

## The model put forward by Heinrich Aigner (September 1973)

**Caption:** The European Parliament, and in particular its Committee on Budgets, carried out an extensive campaign to promote the establishment of a European Audit Office as a replacement for the Audit Board. The proposals put forward by Members of the European Parliament were set out in a document entitled 'The Case for a European Audit Office', drawn up by the Vice-President of the Committee on Budgets, Heinrich Aigner. In his introduction to this document, Aigner rejects, for the time being, the creation of an actual 'institution' of the European Communities and proposes, in the meantime, a model which could be set up on the basis of Article 206 of the EEC Treaty (new Article 276 of the EC Treaty) concerning the Audit Board.

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## The case for a European Audit Office

[...]

### Introduction

1. The European Community is there to serve its peoples and citizens who have a rightful claim to assurance that money paid into European coffers is spent wisely and in accordance with the principle of sound budget management.

It falls to the representatives of the peoples of Europe — and the Members of the European Parliament consider themselves as such — to be the guarantors of clear-cut and responsible financial management on the part of the European Community such as bears comparison with the standards obtaining in the Member States.

2. This requirement, however, is not adequately met by the Community's present system of financial control.

The auditing of Europe's finances is carried out more or less as a 'sideline occupation', a description which neatly sums up the present bleak situation as regards Community control of budgetary and financial affairs.

As matters stand at present,

- (a) the European Communities' budget has reached a figure of 4 200 m. u.a. 1
- (b) payments from the European Development Fund amount to 1 000 m. u.a.
- (c) the enlargement of the European Community to include Great Britain, Ireland and Denmark has become reality
- (d) with the creation of a monetary union (European Monetary Fund), a further steep rise must be expected in the budget growth rate.

In this situation, control of the administration, whether external or by Parliament, is still in its infancy. While parliamentary control over public finance in the Member States is founded on national Audit Offices served by a professional staff whose activities cover an extremely wide field, the European Parliament is served by a body — the Audit Board — whose present statutes can hardly make it a satisfactory instrument for effective external, let alone parliamentary control.

3. The communications gap both between the Member States and between them and the European Community, the complexity of European legislation, particularly in the agricultural sector, poor coordination of the Member States' auditing activities, these are all factors which make it imperative to introduce a European system of financial control at an early date. The European Parliament's Committee on Budgets and I personally have been calling for this for a good many years and our efforts have found a keen response in the national parliaments and auditing authorities.

The need for a European Audit Office also won broad acceptance during talks between the European Parliament's Committee for Finance and the Presidents of the national Audit Offices.

4. When it is recalled that cases of fraud involving the European Agricultural Guidance and Guarantee Fund are common knowledge and that the Community or the Member States make inconsistent and sometimes improper payments in this sector running into hundreds of million dollars annually which have done and still do so much to impair the Community's standing, it will be realized that action can no longer be postponed.

5. So far, the Council of the Communities has not gone beyond the stage of rhetoric; it has failed to take any

initiative or action or when it has, the required effect has not been achieved. Following three years' discussion, the new — and long overdue — financial regulation is only now to be introduced.

As from 1975 the Community will enjoy full financial autonomy. Under the Council's decision of 21 April 1970, the Community will be self-financed from the following resources:

1. Customs revenue in its entirety (the figure for 1975 is estimated at approximately 2 200 m. u.a.)
2. All revenue from agricultural levies (the estimated figure for 1975 is approximately 900 m. u.a.)
3. If necessary, up to 1 % of VAT from all Member States as from 1975 (estimated at 1 000 m. u.a.)

This revenue will provide the basis on which the Community will operate. This in itself makes it necessary to ensure that it is brought under a satisfactory system of European financial control.

6. In as far as control over the use of these funds will not be exercised by the national parliaments, this responsibility must be assumed by a European Parliament with wider powers.

Since financial control requires smoothly functioning machinery the driving force behind the idea of a European Audit Office was, understandably enough, the Members of the European Parliament.

It will be a grave threat to European integration if the financial management and expenditure of a European bureaucracy more or less responsible only to itself is not brought under an adequate and independent control authority.

7. The auditors and the chairman of the Audit Board provided for in Article 206 of the EEC Treaty, Article 78 of the ECSC Treaty, and Article 180 of the EAEC Treaty do not exercise their duties on a full-time basis, hence the observation made at the beginning of this introduction.

Although the auditors are assisted by officials (at present 26 approved posts), there are not enough of them to ensure continuity and independence as in the case of the Audit Offices in the Member States, which have often been described as the fourth power in the State.

8. Such are the reasons which have prompted me, on behalf of the Bureau of the European Parliament and the Committee on Budgets, to give wide publication to this collection of documents. Our aim must be to set up a European Audit Office.

The European Parliament in general and the members of its Committee for Finance and Budgets in particular have taken numerous initiatives in this field in response to the recognized needs of a Community guided by the principles of parliamentary democracy.

The avenues of approach to a European system of financial control which I have outlined in these introductory remarks are based on an analysis of the present situation; at the same time they are designed to serve as a basis of discussion for the ad hoc Working Party set up by the European Parliament with representatives from the national Audit Offices and the other Community institutions.

## **A. Financial control under Community law**

### *External and internal financial control*

9. The three treaties provide for two forms of financial control. The first is external control. It is carried out by an outside body, the Audit Board, set up specially for the purpose and acting independently of the authorities subject to its control. It is further a retrospective form of control, consisting, in accordance with the three Treaties, first in examining the accounts of all revenue and expenditure on the basis of records, and, if necessary, on the spot, to establish that they have been received or incurred in a lawful and regular

manner and in accordance with the principles of sound financial management and secondly, in drawing up a report after the close of each financial year.

10. The three Treaties make provision for but do not further specify the other form of financial control. Article 78(f) of the ECSC Treaty, Article 209 of the EEC Treaty and Article 183 of the Euratom Treaty simply instruct the Council and Commission to lay down arrangements for this form of financial control: the instruction is contained in the provision that the Council shall, acting unanimously on a proposal from the Commission, lay down rules concerning the responsibility of authorizing officers and accounting officers and concerning appropriate arrangements for inspection.

11. In pursuance of this instruction, the various financial regulations provide for preliminary internal control on the model of the 'advance control procedure' that is applied to a greater or lesser degree in the Member State and has been developed in a number of international organizations. In each of the four Community institutions, this form of control is the responsibility of a financial controller appointed by the institution to perform his duties independently. His advance endorsement is required not only for individual payment orders but also for any measure which may result in a charge on the budget. The financial regulations thus ensure that he can query any irregular expenditure far enough in advance. The financial controller queries expenditure by withholding his endorsement and stating his reasons. In such cases the expenditure is not effected unless by a reasoned decision the Commission overrides the financial controller's refusal to endorse it.

#### *Disadvantages of external financial control*

12. Both preliminary internal control and retrospective external control have their weaknesses. The disadvantage of any form of retrospective control is that expenditure is queried after the event. The query is thus pointless save in cases where the item of expenditure is likely to recur in the same circumstances, which does not always happen. This disadvantage increases with the time lapse between the date on which expenditure is made and that on which it is queried. Experience has shown that it frequently takes a long time for the Audit Board's report to reach or be discussed by Parliament and the Council. For example, the discharge in respect of the 1970 financial year will not be given by Parliament until 1973.

13. A further disadvantage of retrospective external control is that a separate control body cannot be as familiar as would be desirable with the procedures applied by the departments subject to its control. While the Audit Board has access to all Commission documents, there are so many items of expenditure that each transaction cannot possibly be fully scrutinized on the basis of records. The auditor must therefore possess an intuitive sense if he is to begin his inspection at the point where it is likely to be most useful. Intuition of this sort, however, is not a matter of sixth sense, meaning that it is more likely to be found in greater measure in an auditor familiar with the internal workings of the department to be inspected than in an outsider.

#### *Disadvantages of internal control*

14. The disadvantages of internal control lie in the position of dependence in which the financial controller finds himself to some extent although, following the merger of the executives of the three Communities, the post was graded at the highest level.

15. A further weakness of internal financial control is that the Commission can easily override the financial controller's refusal to endorse expenditure. The requirement on the Commission to state its reasons is unlikely to have much of an inhibiting effect. The Court of Justice has repeatedly noted that the reasons given by the Commission for its decisions are generally somewhat slender and it would be unreasonable to expect the Commission, which is faced with so many more important decisions, to take special pains to justify decisions overriding those of the internal financial controller.

#### *The advantages of a system of internal and external control*

16. These weaknesses in external retrospective control and preliminary internal control explain why both forms are provided for in Community law. There is no justification in the argument that this is making too much of financial control, for it is only by combining both forms that the weaknesses of each when carried out alone can be remedied to any substantial extent. The official responsible for internal preliminary control is stronger in the knowledge that expenditure open to doubt will be scrutinized by a further authority, for the Audit Board's censure is essentially directed against him in cases where he has given his endorsement. Furthermore, the Commission would be less tempted to override the financial controller's decision to withhold his endorsement knowing that a report by the authority responsible for retrospective control would be submitted to Parliament and the Council stating that despite warning from the financial controller, it (the Commission) had effected expenditure that was not in order. The external auditing body, too, would find it easier to concentrate on critical areas if it could work from the opinions and reports drawn up by the internal, preliminary financial control authority.

17. To be more effective, the Audit Board must be given more extensive and clearly-defined rights and powers over the departments subject to its inspection. The Council and the Parliament's Committee for Budgets have already developed clear conceptions in this matter and these have been incorporated in the new Financial Regulation.

Under Community law the Audit Board is primarily responsible for conducting retrospective control. If the administration provides the Board with too much information, this might blur the lines of demarcation of responsibilities; although this danger should not be overlooked, information of this nature cannot be dispensed with if rational cooperation between the Audit Board and internal financial control is to produce optimum results.

18. Finally, in connection with the membership of the Audit Board, a development has occurred which would seem to give cause for concern. Formerly, the Board's members were professors and members of the Audit Offices or similar bodies in the Member States carrying out independent financial control; since 1969, a few Member States have been nominating officials from their Ministries of Finance. With all due respect for the personal integrity and independence of Ministry of Finance officials, the danger is that the Communities' Audit Board will gradually come to resemble the committees of the Council of Ministers. This would hardly be in keeping with the role assigned to the Audit Board in the Treaties, especially with the requirement for independence.

19. One of the provisions in the Financial Regulation which guarantees independent internal financial control is that all measures relating to the appointment and promotion of the financial controller, to disciplinary action, transfer, interruption of service or termination of appointment must be laid down in reasoned decisions forwarded to the Council for information. The financial controller may appeal against such decisions to the Court of Justice. In other words the financial controller can only be removed from office by a reasoned decision of the Commission which must be notified to the Council and is subject to full judicial investigation. Since Parliament and Council together now constitute the budgetary authority, provision must be made to notify both of decisions concerning the financial controller. The provisions contained in the Financial Regulation on internal financial control are open to improvement in this respect. The budget authority should have a say in the selection of the financial controllers. Furthermore, the budget authority or even the Audit Board should be empowered to render the financial controller liable to disciplinary action, as provided for in the Financial Regulation, when he improperly endorses expenditure. This would certainly strengthen the financial controller's hand for under current staff regulations, only the Commission can take disciplinary action against him. This is hardly likely to happen if the endorsement improperly given is for an item of expenditure which the Commission itself wished to incur.

Finally, it is essential to extend internal preliminary financial control to all Commission expenditure and revenue. As matters stand, there are still a few important areas left uncovered. This is especially surprising in the case of the European Development Fund.

20. The reason advanced for excluding Development Fund payments made by the relevant Directorate-General from financial control is that the Directorate-General for Development Aid has built up a

satisfactory financial control system of its own. This is self-contradictory since the whole spirit of financial control is impugned if it is carried out by the same department whose expenditure is to be scrutinized. The Directorate-General for Development Aid has not only assumed sole responsibility for financial control, but also for accounting. Furthermore, financial control is performed on the spot by so-called 'commissioned controllers' who acting as a sort of 'Jack-of-all-trades' represent the Commission's interests in the implementation of projects financed by the Development Fund in overseas countries.

It would thus appear that where the expenditure of the European Development Fund is concerned, the principle of independent financial control is not observed, nor is the principle, likewise written into the Financial Regulation, whereby the duties of authorizing officer, financial controller and accounting officer should be kept separate.

21. The biggest improvement which can be made to financial control in future lies in a better exchange of information between internal preliminary control and external retrospective control by the Audit Office.

The two forms of control should not be partitioned off from each other. Preliminary internal control should be required to take account of the observations made by the Audit Board and approved by the budget authorities.

### **B. Control of Community revenue and expenditure handled by the States' authorities**

#### *Rules for a procedure to control this revenue and expenditure*

22. It is essential that all such revenue and expenditure should be controlled by the Communities since they are the Communities' own resources and are simply handled by the Member States under administrative delegation — just as in federal states the provincial authorities discharge certain responsibilities on behalf of the central government. This is a major task for the Community's future financial control department.

As long as the Member States collect revenue and effect expenditure for the account of the Communities, there can obviously be no question of applying a system of preliminary control in which the financial controller of the Commission endorses the acts of the Member States' authorities recording and collecting Community claims for payment of customs duties and agricultural levies or concerning, say, the substantiation and implementation of commitments under the Agricultural Fund.

23. Member States' officials responsible for actually receiving and disbursing Community funds do not apply directly the Community's agricultural and customs regulations but follow implementing rules which are detailed in the extreme. In these rules, which are drafted by higher authority in the Member States, and by the central authorities in particular, Community law — although basically self-executing in the Member States — is interpreted for the use of the officials concerned in the form of readily understandable service instructions. This means that for effective control of Community revenue and expenditure handled by the Member States, these implementing rules should be scrutinized; in other words, it is not enough for the Community's control service or joint committees consisting of officials from various Member States to proceed to the frontier and observe how, in specific cases, the local customs authorities collect duties or agricultural levies on imports and pay refunds on exports. This would also be more closely in line with the allocation of responsibilities under Community law between the Member States and the Community for the handling of own revenue and expenditure.

24. The implementing rules issued by the Member States can be scrutinized from two angles. First it can be ascertained whether they conform to applicable Community law, in other words whether they represent a correct and consistent interpretation of this law.

Secondly they must be checked for their adequacy in the prevention of frauds which have done so much to harm, and continue to harm, the Community's reputation.

Rules of implementation which resulted in higher export refunds or lower import levies than under a proper



interpretation of Community law would apply to an unlimited number of import or export transactions whereas frauds by importers or exporters occur only in individual cases or in a limited number of cases.

25. The control of Community revenue and expenditure handled by the Member States should therefore include comprehensive and systematic supervision by Community bodies of Member States' rules of implementation; but it is essential that this should be supplemented by on-the-spot controls. In the performance of their duties, Member States' officials responsible for collecting duties or making payments for the account of the Communities are not always guided by detailed implementing rules. Administrations have also adopted certain practices which, though not set down in writing, have through constant repetition the same effect as rules of implementation. These can only be brought to light through on-the-spot controls carried out for this specific purpose and not primarily to check a specified import or export transaction. Controls of this kind should be carried out not only by Community officials but also by joint committees of experts from the various Member States.

26. A solution along those lines to this problem of control is foreshadowed in those provisions of Community law which require Member States to notify the Commission of their implementing rules. Unfortunately, the only one which is entirely satisfactory is that applicable to Community expenditure effected by the Member States. This is Article 9, paragraph 1, subparagraph 2 of Council Regulation No 729/70 of 21 April 1970 on the financing of the Common Agricultural Policy, under which Member States are required to notify the Commission of legal and administrative provisions relating to the Common Agricultural Policy in as far as these have financial implications for the Agricultural Fund. Oddly enough, there is no similar provision governing Community revenue collected by the Member States. Under Article 4, paragraph 1(b) of Council Regulation No 2/71 of 2 January 1971 on the replacement of the financial contributions of Member States by the Community's own resources, the Member States are required to notify the Commission of general legal and administrative accounting regulations which relate to the establishment and making available of own resources.

27. The receiver of a payment in settlement of a claim by a third party and on the latter's behalf is always required to render account. By virtue of this generally recognised legal principle, no Member State can refuse to notify the Commission of administrative regulations which affect the amount of the duties collected for the account of the Communities. There is probably little likelihood of such a refusal being given but if it should, the Commission could confidently refer the matter to the Court of Justice.

Appropriate regulations should be issued allowing the Community's external control authority to assess the effectiveness of the control procedures described above. Steps should therefore be taken to institutionalize close cooperation, the sharing of responsibilities and coordination between the Audit Board, developed into a European Audit Office, and the Audit Offices in the Member States.

*Responsibility for the control of Community revenue and expenditure handled by the Member States' authorities*

28. The following question has still to be answered: which body and which department should exercise control over Community revenue and expenditure handled by the Member States by what is virtually administrative delegation? Should this fall within the competence of the Audit Board (European Audit Office) or the Commission and if the latter, which department should be responsible, internal financial control or another?

It is clearly beyond doubt that the role of the Audit Board in this control process cannot be conceived in complete separation from that of the Commission's internal financial control department.

Initial attempts to answer the question of which body and which department in the Community should be authorized to control Community revenue and expenditure handled by the Member States and to check, for this purpose, the latter's implementing rules and administrative practices are bedevilled by the large number of Commission departments which would appear suitable. In order to obtain any sort of general picture, a subdivision into three categories is essential.

1. The first category includes those departments whose task it is to draft and further develop Community customs and agricultural legislation and to institute proceedings when infringements of this legislation occur. These are

(a) the 'Administration of the Customs Union' directly responsible to the Commission, and

(b) the three Directorates in the General Directorate for Agriculture which are responsible for the organization of markets in crop products, livestock products and specialized crops, fishing and forestry.

2. The second category includes the departments which authorize Community revenue and expenditure handled by the Member States.

(a) For revenue, i.e. customs duties and agricultural levies, this is the Directorate-General for the Budget and Administration,

(b) For expenditure, i.e. under the guarantee section of the Agricultural Fund, this is the 'European Agricultural Guidance and Guarantee Fund' Directorate in the General-Directorate for Agriculture.

3. The third category consists of the General-Directorate for Financial Control.

29. What is particularly striking in this inventory is that the Commission has assigned to different departments the task of drafting, further developing and ensuring implementation of Community customs and agricultural legislation and that of authorizing Community receipts from duties and agricultural levies as well as expenditure under the Agricultural Fund. Both tasks have thus been kept strictly separate up to the highest level.

This situation attracts attention because at first glance it would seem more natural and expedient to leave both tasks in the hands of a single authority; after all the task of authorizing receipts and expenditure is concerned with the proper application of Community law. But while it may seem strange at first sight, this separation becomes clearer with reference to actual practice. The departments responsible for drafting and further developing Community customs and agricultural legislation work in extremely close cooperation with the Member States' customs and agricultural administrations in framing Commission proposals for regulations and consult with the Council's committees once these proposals are forwarded to the Council.

30. This is difficult to reconcile with the role of financial administration which is responsible for Community revenue and expenditure and the balancing of the European budget. The Community's customs and agricultural policy is at once economic policy, social policy, structural policy, regional policy, conjunctural policy, as well as commercial and external policy. It is also financial policy but this aspect must not be allowed to occupy the centre of the stage. There is also a further consideration involved; free from the taint attaching to the tax-collector and secure in the knowledge that differences of opinion on future Community legislation cannot be exacerbated by differences of opinion on what the Member States owe the Communities or the Communities the Member States under existing Community legislation, the Commission's departments responsible for drafting and further developing Community customs and agricultural legislation will find it easier to negotiate with the Member States' administrations and the Council's committees. Furthermore, proceedings for infringement of Community law are governed by other principles and criteria than measures taken to ensure that revenue is received in full and that all Community expenditure is properly effected. The procedure provided for in the treaties in the case of breaches of those treaties is a formal procedure in which a Member State is put in the dock, so to speak, and is liable to censure by the Court of Justice of the Communities. For this reason, the treaty provisions governing the referral of breaches thereof to the Court of Justice are not binding and the Commission invokes them only in cases of such importance for the operation of the Community as warrants recourse to the procedure involved. In most cases, moreover, the Commission is content to ensure that there will be no recurrence of the infringement in question. If a Member State has misapplied Community law and paid out too much in the way of export refunds or collected too little in the way of agricultural levies, and then takes steps to



ensure that this does not recur, the error cannot be quietly overlooked when its accounts of receipts and expenditure are settled; this would be tantamount to the Commission paying unauthorized export subsidies out of the Agricultural Fund or foregoing the full amount of duties owing to the Community.

This explains why the Commission departments whose task it is to draft and further develop Community customs and agricultural legislation and to ensure the enforcement thereof have quite rightly not been made responsible for collecting Community revenue and making Community expenditure under this legislation. It also explains why those departments are even less suited to undertake financial control of this revenue and expenditure.

31. The question remains of whether the Commission's 'authorizing' departments which collect Community revenue from customs duties and agricultural levies and effect expenditure from the Agricultural Fund should not have the additional responsibility of controlling the said revenue and expenditure and, as part of this control, of scrutinizing the Member States' implementing rules and administrative practices.

It is a generally recognized financial principle — which has been written into the Community's Financial Regulation — that the duties of authorizing officer are incompatible with those of financial controller. This principle is based on the consideration that departments whose task it is to secure adequate revenue or to prepare and implement projects generating expenditure do not possess the detachment required for impartial financial control. This principle can be applied with equal justification to relations between the authorizing officers in the Commission and those in the Member States since the Commission departments concerned are responsible for a balanced Community budget and for the market support and other measures financed out of the Agricultural Fund.

32. The role of preliminary internal financial control should be to refuse endorsement of a statement of levies collected by a Member State for the account of the Communities if it is found from examination of the implementing rules and administrative practices of the Member State concerned or from another source that the levies due to the Communities have not been collected or not collected in full. Preliminary financial control should also refuse to endorse a payment order for the reimbursement of a Member State's expenditure, e.g. for the account of the Agricultural Fund, if it is known that part of the expenditure involved covers export refunds which are not in accordance with Community law. The Audit Board too must enter an objection if the Commission, with or without the financial controller's endorsement, effects such expenditure from the Agricultural Fund or if the Commission's financial controller does not sufficiently check the Member States' implementing rules and administrative practices to ascertain that such expenditure has occurred.

If the financial controller of the Commission exercises this form of control and if there is close cooperation between preliminary internal control and retrospective control by the Audit Board, this will be the surest guarantee that Parliament will be able to fulfil its control responsibilities and its financial role as budget authority.

33. As Community financial control is developed, care should be taken to ensure that the departments directly concerned, either with the agricultural sector or the European Development Fund or the Social Fund do not control their own finances.

This would be in contradiction with basic financial principles. Financial control implies that the controller and the controlled should not be the same person and this applies at all levels.

No matter who is made responsible for the control of revenue and expenditure, it is vital that a clear decision should be taken at an early date. Control must be vested in a single central department for if responsibility were shared among several departments, its effectiveness would be inhibited and this would be unreasonable from the point of view of the Member States. Inasmuch as responsibility for the revenue and expenditure in question lies with a single administration in the Member States, it should have as its counterpart a single control department at Commission level. Besides this, sharing responsibility among several departments means doubling staff requirements.

This applies especially to the agricultural sector which still accounts for 80 per cent of the total expenditure of the European Communities.

Permanent cross-fertilization of ideas suggested by experience must therefore be a prime consideration in the framing and further development of agricultural market regulations and the legislative authorities must also be quick to react to mispractices.

### **C. The setting up of a European Audit Office**

34. It will be perfectly clear from what has been said that even assuming a liberal interpretation of Article 206 of the EEC Treaty, the Audit Board is not in a position to ensure adequate external control of Community finances. Many arguments can be advanced for transforming the Audit Board into a European Audit Office. One general observation of relevance here is that the Community budget has now reached a size that requires external control on a different scale.

Furthermore, the problems caused not only by the division of the Community into Member States but also by the different historical development of financial, budget and control procedures make harmonization essential. For this reason, the basic statutes of a future European Audit Office should be developed from Article 206 of the EEC Treaty.

35. The ultimate aim should be to set up the European Audit Office as a genuine independent Community body separate from the Assembly, the Council, the Commission and the Court of Justice since this is the only way to guarantee its full independence, including organizational independence. In the initial stages of development, it will not be possible to take such a broad view for it would require changes to the treaties. Such changes could not be made easily and would in any case be subject to a time-consuming ratification procedure.

36. However, a European Audit Office on the following outline model could be set up on the basis of Article 206 of the EEC Treaty.

#### *(a) Responsibilities and authority*

The European Audit Office would be authorized as of right to verify that the budgetary and financial management of the Communities is conducted properly and with due regard for economy; this includes all decisions taken in organizational and staffing matters and other measures with possible financial implications. It would also be authorized to conduct local investigations with the Member States' administrations and would be free to circumscribe its audits as it saw fit or leave entire areas unaudited. By joint decision of the European Parliament and the Council it could be requested to conduct special inquiries into specific problems.

The European Audit Office would have the right to be represented by a member at all meetings of the Parliament's and Council's budget committees.

It would be able to take the initiative in submitting proposals to the Council, the Parliament, and the Commission on all matters of financial management. In the performance of its duties it would be able to call on the services of experts and commission expert reports.

#### *(b) Members*

The European Audit Office would consist of nine full-time members — one from each country of the Community — possessing judicial independence and free to conduct audit operations as they saw fit. The members of the European Audit Office would be required to have many years' experience in the control of public accounts and would be nominated by Parliament and appointed for six years by the Council. The Parliament would make nominations on the basis of a triple list drawn up by the national audit offices.

Members would be eligible for re-appointment for one further term of office. In order to ensure work continuity, the first members would be appointed in groups of three for three, five or seven years, those various periods of office to be drawn by lot among the nine Member States.

(c) *President*

The nine members would elect from among their own numbers a 'primus inter pares' to be President of the European Audit Office for a period of two years. He would represent the European Audit Office in its relations with outside bodies and would supervise the work of its staff.

(d) *Administrative director*

The Director of the European Audit Office would be responsible for organization and administration. He would take decisions, under the authority of and, in personnel matters, where necessary, on the instructions of the President.

(e) *Structure, allocation of responsibilities*

The European Audit Office would be divided into audit areas each directed by one member assisted by the necessary staff. The nine members acting collectively would decide autonomously for six-year periods on the allocation of the Audit Office's responsibilities in the various audit areas. As far as possible, account should be taken here of the organization of the Commission and the focal points of Community expenditure.

(f) *Decision-making bodies of the European Audit Office*

(1) Divisions would be formed, each covering three audit areas. Each division would take decisions in auditing matters by a majority vote on the basis of a report by whichever member is responsible. Decisions by individual members would not be permissible since they would offend the principle of collective responsibility for the decisions of the European Audit Office and stand in conflict with the efforts being made to achieve integration.

(2) The three divisions with all their members would together form the Senate of the European Audit Office. The Senate would be responsible for the report on the accounts for a given financial year and for coordinating decision-making and auditing practice in the European Audit Office.

(g) *Disciplinary authority of the European Audit Office*

The European Audit Office would be able to take disciplinary action in respect of infringements of financial regulations by accountants and officials in the Commission's internal financial control department. It would have full right to information on all procedures applied within the internal financial control department. The opinions of the European Audit Office in budget matters would be binding on the Commission's internal financial control department but should not be allowed to interfere with the responsibilities of the Commission.

(h) *Requests for audit made to national auditing authorities*

The Senate of the European Audit Office would be able to request any or all of the auditing authorities in the nine Member States to conduct inspections in specific matters. Where national auditing authorities are not requested to make inspections or where such requests cannot be met within a reasonable time or in a reasonable manner, the European Audit Office must itself assume the task.

Common criteria applicable to all countries should be laid down in advance for auditing projects and should also specify how stringent the audits should be. Acting in conformity with these criteria, the national auditing authorities would carry out the requested audits on their own responsibility. They would submit their findings direct to the European Audit Office but would be free to inform their own governments or

other departments concerned.

(i) *Joint Senate*

A joint Senate with an advisory function would be set up within the European Audit Office. In addition to the nine members of the European Audit Office it would include a member from each of the auditing authorities in the Member States. The joint Senate would be consulted prior to decisions by the European Audit Office to submit audit requests to the national auditing authorities. Being represented in the joint Senate, the national auditing authorities would be able to coordinate their national auditing tasks with those of the European Audit Office.

In addition to the rules outlined above, there are undoubtedly many other details to be clarified and incorporated partly in the statutes of the European Audit Office and partly in its internal rules of procedure.

#### **D. The creation of a corps of Community auditors**

37. In order to campaign effectively against frauds in the agricultural sector and to ensure that the Community's own resources, particularly agricultural levies and common customs tariff duties are collected in accordance with uniform procedures in all Member States, it might be useful to set up a Community inspection department as a sort of 'flying squad' with the task of carrying out random controls unannounced and on the spot, particularly at the Community's external frontiers. The creation of a 'flying squad' on those lines presupposes a special Community training centre for customs officials selected for the purpose. The psychological effect of an auditors' corps capable of working at any time and in any place would assuredly make itself felt in the Member States' administrations which collect revenue or effect expenditure for the Community by administrative delegation and would certainly act as a deterrent to potential 'agricultural defrauders'.

This corps should come under the Commission and enjoy a fairly wide measure of independence. The Community Audit Board/European Audit Office would have to be kept constantly informed of the results of its activities.

Dr Heinrich AIGNER  
*Vice-Chairman of the Committee  
on Budgets*

[...]

<sup>1</sup> Budget estimates for 1973 run to 4 300 m. u.a. i.e. D.M. 15 300 m., FF 23 300 m., Fl. 15 200 m., Lire 2 625 000 m., BF 210 000 m., £ 1 747 m., Kr. 26 000 m.

<sup>2</sup> Including the 'sugar' contributions and the financial countervailing charges.

<sup>3</sup> *Source* : forecasts covering several years submitted by the Commission, 15 November 1972, Doc. 257/72. The figures are for the 6 original Member States. The share of the new Member States should amount to approximately 750 million u.a. in 1975.

<sup>4</sup> Treaty establishing the European Coal and Steel Community (ECSC), Treaty establishing the European Economic Community (EEC), Treaty establishing the European Atomic Energy Community (EAEC).

<sup>5</sup> Article 78 (e), ECSC Treaty; Article 206, EEC Treaty; Article 180, EAEC Treaty.

<sup>6</sup> In accordance with Article 205 of the EEC Treaty the Commission implements the budget on its own responsibility.