

ACP-EC COTONOU AGREEMENT

**AFRICAN, CARIBBEAN AND
PACIFIC GROUP OF STATES**

**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 17 September 2004
(OR. fr)**

ACP-CE 2127/04

COVER NOTE¹

from : The Director of the Centre for the Development of Enterprise
date of receipt : 23 June 2004
to : The Chairman of the ACP-EC Committee of Ambassadors
Subject : Centre for the Development of Enterprise (CDE)
- Report by the External Auditors on the accounts for financial year 2002

In accordance with Article 26 of the Financial Regulation applicable to the Centre for the Development of Enterprise, of 6 May 1991, the External Auditors of the CDE have drawn up their report on the accounts of the Centre for financial year 2002.

Delegations will find attached copy of the letter of the CDE, dated 9 June 2004, transmitting this report as well as the Centre's comments to the ACP-EC Committee of Ambassadors.

¹ In English and French only.

Ref. ComAmb/ExecBoard/46

Brussels, 9 June 2004

The Chairman
of the ACP-EC Committee of Ambassadors
175 Rue de la Loi
1048 Brussels

Dear Chairman,

The accounts of the Centre for financial year 2002 were adopted by the CDE Executive Board at its meeting in May on the basis of the auditors' report and the Centre's comments on this report.

These documents are forwarded herewith to the ACP-EC Committee of Ambassadors with a view to obtaining approval of the accounts and a discharge to the Director for the implementation of the budget of the Centre for financial year 2002.

Please accept, Chairman, the assurances of my highest consideration.

Fernando Matos Rosa
Director

Doc. EB-CDE/23/04
(Original: French)

CDE

Report by the external auditors
on the accounts for financial year 2002

CDE
Report by the external auditors
on the accounts for financial year 2002

I. INTRODUCTION

- a. In accordance with our mandate under the terms of Article 26 of the Financial Regulation (ACP/EEC Committee of Ambassadors Decision 5/91 of 6 April 1991), we have audited the books and cash records and checked that the inventories and balance sheet have been drawn up in a regular manner and in good faith and that the information given on the Centre's accounts for financial year 2002 is accurate. The purpose of the audit has also been to establish that all revenue and expenditure shown in the statements of revenue and expenditure and the annexes thereto has been received or incurred in a lawful and regular manner and that the financial management of the Centre's operations has been sound.

b. Conduct of the audit

The audit started at the end of July 2003, on the basis of the provisional accounts supplied to us. On completion of auditing on the spot, our draft audit report on the accounts for financial year 2002 was submitted on 17 September 2003. The report could not be finalized until February 2004, by reason of delays on the part of the Centre in responding to our requests for additional information.

II. BASIS OF THE REPORT

This report has been drawn up on the basis of:

- a) the draft balance sheet, revenue and expenditure account and annexes thereto
- b) explanatory notes accompanying the accounts
- c) the internal auditor's report, forwarded on 4 September 2003
- d) the Director's comments on the internal auditor's report, which were sent to us on 3 November 2003
- e) checks based on significant samples chosen to complement the checks carried out by the internal auditor
- f) explanations and replies given by staff members and the Directorate.

III. ACTION TAKEN ON THE RECOMMENDATIONS IN THE AUDIT REPORT ON THE 2001 ACCOUNTS

A. Balance sheet

Inventory (capital expenses)

The inventory update announced by the Centre in its replies to our comments was partially carried out in 2002. It needs to be completed before the 2003 accounts are closed.

Recording of invoices, credit notes, etc.

Despite our previous recommendation, accepted invoices, credit notes, etc. are still not recorded in the 2002 balance sheet.

Monitoring of debtor accounts, temporary accounts and accounts for regularization

The results of the action taken by the Centre to clear these accounts are not shown in the balance sheet at 31 December 2002. They will be recorded in the 2003 balance sheet. The Centre must continue to give priority to putting these accounts in order.

Clearance and recovery of advances

The same applies to the clearance and recovery of advances granted to service providers, requiring continuous monitoring of project implementation.

B. Revenue and expenditure account

The recommendations made in our 2001 report still apply to 2002 and are reiterated in point VI below.

IV. COMMENTS ON THE 2002 BALANCE SHEET

A. Assets

1. Inventory (capital expenses)

- a) The value of the off-balance-sheet inventory (memorandum accounts) at 31 December 2002, € 984 793.34, was calculated as follows:

	€
- <u>Situation at 31/12/2000</u> (figure accepted in our letter of 17/12/02)	804 806.71
Purchases and adjustments in 2001	39 459.86

- <u>Situation at 31/12/2001</u>	844 266.57
Purchases in 2002	93 657.83

Accounting inventory at 31/12/2002	937 924.40
Physical inventory at 31/12/2002	984 793.34

Difference	46 868.94

This difference was regularized at 31 December 2002.

b) Comments

The situation described above calls for the following comments:

- the rules governing the Centre's asset management and keeping of physical and accounting inventories need to be clearly defined
- the figures entered in the accounts at 31 December 2002 need to be updated to incorporate inventory disposals
- the scrapping and sale of inventory items need to be recorded in a report drawn up in accordance with the applicable rules, and proceeds from sales need to be shown transparently in the accounts.

It is therefore recommended that steps be taken without delay to ensure that a transparent statement of the Centre's inventory is provided at the end of each year, including in particular the application of a directive defining the responsibilities of each staff member concerned, and the procedures for recording and accounting for assets so as to facilitate reconciliation at the end of the year.

c) Management of identified assets not inventoried

The Centre is reminded that, in the case of assets recorded for management but not accounting purposes, it has to set appropriate criteria (according to typology and/or the monitoring required for effective asset management) for recording assets for accounting or non-accounting purposes, with minimum values for inclusion in its inventories.

2. EDF contributions receivable

€ 2 631 624.25

This figure represents the net balance still to be called up from the EDF 2002 allocation, € 1 726 197.80, plus the balance from previous years, € 905 626.35.

3. Temporary accounts

€ 9 559.53

PRIMS–CDE, the PRO€INVEST Implementation Service, PRO€INVEST being an ACP-EU partnership programme planned and funded by EuropeAid on behalf of the ACP States.

Under the terms of its protocol with the European Commission, the Centre makes prepayments on behalf of PRIMS–CDE, which has to keep accounts separate from the Centre's.

The audit revealed that in 2002, the first year of operations, the Centre recorded such prepayments and reimbursements received from PRIMS–CDE in different accounts. This detracted from transparency and caused difficulty in reconciling these accounts. The situation was brought up to date for the closure of the 2003 accounts.

The accounts should be made transparent by:

- a) breaking down, according to the structure of the PRIMS–CDE budget, prepaid expenditure in suspense accounts showing:
 - prepayments by the Centre
 - reimbursements by PRIMS-CDE
 - year-end balances to be regularized.
- b) drawing up a year-end reconciliation table, to be attached to the balance sheet
- c) making as little use as possible of the system of reimbursement in annual instalments used for certain categories of expenditure (furniture, computer hardware, etc.), which complicates management unnecessarily.

4. Debtors and accounts receivable

€ 544 749.61

- a) On 31 December 2002 there were 22 old debts amounting to € 112 946. In 2003 the Directorate responded to this situation by taking action to reduce these arrears. At the beginning of that year the Executive Board wrote off eight of the debts, amounting to € 43 321.54, as losses.
- b) Two amounts due from PRO€INVEST, together amounting to € 6 286.93, should be recorded as recommended in point 3 above.
- c) The accounts for regularization, totalling € 178 265.04, also show six old debts in the combined sum of € 43 878.67 and an amount of € 85 566.25 arising from a dispute with a former CDE staff member, which still has to be cleared.

Ngoga case

On 28 June 2002 Banque ING was ordered by a Belgian court to seize the sum of € 538 112.08 from the Centre's accounts and transfer it to the credit of this former CDE staff member. On 6 January 2003 the officiating process server refunded € 7 597.93 of the amount seized.

Analysis of the judgement delivered on 14 June 2002 by the Chambre des Saisies du Tribunal de Première Instance in Brussels shows that this dispute, dating from the years 1994 to 1998, ought to have been managed with greater rigour. Large amounts were paid to the lawyers, even in 2002, when € 35 000 had to be allocated for this purpose. The amount seized was regularized by means of a special commitment in the sum of € 501 558 charged to the 2001 appropriations, with the balance of € 28 976 charged to the 2003 appropriations.

5. Advances to be justified

€ 944 691.17

These advances show an increase of € 454 449.01 over the previous year (€ 490 241.56). The audit revealed that substantial amounts of advances were being cleared after the due dates without any justification being provided for the delay and without any application of the penalties stipulated in the contracts. When we raised this with him, the Director ordered thorough checks on the cases drawn to his attention. This led to the clearance of about € 700 000, which will be recorded in the 2003 accounts. The following recommendations are made for improving the management of advances:

- the amount of an advance should be requested by the intended recipient and matched to costed estimates of actual requirements for starting up the activity in question;

- clearance dates entered in a contract should be linked to the progress of activities, so that the advance is gradually reduced and cleared in full by the time the last payment is made on the contract;
- staff managing contracts should be required to monitor their implementation continuously and draw any anomalies to the attention of the Director;
- the Director should be given regular status reports by the accounting officer on the clearance of advances so that he will be able to take any appropriate measures necessary to expedite recovery;
- the Executive Board cannot validly be invited to write off debts unless proper grounds are given for so doing, which must be consistent with the principles of sound financial management and proportionality.

B. Liabilities

Creditors

€ 704 748.27

This item shows an amount of € 618 867.37 representing payment orders issued at the end of December 2002 but not executed by the bank until the beginning of 2003 and another of € 85 566.25, matching an item in the account for regularization.

Temporary accounts

€ 286 199.72

This item comprises accounts of different types which should be cleared or correctly charged. The EU Mines account, for instance, showing a figure of € 29 660.96, ought to be shown among the third-party accounts, since this funding was not part of the Centre's budget.

Mbayi case

The dispute with this former staff member, in which the Centre was ordered to pay him € 85 566, still appears to be unresolved, whereas this amount was charged to expenses in 1997. The balance sheet accounts at 31 December 2002 still show the same amount, which ought to be cleared by the production of documents justifying the expenditure.

Funds reimbursable to the EDF

€ 2 084 114.48

This amount, made up of surpluses on subsidies received for past years for which the accounts have been closed, represents the balance to be reimbursed to the EDF.

V. COMMENTS ON THE REVENUE AND EXPENDITURE ACCOUNT

A. Title I

1. Application of statutory regulations

For the avoidance of differences of interpretation between the Centre and staff, leading in some cases to costly litigation, the internal rules should be updated in the light of case law accumulated by the Centre or the Commission in comparable circumstances.

2. Choice of lawyers

In view of the very high cost of lawyers' services, adding to the expense of litigation, we again insist on the need for compliance, in the choice of lawyers, with the competition rules laid down in Article 33 of the Financial Regulation.

3. Specific case

It is to be noted that in 2002 the internal auditor's withholding of approval of a payment was overruled by the Director, whose decision was confirmed by the Executive Board.

B. Title II

1. Modernization of computing

A contract (FAST) in the sum of € 487 900 was concluded by the Centre on 20 December 2001. Work to the value of € 390 320 was carried out in 2002, necessitating a fresh commitment of € 97 580 in 2003, since the appropriations initially put in place had lapsed.

In March 2003 the new FAST application was installed on a trial basis. It appears at this stage to be meeting the Centre's budget management and operational management requirements. However, a judgement on the accounting aspects of FAST will not be possible until after closure of the 2003 accounts.

It is to be noted that the Centre also prepaid some € 78 000 to cover a rider extending the FAST application to include the requirements of PRIMIS-CDE, which is to reimburse this amount.

Modernization of the accounting software is essential in order to improve the efficiency of the Centre's financial management.

2. Service charges on premises

In view of the high level of the charges the Centre is being required to pay (about € 25 000 a quarter), we again recommend on-the-spot checks on this expenditure.

3. Miscellaneous operating expenses and Miscellaneous consultants (Art. 216 and 217 - Title II)

Total commitments for these two budget articles amounted to € 515 456, or 28% of Title II appropriations, out of which € 219 128.04 was spent, with the amount of € 296 328.74 being carried forward, although not backed up by regular commitments.

C. Title IV

1. The figures for implementation of the 2002 budget show that for Title IV:

out of total commitments of	€ 9 031 550
payments were made in the sum of	€ 3 602 859
leaving a carry-forward of	€ 5 428 691

Analysis of the situation at 31 December 2002 in terms of commitments and payments shows that by the time of the audit 52 commitments, totalling € 699 266 or 12.8% of the amount carried forward had not given rise to any payments. The main explanation for these “sleeping commitments” is to be found in the premature entry of commitments in order to avoid cancellation of appropriations at the end of the year.

2. General comments

- Project managers’ attention is drawn to the need for strict compliance with Article 33 of the Financial Regulation in awarding contracts.
- Where it is stipulated that payments or reimbursements of costs are to be made at a flat rate, that rate alone, without any additional payments, is applicable.
- If a contract is to be extended, a request, stating the grounds, must be submitted to the Centre before, not after, the contractual expiry date. Non-compliance with this rule should be sanctioned by the application of penalties.

VI. RECOMMENDATIONS

A. On the balance sheet

- Continue updating the inventory along the lines indicated in point IV. A. 1. b) above, and draw up a directive on this and on the management of identified assets not inventoried.
- Record in the accounts, on receipt, all invoices accepted by the Centre, debit and credit notes and delivery notes generating rights or obligations between the Centre and third parties.
- Maintain continuous monitoring of debtor accounts, temporary accounts and accounts for regularization, and ensure that unjustified advances and down-payments are rapidly cleared or recovered.
- Rapidly set up a transparent procedure for transactions on behalf of PRIMS–CDE, with a reconciliation table to be drawn up at the end of each year and attached to the balance sheet.

B. On the revenue and expenditure account

Title I - Apply the statutory regulations more rigorously. The internal rules should be clarified and updated in the light of case law accumulated by the Centre or the Commission in comparable circumstances, so as to avoid differences of interpretation leading to costly litigation with staff.

Title II - Contain administrative costs, drawing on rules or practices tried and tested by the Commission, concerning mission expenses in particular.

Continue modernization of the accounting software in order to improve the efficiency of financial management.

Title IV - Refrain from entering massive commitments, which are not legally justified, at the end of a year, leading to large carry-forwards which are not used.

Exercise rigour in the application of contractual clauses covering the granting of advances, compliance with delivery dates, and recovery of all outstanding balances of advances by the time of the final payment to be made under a contract.

Comply more strictly with Article 33 of the Financial Regulation.

VII. CONCLUSIONS

A. Utilization of budget appropriations

1. Carry-forward from 2001 to 2002

Of the € 7 563 409.22 carried forward, € 2 179 423.84, or 29% of this amount lapsed. For 2001 overall, the amount not utilised was € 2 897 198, 14% of the total budget for that year, € 20 726 000.

2. 2002 appropriations

Against a budget of € 19 634 000, commitments were entered for € 18 637 003.22. The difference, € 996 996.78, lapsed on 31 December 2002. Payments amounted to € 11 999 812.18, or 65% of commitments. The sum of € 6 637 191.04 was carried forward.

3. Comparison of budget implementation in 2001 and 2002 shows that, relatively speaking, there was little change in the utilization of appropriations.

B. Management

The resolve of the Directorate to improve the Centre's financial management is to be commended, but progress has been held back by the lack of clear, detailed procedures defining areas of competence and responsibility at the various levels, and also by a lack of responsiveness on the part of a few staff members.

C. Reliability of the accounts

1. The recommendations in point VI. A. above should be acted upon without delay in order to improve the reliability of the accounts.
2. The Centre's operations were, on the whole, carried out in accordance with the principles of legitimacy, regularity and sound financial management.

The recommendations on this subject in point VI. B. above should nevertheless be acted upon in order to improve the quality of management.

3. The final balance sheet incorporates the corrections we considered necessary. We are therefore able to certify that it has been drawn up in accordance with the generally accepted accounting principles and provides an acceptable presentation of the Centre's financial situation.

Brussels, 26 February 2004

External Auditors

(signed)

V. HASSAMAL

J. HEUSGHEM

CDE
STATEMENT OF REVENUE AND EXPENDITURE
Year ended December 31, 2002

(€)

REVENUE

	<i>Note</i>	<u>2002</u>	<u>2001</u>
EDF Contributions - Previous year	<i>2.a</i>	7.563.409,22	6.570.047,15
EDF Contributions - Current year	<i>2.b</i>	18.183.197,90	19.385.850,19
Other sources	<i>2.c</i>	453.805,32	622.395,18
		-----	-----
TOTAL REVENUE		<u>26.200.412,44</u>	<u>26.578.292,52</u>

EXPENDITURE

Current Expenses:

- Budget - Previous year	<i>2.d</i>	5.338.335,93	4.482.064,79
- Budget - Current year	<i>2.d</i>	11.951.803,80	12.409.257,56
- Equipment and Furniture	<i>2.e</i>	93.657,83	39.446,47
		-----	-----
TOTAL EXPENDITURE		<u>17.383.797,56</u>	<u>16.930.768,82</u>
EXCESS OF REVENUE OVER EXPENDITURE		8.816.614,88	9.647.523,70
Commitments carried forward to 2003	<i>2.f</i>	6.637.191,04	7.563.409,22
		-----	-----
NET EXCESS OF REVENUE OVER EXPENDITURE	<i>3.l</i>	<u>2.179.423,84</u>	<u>2.084.114,48</u>

CDE
BALANCE SHEET
As at December 31, 2002

(€)

ASSETS

	<i>Note</i>	<u>2002</u>	<u>2001</u>
Cash and Deposits	<i>3.a</i>	5.536.295,43	6.197.070,00
EDF Contributions receivable	<i>3.b</i>	2.631.624,25	3.430.152,96
Temporary accounts	<i>3.c</i>	9.559,53	14.536,48
Debtors and realizable accounts	<i>3.d</i>	544.749,61	386.721,95
Guarantee Deposits	<i>3.e</i>	45.333,52	91.012,62
Advances to be justified	<i>3.f</i>	944.691,17	490.241,56
		-----	-----
TOTAL ASSETS		<u><u>9.712.253,51</u></u>	<u><u>10.609.735,57</u></u>

LIABILITIES

	<i>3.g</i>	6.637.191,04	7.563.409,22
Obligations to Creditors	<i>3.h</i>	704.748,27	301.126,16
Temporary accounts	<i>3.i</i>	286.199,72	285.868,09
EDF funds repayable - 1998		-	88.306,27
EDF funds repayable - 2000	<i>3.j</i>	2.084.114,48	2.371.025,83
		-----	-----
TOTAL LIABILITIES		<u><u>9.712.253,51</u></u>	<u><u>10.609.735,57</u></u>

CDE

MEMORANDUM ACCOUNTS As at December 31, 2002

(€)

	<u>Note</u>	<u>2002</u>	<u>2001</u>
RECURRENT EXPENSES:			
Opening Balance at January 01		221.380.058,71	203.504.865,95
Adjustment of commitments b/f - Previous year		-7.563.409,22	-6.570.047,15
Actual expenses in current year - Previous year's Budget		5.338.335,93	4.482.064,79
Actual expenses on Current year's Budget		11.951.803,80	12.399.765,90
Commitments carried forward to the following year		6.637.191,04	7.563.409,22
		-----	-----
SUB - TOTAL		237.743.980,26	221.380.058,71
CAPITAL EXPENSES:			
Beginning Inventory before adjustments- January, 01		844.266,57	1.455.040,13
Purchases in current year - Previous year's Budget		45.649,45	3.867,88
Purchases in current year - Current year's Budget		102.992,17	35.578,59
Adjustments & Items removed from service		-8.114,85	-350.291,65
		-----	-----
SUB TOTAL		984.793,34	1.144.194,95
		-----	-----
TOTAL EXPENSES - CDI BUDGET		238.728.773,60	222.524.253,66
THIRD PARTY ACCOUNTS			
Consolidated expenses - Annex - TP2		3.261.102,00	1.050.374,00
		-----	-----
		3.261.102,00	1.050.374,00
		-----	-----
TOTAL		241.989.875,60	223.574.627,66
		=====	=====

COMMENTS OF THE CENTRE
ON THE REPORT BY THE EXTERNAL AUDITORS
ON THE ACCOUNTS FOR FINANCIAL YEAR 2002

**COMMENTS OF THE CENTRE ON THE REPORT BY THE EXTERNAL
AUDITORS ON THE ACCOUNTS FOR FINANCIAL YEAR 2002**

I. INTRODUCTION

b. Conduct of the audit

In the light of the comments and observations in the draft report received from the external auditors, the Centre decided to take a number of measures in order to comply with their recommendations, on rectifying the problems with the temporary accounts and accounts for regularization in particular. This work necessarily took time, especially since it coincided with the introduction of the new accounting software. Hence the delay in supplying the additional information requested.

**III. ACTION TAKEN ON THE RECOMMENDATIONS IN THE AUDIT REPORT
ON THE 2001 ACCOUNTS**

A. Balance sheet

▪ Inventory

As requested by the external auditors in their 2001 report, we reconciled the physical and accounting inventories at 31 December 2002. This reconciliation was reflected in entries as referred to on page 3 of the 2002 report.

We also updated the accounting inventory as requested in the 2001 report.

The updated value of the accounting inventory was € 281 605.80 whereas the purchase value had been € 984 794.08, reflecting the age of the furniture and computer hardware.

The Centre did not make any inventory disposals in 2002. It will be doing so in 2003, however, following the replacement of its computers and some of its furniture. These disposals will be recorded in the 2003 accounts.

- Recording of invoices and credit notes

With the previous accounting software, there were shortcomings in the recording of invoices.

Development of the Centre's new budgetary and accounting software (FAST) took account of the shortcomings found in the former accounting system and the external auditors' recommendations.

Since the launch of FAST in March 2003, for a trial period, all invoices have been recorded in FAST, and the rule requiring each payment to be matched to the corresponding invoice has been applied.

- Monitoring of debtor accounts, temporary accounts and accounts for regularization and
- Clearance and recovery of advances

As indicated by the external auditors, the Centre has conducted a determined drive to clear accounts from the past.

The attention of staff has been drawn on several occasions to the importance of monitoring advances granted by the Centre in the framework of operations for which they are responsible. Steps have also been taken to ensure that advances and debtor accounts are kept under permanent monitoring, a task to which a staff member has been specifically assigned.

IV. COMMENTS ON THE 2002 BALANCE SHEET

A. Assets

1. Inventory

a) and b)

In June 2000 the Centre introduced a new procedure for keeping the physical and accounting inventories, specifying the responsibilities of each staff member concerned (purchasing officers, inventory officer, accounting officer).

Experience, particularly the physical and accounting inventory reconciliation exercise, pointed to the need for this procedure to be refined so as to establish a clearer separation of responsibilities between purchasing officers and the inventory officer.

The draft of a new procedure is nearing finalization.

In 2002 the Centre did not make any inventory disposals. In 2003, following the systematic replacement of PCs and the purchase of new furniture, inventory disposals will be made and entered in the accounts at 31 December 2003.

c) Management of identified assets not inventoried

The Centre keeps two physical inventories, one for assets with a value of more than € 200, as required by the Financial Regulation, the other for assets with a value of less than € 200.

It follows that all assets purchased by the Centre are inventoried.

Since 2003 more rigorous checks have been applied to the use of office supplies. In order to obtain them, staff members must now complete and sign a requisition.

3. Temporary accounts

The current procedure for entering expenditure and its reimbursement by PRIMS-CDE (the PRO€INVEST Implementation Service) will be reviewed, as requested by the external auditors, to improve monitoring and transparency.

The reconciliation table at 31 December 2003 requested by the external auditors has already been drawn up and delivered to them. It will also be attached to the 2003 accounts.

4. Debtor accounts and accounts receivable

- a) As regards the fourteen longstanding debts totalling € 69 624.40, final steps to recover them were initiated by the Centre in 2003. As a result, about € 29 000 has been recovered to date.
- b) The two amounts due from PRO€INVEST were entered in the 2003 accounts as recommended by the external auditors.
- c) The Centre has made arrangements to ensure that these accounts are cleared regularly.

Ngoga case

The Centre was unfortunately able to do no more than mitigate the consequences of this dispute from the past to the maximum extent possible. It exhausted all available options in its attempts to have the arbitration tribunal's award overturned or to prevent its enforcement. It was by a Belgian court decision that the Centre was obliged to comply with the award.

5. Advances to be justified

The Centre has noted the external auditors' recommendations, some of which have already been acted upon in 2003.

It should, however, be pointed out that most of these advances were granted to enterprises for the organization and funding of logistical arrangements for meetings organized by the Centre.

In calculating the amounts of such advances, the Centre has to take account of the following considerations:

- the estimated attendance at a meeting, although this is always larger than the actual attendance;
- the need to set up the logistical arrangements for meetings organized by the Centre well in advance, which means that funding needed by ACP enterprises must also be blocked well in advance.

B. Liabilities

Creditors

The figure of € 85 566.25 represents the amount that the Centre was ordered to pay Mr Mbayi by the arbitration tribunal on 3 December 1997. When he refused to accept this compensation, a corresponding amount was made over to the Centre's lawyer with instructions to try to pay Mr Mbayi. To date, seven years on, Mr Mbayi has consistently refused to accept this amount.

Temporary accounts

The accounting officer has been given strict instructions either to pay the sums due to their intended recipients or to clear these temporary accounts.

The € 29 660.96 will be returned to the Commission, since it corresponds to the unused balance from the EU Mines operation.

V. COMMENTS ON THE REVENUE AND EXPENDITURE ACCOUNT

A. Title 1

1. Application of statutory regulations

The proposed new Staff Regulations have been submitted to the Centre's supervisory authorities for approval.

Once they have been approved, the Centre will review the internal rules that flow from them, in the light of past experience and the external auditors' recommendations.

2. Choice of lawyers

As explained in previous years, the Centre has disputes dating back to the years 1990 to 1995.

Given that these disputes are so longstanding and complex, a change of lawyers at this stage could be prejudicial to the Centre's interests.

In its selection of lawyers for new cases, the Centre complies as far as possible with the competition rules laid down in the Financial Regulation.

It should, however, be borne in mind that the number of Brussels-based lawyers conversant with the current rules, customs and practices of international organizations is limited.

3. Specific case

This case is a dispute between the Centre and a staff member seeking reimbursement of education expenses (€ 1250 a year). The lawyer consulted by the Centre was of the opinion that the Centre should pay, and it is the case that the European Commission refunds its staff for expenses of this type. He was also of the opinion that the staff member would win on appeal. It was therefore in order to avoid pointless proceedings in which the Centre was bound to lose, and the additional legal costs involved, that the Director overruled the internal auditor's withholding of approval of this payment and, in accordance with the current Financial Regulation, informed the Executive Board of his decision, which was endorsed by the Board.

B. Title II

1. Modernization of computing

The new accounting and budgeting software (FAST) has been in service, on a trial basis, since March 2003.

This multi-user software, based on new technologies, provides optimum budget monitoring and control.

However, before the new accounting software can be validated, a few tests and improvements are still required. These are mainly in areas associated with closure of the annual accounts, which could not be tested before the end of 2003.

The main improvements brought about by FAST that can be confirmed at this stage are:

- better monitoring of operations, from their approval by the Director through to closure;
- the feature enabling the internal auditor to grant or withhold approval online;
- improved monitoring of invoices and credit notes.

2. Service charges on premises

The internal auditor will be asked to make on-the-spot checks on these charges.

3. Miscellaneous operating costs and Miscellaneous consultants (Art. 216 and 217 – Title II)

The Centre acknowledges that better management of these appropriations could have reduced the amount carried forward.

Following the retirement of the staff member in charge of this activity and the subsequent reorganization, the Centre considers that it can prevent any recurrence of this situation in the future.

C. Title IV

1. Implementation of the 2002 budget

Please refer to the replies given below in point VII. Conclusions, A. Utilization of budget appropriations.

2. General comments

The Centre agrees with the external auditors on the need for strict application of Article 33 of the Financial Regulation, laying down the conditions for awarding contracts, and for compliance with contractual clauses, particularly those specifying the dates of validity of contracts.

In practice, however, exceptions, duly justified, sometimes need to be made so that projects can be carried out efficiently. It always has to be borne in mind that the ultimate objective is to lend assistance to ACP enterprises.

There are nevertheless very few such cases.

VI. RECOMMENDATIONS

A. On the balance sheet

- The procedure for keeping the inventory will be revised to take account of the external auditors' recommendations, past experience and the introduction of FAST.
- The introduction of FAST should significantly improve the system for recording invoices and credit notes, with corresponding improvements in monitoring.
- A new procedure has been put in place to improve the monitoring of debtor accounts and accounts for regularization, and a staff member has been assigned to this activity. The FAST software includes a number of features that should facilitate the monitoring of these accounts.
- As confirmed above, the reconciliation table requested by the external auditors will be attached to the 2003 balance sheet.

B. On the revenue and expenditure account

Title I

Once the new CDE Staff Regulations have been brought into effect, the internal rules will be reviewed.

Title II

- The Centre has always taken care to keep its administrative costs down to the lowest level consistent with the effectiveness of its operations.
- The Centre will continue and complete the modernization of its accounting software in 2004.

Title IV

As far as the principles involved are concerned, the Centre agrees with the external auditors on the need to contain the volume of commitments entered at the end of a financial year. However, the time needed to prepare projects, strict compliance with Article 33 of the Financial Regulation and control requirements are not always conducive to rapid project implementation. It also has to be borne in mind that a financing agreement has to be signed before funds can be made available; as a rule it will not be signed until the first quarter of the year in question, with the funds being made available in April of the same year.

It must not be forgotten that the Centre's primary objective is to assist ACP enterprises.

VII. CONCLUSIONS

A. Utilization of budget appropriations

The Centre can spread payments on year N commitments until 31 December of year N+1. Consequently, performance has to be assessed on results over two years.

1. Carry-forward from 2001 to 2002

Performance in terms of carry-forward and cancellation of appropriations in year N+1 is only one of the criteria entering into an assessment. The table below, giving figures over a two-year span, clearly shows that payments out of the budget allocated to operations amounted to 86% of the commitments in the 2001 budget and 85% of those in the 2002 budget, despite the many economic and political uncertainties prevailing in the Centre's field of activity.

(Amounts in € 000)

	2000		2001		2002	
	Amount	%	Amount	%	Amount	%
<u>TITLE I - STAFF</u>						
Initial budget	7 420		7 400		7 925	
Available budget	6 773	91	7 125	96	7 925	100
Commitments	6 707	99	7 062	99	7 356	93
Total payments	6 176	92	6 744	95	7 155	97
<u>TITLE II - OPERATING COSTS</u>						
Initial budget	1 490		2 000		2 049	
Available budget	1 452	97	2 415	121	2 049	100
Commitments	1 429	98	2 286	95	1 939	95
Total payments	1 240	87	1 873	82	1 756	91
<u>TITLE III - OPERATIONS</u>						
Initial budget	9 680		10 758		9 050	
Available budget	10 422	108	10 758	100	9 050	100
Commitments	10 191	98	10 388	97	9 032	100
Total payments	8 817	87	8 955	86	7 481	83
<u>TITLE IV – SUPERVISORY BODIES</u>						
Initial budget	398		568		610	
Available budget	341	86	428	75	610	100
Commitments	320	94	272	64	311	51
Total payments	315	98	256	94	275	88
Total budget	18 988		20 726		19 634	
Grand total for payments	16 548	87	17 828	86	16 667	85

2. 2002 appropriations

The Centre's 2002 budget was approved in two parts, with two financing agreements, the first signed on 18 April 2002 (€ 7 000 000) and the second on 22 August 2002 (€ 12 259 000), the funds being made available six weeks later. This imposed constraints on operations and the scheduling of activities.

B. Management

The Directorate will continue to spare no effort to improve the Centre's financial management. The ISO 9001 certification process, initiated at the beginning of 2004, will lead to improvement, and certification, of administrative procedures.
