or the Union:
- (a) appropriations for pilot schemes
 - (b) appropriations for preparatory actions
 - (c) appropriations for one-off actions,
 - (d) appropriations for the operation of each institution under its administrative autonomy.

Article 32 Maximum amounts for pilot schemes and preparatory actions
(Article 49(2)(a) and (b) of the Financial Regulation)

1. The total amount of appropriations for the pilot schemes referred to in Article 49(2)(a) of the Financial Regulation may not exceed EUR 32 million in any budget year.

2. The total amount of appropriations for new preparatory actions referred to in Article 49(2)(b) of the Financial Regulation may not exceed EUR 30 million in any budget year, and the total amount of appropriations actually committed for preparatory actions may not exceed EUR 75 million.

Article 60

4. The authorising officer by delegation shall put in place, in compliance with the minimum standards adopted by each institution and having due regard to the risks associated with the management environment and the nature of the actions financed, the organisational structure and the internal management and control procedures suited to the performance of his/her duties, including where appropriate ex post verifications. Before an operation is authorised, the operational and financial aspects shall be verified by members of staff other than the one who initiated the operation. The initiation and the ex ante and ex post verification of an operation shall be separate functions.

Article 47 Implementing rules

Segregation of duties of initiation and verification of an operation

(Article 60(4) of the Financial Regulation)

Each operation shall be subject at least to an ex ante verification. The purpose of that verification shall be to ascertain that:

- (a) the expenditure and revenue are in order and comply with the provisions applicable, in particular those of the budget and the relevant regulations and of any acts adopted in implementation of the Treaties or regulations and, where appropriate, the terms of contracts;*
- (b) the principle of sound financial management referred to in Chapter 7 of Title II of the Financial Regulation is applied*

4. *The ex post verifications on documents and, where appropriate, on the spot shall check that operations financed by the budget are correctly implemented and in particular that the criteria referred to in paragraph 3 are complied with. These verifications may be organised on a sample basis using risk analysis.*

5. The officials or other staff responsible for the verifications referred to in paragraphs 2 and 4 shall be different from those performing the tasks of initiation referred to in paragraph 1 and shall not be their subordinates.

Article 77

3. The legal commitments entered into for actions extending over more than one financial year and the corresponding budgetary commitments shall, save in the case of staff expenditure, have a final date for implementation set in compliance with the principle of sound financial management.

Article 93: Decommitment failing payment within three years: (Article 77 of the Financial Regulation)

The amount of a budget commitment corresponding to a legal commitment for which no payment within the meaning of Article 81 of the Financial Regulation has been made in a period of three years following the signing of the legal commitment shall be decommitted

Article 79

Validation of expenditure is the act whereby the authorizing officer responsible:

- (a) verifies the existence of the creditor's entitlement;
- (b) determines or verifies the reality and the amount of the claim;
- (c) verifies the conditions in which payment is due.

Validation of expenditure

Article 99: Passing for payment of grants (Article 79 of the Financial Regulation)

For payments corresponding to grants, the endorsement 'passed for payment' shall certify that:

- (a) the institution has received and formally registered a payment request drawn up by the beneficiary;*
- (b) the payment request itself, or an internal document accompanying the payment request received, has been endorsed 'certified correct' and signed by an official or other servant technically competent, empowered by the authorizing officer responsible; by such endorsement, he certifies that the action or work programme carried out by the beneficiary is in all respects in compliance with the grant agreement;*
- (c) all aspects of the payment request have been checked by the authorising officer responsible or on his responsibility with a view to determining in particular the amount to be paid and the validity of the payment as discharge of the debt.*

Article 80

Authorisation of expenditure is the act whereby the authorising officer responsible, having verified that the appropriations are available and by issuing a payment order, instructs the accounting officer to pay an amount of expenditure which he/she has validated

Article 102

Checks on payments by the authorising officer: (Article 80 of the Financial Regulation)

When drawing up the payment order, the authorising officer responsible shall ensure that:

- (a) the payment order has been properly issued, meaning that a corresponding validation decision has been taken previously in the form of 'passed for payment', that the particulars of the payee are correct and that the amount is due;*
- (b) the payment order corresponds to the budget commitment against which it is booked;*
- (c) the expenditure is charged to the correct item in the budget;*
- (d) appropriations are available.*

Article 83

The validation, authorisation and payment of expenditure must be completed within the time limits laid down in the implementing rules, which shall also specify the circumstances in which creditors paid late are entitled to receive default interest charged to the line from which the principal was paid

Article 106

Payment time limits and default interest: (Article 83 of the Financial Regulation)

1. Sums due shall be paid within no more than forty-five calendar days from the date on which an admissible payment request is registered by the authorised department of the authorising officer responsible;

The payment request is not admissible if at least one essential requirement is not met.

2. The payment period referred to in paragraph 1 shall be thirty calendar days for payments relating to service or supply contracts, save where the contract provides otherwise

3. For contracts or agreements under which payment depends on approval of a report, time for the purposes of the payment periods referred to in paragraphs 1 and 2 shall not begin to run until the report in question has been approved, either explicitly with the beneficiary being informed, or implicitly because the time allowed by the contract for approval has expired without being suspended by means of a formal document sent to the beneficiary.

The time allowed for approval may not exceed:

(b) 45 calendar days for other contracts and grant agreements;

4. The authorising officer responsible may suspend the time limit for payment by informing creditors, at any time during the period referred to in paragraph 1, that the payment request cannot be met, either because the amount is not due or because the appropriate supporting documents have not been produced. If information comes to the notice of the authorising officer responsible which puts in doubt the eligibility of expenditure appearing in a payment request, the authorising officer may suspend the time limit for payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is indeed eligible.

The authorising officer shall inform the beneficiary in question as soon as possible.

Time for the purposes of the remainder of the payment period shall begin to run again from the date on which the properly formulated payment request is first registered.

Article 86

1. The internal auditor shall advise his/her institution on dealing with risks, by issuing independent opinions on the quality of management and control systems and by issuing recommendations for

improving the conditions of implementation of operations and promoting sound financial management.

He/She shall be responsible in particular:

(a) for assessing the suitability and effectiveness of internal management systems and the performance of departments in implementing policies, programmes and actions by reference to the risks associated with them;

(b) for assessing the suitability and quality of the internal control and audit systems applicable to every budgetary implementation operation.

2. The internal auditor shall perform his/her duties on all the institution's activities and departments. He/She shall enjoy full and unlimited access to all information required to perform his duties, if necessary on the spot, including in the Member States and in third countries.

3. The internal auditor shall report to the institution on his/her findings and recommendations. The institution shall ensure that action is taken on recommendations resulting from audits. The internal auditor shall also submit to the institution an annual internal audit report indicating the number and type of internal audits carried out, the recommendations made and the action taken on those recommendations.

4. Each year the institution shall forward a report to the discharge authority summarising the number and type of internal audits carried out, the recommendations made and the action taken on those recommendations.

Article 111: Work programme: (Article 86 of the Financial Regulation)

1. The internal auditor shall adopt his work programme and shall submit it to the institution.

2. The institution may ask the internal auditor to carry out audits not included in the work programme referred to in paragraph 1.

TITLE VI: GRANTS

CHAPTER 1

Article 108

1. Grants are direct financial contributions, by way of donation, from the budget in order to finance:
 - (a) either an action intended to help achieve an objective forming part of a European Union policy;
 - (b) or the functioning of a body which pursues an aim of general European interest or has an objective forming part of a European Union policy.

They shall be covered by a written agreement.

2. The following shall not constitute grants within the meaning of this Title:
 - (a) expenditure on the institutions' staff, loans and shareholdings, the public contracts referred to in Article 88 and aid paid as macrofinancial assistance;
 - (b) expenditure implemented as part of shared, decentralised or joint management within the meaning of Article 53 of this Regulation;
 - (c) payments made to the delegatee bodies of the Commission referred to in Articles 54 and 55 of this Regulation and the other Community bodies referred to in Article 185 of this Regulation.

Article 160

Scope: (Article 108 of the Financial Regulation)

1. The procedure for the award of grants and the conclusion of agreements by the Commission with the bodies referred to in Article 54 of the Financial Regulation, in respect of the cofinancing of their administrative expenditure and for the purposes of making available the operating appropriations which they are delegated to manage, and with the beneficiaries of financing agreements as referred to in Article 166 of that Regulation are not subject to the provisions of this Title. On the other hand, the grants paid by these beneficiaries pursuant to these agreements are governed by this Title.

2. The provisions of this Title also govern:

- (a) the benefit deriving from an interest subsidy on certain loans;*
- (b) equity holdings, with the exception of those for international financial institutions such as the European Bank for Reconstruction and Development (EBRD), and grants which are reimbursable in certain circumstances.*

3. Contributions paid by the Communities as subscriptions to bodies of which they are members are not governed by the provisions of this Title.

Article 161: Actions which may receive grants: (Article 108 of the Financial Regulation)

An action which may receive a grant within the meaning of Article 108 of the Financial Regulation must be clearly identified.

No action may be split for the purpose of evading the financing rules laid down in this Regulation.

*Article 162 :Bodies pursuing an aim of general European interest
(Article 108 of the Financial Regulation)*

A body pursuing an aim of general European interest is:

- (a) a European body involved in education, training, information or research and study in European policies or a European standards body; or*

(b) a European network representing non-profit bodies active in the Member States or in the candidate countries and promoting principles and policies consistent with the objectives of the Treaties.

Article 163 :Partnerships: (Article 108 of the Financial Regulation)

- 1. Specific grant agreements may form part of framework partnership agreements.*
- 2. A framework partnership agreement may be concluded with beneficiaries with a view to establishing long-term cooperation with the Commission. The framework agreement shall specify the common objectives, the nature of actions planned on a one-off basis or as part of an approved annual work programme, the procedure for awarding specific grants, in compliance with the principles and procedural rules in this Title, and the general rights and obligations of each party under the specific agreements.*

The duration of such agreements may not exceed four years, save in exceptional cases, justified in particular by the subject of the framework agreement.

Authorising officers may not make undue use of framework agreements or use them in such a way that the purpose or effect is to contrary to the principles of transparency or equal treatment of applicants.

- 3. Partnership framework agreements shall be treated as grants for the purposes of the award procedure; they shall be subject to the ex ante advertising procedures referred to in Article 167.*
- 4. Specific grants based on the framework partnership agreements shall be awarded in accordance with the procedures laid down in those agreements, in compliance with the principles of this Title.*

They shall be subject to the ex post publication procedures laid down in Article 169.

- 5. Only the specific agreements based on the framework agreements shall be preceded by a budget commitment.*

Article 164: Content of grant agreements: (Article 108 of the Financial Regulation)

- 1. The agreement shall in particular lay down:*
 - (a) the subject;*
 - (b) the beneficiary;*
 - (c) the duration, namely:*
 - (i) the date of its entry into force and its termination;*
 - (ii) the starting date and the duration of the action or financial year being funded;*
 - (d) the maximum possible funding, in the form of:*
 - (i) the maximum amount of the grant; and*
 - (ii) the maximum rate of funding of the eligible costs of the action or approved work programme, save in the case of the flat-rate amounts referred to in Article 181(1);*
 - (e) a detailed description of the action or, for an operating grant, of the work programme approved for that financial year by the authorising officer;*
 - (f) the general terms and conditions applicable to all agreements of this type, such as determination of the applicable law, the court competent to hear disputes and acceptance by the beneficiary of audits by the Commission, OLAF and the Court of Auditors and of the ex post publication rules referred to in Article 169, in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council (1). The agreement may lay down the arrangements and time-limits for suspension in accordance with Article 183;*
 - (g) the estimated overall budget and details of the eligible costs of the action or approved work programme, save in the case of the flat-rate amounts referred to in Article 181(1);*

- (h) where implementation of the action involves procurement, the principles referred to in Article 184 or the procurement rules which the beneficiary must comply with;*
 - (i) the responsibilities of the beneficiary, in particular in terms of sound financial management and submission of activity and financial reports;*
 - (j) the arrangements and time-limits for approving those reports and for payment by the Commission.*
- 2. In the cases referred to in Article 163, the framework agreement shall specify the information referred to in points (a), (b), (c)(i), (d)(ii), (f), (h), (i) and (j) of paragraph 1 of this Article. The specific agreement shall contain the information referred to in points (a), (b) (c), (d), (e), and (g) of paragraph 1 and, where necessary, point (i) thereof.*
- 3. Grant agreements may be amended only by written additional agreements. Such additional agreements shall not have the purpose or the effect of making such changes to agreements as would call into question the grant award decision or be contrary to the equal treatment of applicants.*

CHAPTER 2 Award principles

Article 109

1. The award of grants shall be subject to the principles of transparency and equal treatment. They may not be cumulative or awarded retrospectively and they must involve co-financing.
2. The grant may not have the purpose or effect of producing a profit for the beneficiary.

Article 165 : No-profit rule: (Article 109(2) of the Financial Regulation)

- 1. The grant may not have the purpose or effect of producing a profit for the beneficiary. Profit shall be defined as:*

- (a) a surplus of receipts over the costs of the action in question when the request is made for final payment of a grant for an action, subject to the second subparagraph;*
- (b) a surplus balance on the operating budget of a body in receipt of an operating grant.*

In the case of actions designed specifically to strengthen the financial capacity of a beneficiary, in the field of external action, the distribution to the members making up the beneficiary body of a grant for an action of the surplus revenue resulting from its activity, leading to their personal enrichment, shall also be considered as profit

Article 110

1. Grants shall be subject to an annual programme, to be published at the start of the year, with the exception of crisis management aid and humanitarian aid operations. This work programme shall be implemented through the publication of calls for proposals save in duly substantiated exceptional cases of urgency or where the characteristics of the beneficiary leave no other choice for a given action.

Article 166: Annual programming: (Article 110(1) of the Financial Regulation)

- 1. The annual work programme for grants shall be adopted by the Commission. It shall be published on the grants Internet site of the Commission by no later than 31 January each financial year. The work programme shall specify the basic act, the objectives, the schedule of calls for proposals with the indicative amount and the results expected.*

2. Any substantial change in the grants programme shall also be published as specified in paragraph 1.

Article 167: Content of calls for proposals: (Article 110(1) of the Financial Regulation)

1. Calls for proposals shall specify:

- (a) the objectives pursued;
- (b) the eligibility, selection and award criteria as referred to in Articles 114 and 115 of the Financial Regulation, and the relevant supporting documents;
- (c) the arrangements for Community financing;
- (d) the arrangements and final date for the submission of proposals and the possible start-up date for the actions and the planned date for closing the award procedure.

2. Calls for proposals shall be published on the Internet site of the European institutions and by any other appropriate medium, including the Official Journal of the European Communities, in order to provide maximum publicity among potential beneficiaries.

Article 168: Exceptions to calls for proposals: (Article 110(1) of the Financial Regulation)

1. Grants may be awarded without a call for proposals only in the following cases:

- (a) for the purposes of humanitarian aid, within the meaning of Council Regulation No 1257/96 (1) and aid for crisis situations within the meaning of paragraph 2;
- (b) in other exceptional and duly substantiated emergencies;
- (c) to bodies with a de jure or de facto monopoly, duly substantiated in the Commission's award decision;
- (d) to bodies identified by a basic act as recipients of a grant.

2. Crisis situations shall be understood to mean, for third countries, situations posing a threat to law and order, the security and safety of individuals, threatening to escalate into armed conflict or to destabilise the country, and which could seriously harm:

- (a) the safeguarding of the common values, fundamental interests, independence and integrity of the European Union;
- (b) the security of the European Union, peace-keeping and international security, promotion of international cooperation or development and strengthening of democracy, the rule of law, respect for human rights and fundamental freedoms, in accordance with Article 11 of the Treaty on European Union and Article 3 of Council Regulation (EC) No 381/2001 (2).

2. All grants awarded in the course of a financial year shall be published annually with due observance of the requirements of confidentiality and security

Article 169 : Ex post publication: (Article 110(2) of the Financial Regulation)

1. All grants awarded in the course of a financial year, except scholarships paid to natural persons, shall be published on the Internet site of the Community institutions during the first half of the year following the closure of the budget year in respect of which they were awarded.

In cases where management is delegated to the bodies referred to in Article 54 of the Financial Regulation, reference shall be made at least to the address of the website where this information can be found if it is not published directly on the Internet site of the Community institutions. The information may also be published by any other appropriate medium, including the Official Journal of the European Communities.

2. The following shall be published with the agreement of the beneficiary in accordance with point (f) of Article 164(1):

- (a) *the name and address of the beneficiaries;*
(b) *the subject of the grant;*
(c) *the amount awarded and, save in the case of the flat-rate amounts referred to in Article 181(1), the rate of funding of the costs of the action or approved work programme. The obligation laid down in the first subparagraph may be waived if publication of the information may threaten the safety of the beneficiaries or harm their business interests.*

Article 111

1. One action may give rise to the award of only one grant from the budget to any one beneficiary.
2. A beneficiary may be awarded only one operating grant from the budget per financial year.

Article 170: Joint financing: (Article 111 of the Financial Regulation)

An action may be financed jointly from separate budget lines by a number of authorising officers.

Article 112

1. A grant may be awarded for an action which has already begun only where the applicant can demonstrate the need to start the action before the agreement is signed. In such cases, expenditure eligible for financing may not have been incurred prior to the date of submission of the grant application, save in duly substantiated exceptional cases as provided for in the basic act or for the expenditure necessary for the proper implementation of crisis management aid or humanitarian aid operations as laid down in the implementing rules. No grant may be awarded retrospectively for actions already completed.
2. The agreement on an operating grant may not be signed more than four months after the start of the beneficiary's budgetary year. Expenditure eligible for financing may not have been incurred before the grant application was lodged or before the start of the beneficiary's budgetary year.

Article 171 :Retroactive effect for management of humanitarian aid and crisis situations (Article 112 of the Financial Regulation)

In order to ensure that humanitarian aid operations and operations in crisis situations within the meaning of Article 168(2) are conducted efficiently, expenditure incurred by a beneficiary before the date of submission of the application shall be eligible for Community financing solely in the following cases:

- (a) *where the expenditure relates to the constitution of stocks by the applicant for use in connection with the action for which the grant is awarded;*
- (b) *by way of exception and for properly substantiated reasons, where the financing decision and the grant agreement explicitly provide for this by setting an eligibility date earlier than the date for submission of applications.*

Article 113

1. The grant may not finance the entire costs of the action, subject to Title IV of part two. The grant may not finance the entire operating expenditure of the beneficiary body.
2. Unless otherwise specified in the basic act with regard to bodies pursuing an objective of general European interest, when operating grants are renewed, they shall be gradually decreased.

Article 172: External co-financing: (Article 113 of the Financial Regulation)

1. The beneficiary shall supply evidence of the co-financing provided, either by way of own resources, or in the form of financial transfers from third parties, or in kind, save in the case of the flat-rate amounts referred to in Article 181(1).

2. The authorising officer may, in duly substantiated exceptional cases, accept co-financing in kind. In such cases the value of such contributions must not exceed:

- (a) either the costs actually borne and duly supported by accounting documents;
- (b) or the costs generally accepted on the market in question.

Contributions involving real estate as referred to in Article 116(1) shall be excluded from the calculation of the amount of co-financing.

CHAPTER 3 Award procedure

Article 114

1. Grant applications submitted in writing by legal persons shall be eligible.

By way of exception, depending on the nature of the action or the objective pursued by the applicant, the basic act may provide that natural persons may receive grants.

2. Grants may not be awarded to applicants who are, at the time of a grant award procedure, in one of the situations referred to in Articles 93 and 94.

Applicants must certify that they are not in one of the situations listed in Article 93.

3. Administrative and financial penalties of an effective, proportionate and dissuasive nature may be imposed by the authorising officer, as provided in Articles 93 to 96 and in the implementing rules relating to those articles, on applicants who are excluded under paragraph 2.

Article 173: Financing applications: (Article 114 of the Financial Regulation)

1. Applications shall be made on the form distributed by the authorising officers responsible and in accordance with the criteria laid down in the basic act and the call for proposals.

2. The application shall show that the applicant exists as a legal person and has the financial and operational capacity to complete the proposed action or work programme, subject to Article 176(4).

For that purpose the authorising officer shall request a declaration from potential beneficiaries on their honour. The profit and loss account, the balance sheet for the last financial year for which the accounts have been closed and any other supporting document requested in the call for proposals shall, depending on the analysis of management risks conducted by the authorising officer responsible on his own responsibility, also be attached to the application.

3. The budget for the action or the operating budget attached to the application must have revenue and expenditure in balance and show clearly the costs which are eligible for financing from the Community budget, save in the case of the flat-rate amounts referred to in Article 181(1).

4. For actions where the cost to be financed exceeds EUR 300 000 and for operating grants of over EUR 75 000, the application shall be accompanied by an external audit report produced by an approved auditor. That report shall certify the accounts for the last financial year available and give an assessment of the financial viability of the applicant within the meaning of Article 176(2).

The provisions of the first subparagraph shall apply only to the first application made by a beneficiary to an authorising officer in any one budget year.

In the case of agreements linking the Commission and a number of beneficiaries, those thresholds shall apply to each beneficiary.

In the case of partnerships as referred to in Article 163, an external audit covering the last two financial years available must be produced before the framework agreement is concluded.

The authorising officer responsible may, depending on his analysis of management risks, waive that obligation for public bodies, secondary and higher education establishments, the international organisations referred to in Article 43, and beneficiaries who have accepted joint and several liability in the case of agreements with a number of beneficiaries.

5. The applicant shall indicate the sources and amounts of any other funding received or applied for in the same financial year for the same action or for any other action and for routine activities.

Article 174: Proof of applicants' eligibility: (Article 114 of the Financial Regulation)
Applicants shall declare on their honour that they are not in one of the situations listed in Article 93(1) of the Financial Regulation. The authorising officer responsible may, depending on the analysis of management risks, request the evidence referred to in Article 134. Applicants shall be bound to supply such proof, unless there is a material impossibility recognised by the authorising officer responsible.

Article 175: Financial and administrative penalties: (Article 114 of the Financial Regulation)

1. Applicants who are found guilty of false declarations may receive financial penalties in accordance with the conditions laid down in Article 133 in proportion to the value of the grants in question.

Beneficiaries who have been found to have seriously failed to meet their contractual obligations may receive financial penalties in accordance with the same conditions.

2. Applicants and beneficiaries who are in one of the situations referred to in Articles 93 to 96 of the Financial Regulation may also be excluded from Community grants and contracts in accordance with the conditions laid down in Article 133.

Article 115

1. The selection criteria shall be such as to make it possible to assess the applicant's ability to complete the proposed action or work programme.

Article 176 :Selection criteria: (Article 115(1) of the Financial Regulation)

1. The selection criteria shall be published in the call for proposals and shall be such as to make it possible to assess the applicant's financial and operational capacity to complete the proposed action or work programme.

2. The applicant must have stable and sufficient sources of funding to maintain his activity throughout the period during which the action is being carried out or the year for which the grant is awarded and to participate in its funding. The applicant must have the professional competencies and qualifications required to complete the proposed action or work programme unless specifically provided otherwise in the basic act.

3. *Financial and operational capacity shall be verified in particular on the basis of an analysis of the supporting documents referred to in Article 173.*

4. *The verification of financial capacity shall not apply to natural persons in receipt of scholarships nor to public bodies, nor to the international organisations referred to in*

Article 43.

In the case of the partnerships referred to in Article 163, that verification shall be performed before the framework agreement is concluded.

2. The award criteria announced in advance in the call for proposals shall be such as to make it possible to assess the quality of the proposals submitted in the light of the objectives and priorities set.

Article 177: Award criteria: (Article 115(2) of the Financial Regulation)

1. *The award criteria shall be published in the call for proposals.*

2. *The award criteria shall be such as to enable grants to be awarded either to the actions which maximise the overall effectiveness of the Community programme which they implement or to the bodies whose work programme is designed to attain the same result. Those criteria shall be defined in such a way as to ensure also that the Community funds are properly managed. These criteria shall be applied in such a way as to enable the selection of planned actions or work programmes which the Commission can be confident will comply with its objectives and priorities and guarantee the visibility of the Community financing.*

3. *The award criteria shall be defined in such a way that it will be possible subsequently to carry out an evaluation.*

Article 116

1. Proposals shall be evaluated, on the basis of pre-announced selection and award criteria, by an evaluation committee set up for that purpose, with a view to determining which proposals may be financed.

2. The authorising officer responsible shall then, on the basis of the evaluation provided for in paragraph 1, draw up the list of beneficiaries and the amounts approved.

3. The authorising officer responsible shall inform applicants in writing of the decision on their application. If the grant requested is not awarded, the institution shall give the reasons for the rejection of the application, with reference in particular to the selection and award criteria already announced.

Article 178: Evaluation of applications and award: (Article 116 of the Financial Regulation)

1. *The authorising officer responsible shall appoint a committee to evaluate the proposals, save in the case of a Commission decision on a specific sectoral programme.*

The committee shall be made up of at least three persons representing at least two organisational entities of the Commission with no hierarchical link between them. To avoid any conflict of interests, those persons shall be subject to the obligations laid down in Article 52 of the Financial Regulation.

In the representations and local units referred to in Article 254 and the delegated bodies referred to in Article 160(1), if there are no separate entities, the requirement of organisational entities with no hierarchical link between them shall not apply.

Outside experts may assist the committee by decision of the authorising officer responsible.

2. The evaluation committee may ask an applicant to provide additional proof or to clarify the supporting documents establishing financial and operational capacity, within a specified time limit.

3. Upon completion of its work, the members of the evaluation committee shall sign a record of all the proposals examined, containing an assessment of their quality and identifying those which may receive funding. Where necessary that record shall rank the proposals examined.

The record shall be kept for future reference.

4. The authorising officer responsible shall then take his decision giving at least:

(a) the subject and the overall amount of the decision;

(b) the name of the beneficiaries, the title of the actions, the amounts accepted and the reasons for that choice, including where it is inconsistent with the opinion of the evaluation committee;

(c) the names of any applicants rejected and the reasons for that rejection.

5. The provisions of paragraphs 1 to 4 shall not apply to beneficiaries of grants who are identified in the basic act.

Article 179- Information for applicants: (Article 116 of the Financial Regulation)

Applicants shall be informed within fifteen calendar days after the award decision has been sent to the beneficiaries.

CHAPTER 4 Payment and control

Article 117

The pace of payments shall be determined by the financial risks involved, the duration and progress of the action or the costs incurred by the beneficiary.

Article 180: Supporting documents for requests for payments: (Article 117 of the Financial Regulation)

1. For each grant, where pre-financing is split, each new payment shall be subject to consumption of at least 70 % of the total amount of any earlier pre-financing. The statement of the beneficiary's outlay shall be produced in support of any request for a new payment.

2. An external audit of the accounts produced by an approved auditor may be demanded by the authorising officer responsible in support of any payment on the basis of his analysis of management risks. In the case of a grant for an action or of an operating grant, the audit report shall be attached to the request for payment. Its purpose is to certify that the submitted accounts are sincere, reliable and substantiated by adequate supporting documents.

An external audit shall be compulsory:

(a) in the case of grants for an action, in respect of the following payments:

(i) pre-financing or interim payments the sum of which exceeds EUR 750 000 per financial year and per agreement;

(ii) payments, of balances, which exceed EUR 150 000;

(b) in the case of operating grants, in respect of payments which exceed EUR 75 000 per financial year.

However, in the cases referred to in points (a) and (b), an audit shall not be necessary in respect of the first pre-financing payment.

Depending on his analysis of management risks, the authorising officer responsible may waive the audit obligation in the case of:

- (a) public bodies and the international organisations referred to in Article 43;*
- (b) the beneficiaries of grants in connection with humanitarian aid and the management of crisis situations, save in respect of payments of balances.*

In the case of an agreement linking the Commission and a number of beneficiaries, the thresholds referred to in points (a) and (b) of the second subparagraph shall apply to each beneficiary.

Article 181: Flat-rate financing: (Article 117 of the Financial Regulation)

1. In addition to cases of scholarships and prizes, the basic act may authorise flat-rate financing for contributions of less than EUR 5 000 or the use of scales of unit costs.

In order to ensure compliance with the principles of co-financing, no-profit and sound financial management, those flat-rate amounts and scales shall be reviewed at least every two years by the authorising officer responsible. The amounts shall be approved by the Commission.

2. The grant agreement may authorise flat-rate cover:

- (a) of the beneficiary's overheads up to a maximum of 7 % of total eligible costs for the action, save where the beneficiary is in receipt of an operating grant financed from the Community budget;*
- (b) of certain mission expenses on the basis of a per diem scale approved annually by the Commission.*

The ceiling provided for in point (a) of the first subparagraph may be exceeded by reasoned decision of the Commission.

Article 118

The authorising officer responsible may require the beneficiary to lodge a guarantee in advance in order to limit the financial risks connected with the payment of pre-financing.

Article 182 : Advance guarantee: (Article 118 of the Financial Regulation)

1. The authorising officer responsible may require the beneficiary to lodge a guarantee in advance in order to limit the financial risks connected with the payment of pre-financing.

2. Where pre-financing represents over 80 % of the total amount of the grant, payment may not be made until after the beneficiary has lodged a guarantee subject to the assessment and acceptance of the authorising officer responsible.

For NGOs operating in the field of external action, that guarantee shall be demanded in respect of pre-financing exceeding EUR 1 000 000 or representing over 90 % of the total amount of the grant.

The guarantee shall be valid for a period sufficiently long to allow it to be activated.

3. The guarantee shall be provided by an approved bank or financial institution established in one of the Member States.

The guarantee may be replaced by a joint and several guarantee by a third party or by the joint guarantee of the beneficiaries of an action who are parties to the same grant agreement.

The guarantee shall be denominated in euro.

It shall have the effect of making the bank or financial institution, third party or the other beneficiaries stand as irrevocable collateral security, or first-call guarantor of the grant beneficiary's obligations.

4. The guarantee shall be released as the pre-financing is gradually cleared against interim payments or payments of balances to the beneficiary in accordance with the conditions laid down in the grant agreement.

5. The authorising officer responsible may waive the obligation laid down in paragraph 2 for public-sector bodies and the international organisations referred to in Article 43. The authorising officer responsible may also exempt from that obligation beneficiaries who have concluded a framework partnership agreement under Article 163.

Article 119

1. The amount of the grant shall not become final until after the institution has accepted the final reports and accounts, without prejudice to subsequent checks by the institution.

2. Should the beneficiary fail to comply with his/her legal or contractual obligations, the grant shall be suspended and reduced or terminated in the cases provided for by the implementing rules after the beneficiary has been given the opportunity to make his/her observations.

Article 183: Suspension and reduction of grants: (Article 119 of the Financial Regulation)

1. The authorising officer responsible shall suspend payments and, depending on the stage reached in the procedure, either reduce the grant or demand reimbursement pro rata by the beneficiary or beneficiaries:

(a) where the agreed action or work programme is not carried out at all, or is not carried out properly, in full or on time;

(b) where amounts exceeding the financing ceilings set in the agreement have been paid, in particular if the agreed action or work programme has been carried out at a lower cost than initially forecast;

(c) where the budget for the action or the operating budget reveals a surplus ex post.

2. Payments may also be suspended following presumed infringements of other clauses of the agreement. The purpose of such suspension shall be to give time to check whether the presumed infringements have in fact occurred and, where appropriate, to rectify them.

CHAPTER 5: Implementation

Article 120

1. Where implementation of the action requires the award of procurement contracts by the beneficiary, the award shall be subject to the principles set out in Title V of this part.

2. Each grant agreement shall provide expressly for the Commission and the Court of Auditors to exercise their powers of control, on documents and on the premises, over all contractors and subcontractors who have received Community funds.

Article 184: Implementation contracts: (Article 120 of the Financial Regulation)

1. Where implementation of the assisted actions requires the award of procurement contracts, beneficiaries of grants shall award the contract to the tender offering best value for money, that is to say, to the tender offering the best price-quality ratio, in compliance with the principles of

transparency and equal treatment for potential contractors, care being taken to avoid any conflict of interests.

2. For the purposes of paragraph 1, the authorising officer responsible may require beneficiaries to abide by special rules, determined with due respect for the value of the contracts concerned. the relative size of the Community contribution in relation to the total cost of the action and the management risk.

In that case such rules shall be included in the grant agreement.