

HPG Background Paper

**Accountability and influence in
the European Community
Humanitarian Aid Office**

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Background research for HPG Report 12
December 2002

1. Introduction

This paper is part of a Humanitarian Policy Group (HPG) study of the bilateralisation of humanitarian assistance. One section of the study focuses on the financial, contractual and managerial environments of specific donors. The aim of this paper is to provide background information on one of these donors, the European Community Humanitarian Aid Office (ECHO).

The first section of the paper describes the establishment and development of ECHO, and provides an overview of budgetary and expenditure patterns. The second part of the paper focuses on ECHO's search for an identity as 'more than just a bank'. The third part looks at the mechanisms whereby ECHO can exert influence in the humanitarian aid field. The paper concludes with brief descriptions of some of the ways in which ECHO is held to account.

2. ECHO: establishment and growth

In 1991, a number of crises – the Kurdish refugee crisis, the Bangladesh cyclone and the outbreak of war in the former Yugoslavia – raised concerns about the European Community's procedures for providing humanitarian aid (CEC, 1993). On 6 November 1991, the European Commission responded with a decision to establish a separate office with responsibility for humanitarian aid. Accordingly, ECHO was set up in April 1992 for an initial period of seven years.

Prior to the establishment of ECHO, responsibility for humanitarian aid was divided between various Commission services. Thus, 'the chief purpose behind ECHO's creation was to improve efficiency and give the Community's humanitarian aid effort a higher profile' (CEC, 1993). The Commission authorised ECHO to take over responsibility for the 'coherent administration' of humanitarian aid, emergency food aid and disaster prevention and preparedness activities. However, ECHO was not a legal entity until the adoption of Council Regulation No. 1257/96 concerning humanitarian aid in June 1996. This is because each EU budget line requires a Council Regulation to give it a legal basis. The Council Regulation defined humanitarian aid, and gave ECHO a far more detailed mandate.

Although establishing ECHO was meant to locate responsibility for all humanitarian aid-related activities within one organisation, the Directorate-General (DG) Development still manages some emergency food aid (despite a Commission Communication (SEC (94) 2164, E 2473/94) which sought to transfer this responsibility to ECHO), and the Directorate-General responsible for external relations, DG RELEX, funds human rights and conflict prevention activities.¹ The need for improved coordination between these Commission services was highlighted by the

¹ DG Development handles the transportation of food in bulk for large-scale emergencies and famine situations (such as North Korea) whereas ECHO funds smaller NGO or UN projects such as the distribution of food parcels or feeding centres.

Court of Auditors in 1995, and again by an independent evaluation of ECHO's activities in 1996–99, referred to as the Article 20 evaluation since it was undertaken in accordance with Article 20 of the 1996 Council Regulation (Franklin Advisory Services, 1999: 10).

2.1 ECHO's budget

ECHO's budget grew rapidly in the first two years of its existence, and by 1994 it was the world's largest humanitarian aid donor. The budget then declined, in keeping with the budgets of other humanitarian aid donors. However, the decline was not as sharp as it was in other donors, such as the UK. It has been suggested that this was because the European Parliament is broadly supportive of ECHO's activities. In addition, some Member States which do not have large humanitarian aid budgets but would like an EU presence in crises also favour maintaining ECHO's budget at higher levels. In 1999, ECHO's budget rose again to a record level, this time due to the allocation of approximately 400 million euros to the Kosovo crisis.

2.2 Implementing partners

When ECHO was established, the Commission expected that it would 'gradually build up its own capacity for direct action in the field, independent of any intermediary' (CEC, 1993: 10). However, ECHO has not developed an operational capacity. Instead, most of its funding is channelled through European NGOs, UN agencies and the Red Cross organisations, as depicted in Figure 2 (overleaf). In this Figure, CEC (Commission of the European Communities) represents funds spent directly by the Commission. With the exception of the 1990 total, which includes funds allocated for the Gulf crisis, the percentage spent directly by the Commission has been small, and restricted mainly to ECHO-Flight and the European Community Task Force in the former Yugoslavia. 'International organisations' refers to organisations such as the Red Cross family. The graph demonstrates that the percentage of ECHO's budget spent through European NGOs has risen substantially, reaching a record high of 65% in 2000. ECHO has been very reluctant to fund local NGOs directly because of accountability concerns; the 4% of its budget provided to non-European NGOs in 2000 was mainly to Northern NGOs, such as the US International Rescue Committee (IRC).

2.3 ECHO's regional focus

Table 2 (page 4) outlines the percentages of ECHO's budget which have been allocated to different regions. This shows that the former Yugoslavia has been an important focus for ECHO, and received over half of ECHO's budget in 1993 and 1999. This has led to claims that ECHO's funding has been 'heavily skewed towards Europe' (ICG, 2001b: 5). In other years, the area received a share of ECHO's budget similar to that of the African, Caribbean and Pacific (ACP) countries.

Figure 1: The EC humanitarian aid budget, 1990–2000 (million euros)

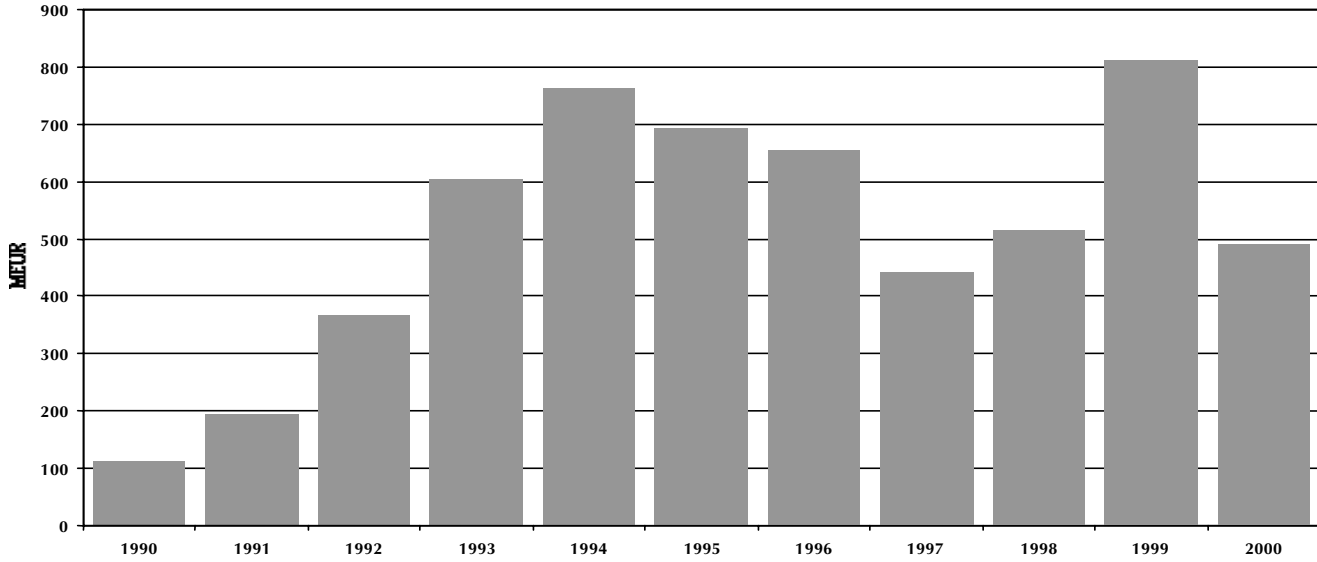


Figure 2: Percentage of ECHO's budget channelled through its main implementing partners

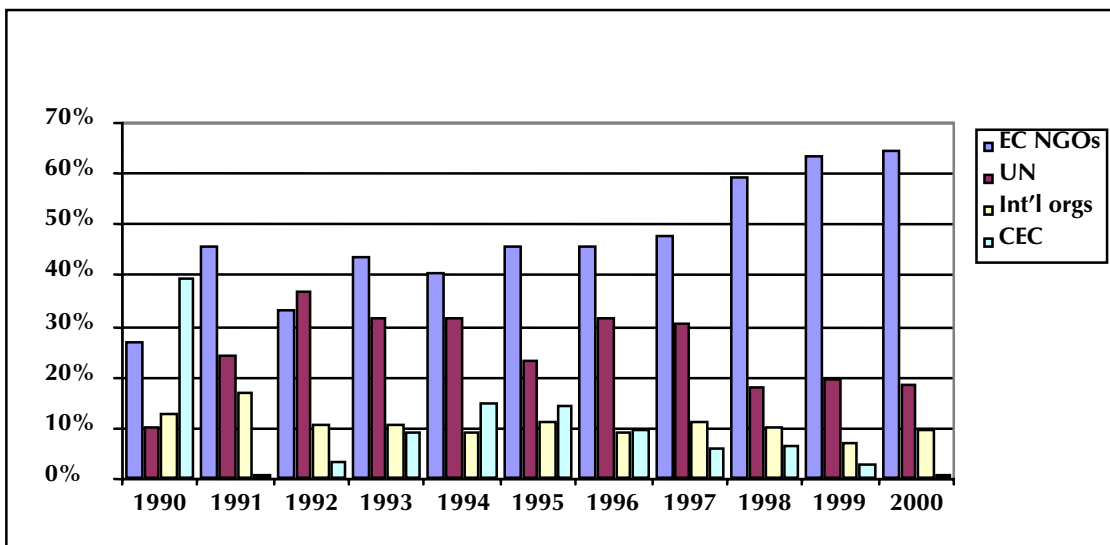


Table 1: Key dates in ECHO's development

Date	Event
6 November 1991	Commission decision to establish ECHO
April 1992	ECHO established
September 1993	Framework Partnership Agreement (FPA) comes into operation
early 1994	Global Plans introduced. These are country or region-wide strategies for comparatively stable situations
June 1994	Process of revising FPA begins
mid-1994	Court of Auditors' audit of ECHO commences
1994	Establishment of ECHO-Flight, an air transport service based in Kenya for use by ECHO-funded projects in Somalia, South Sudan and Rwanda
1995	Emma Bonino appointed Commissioner for humanitarian aid, fisheries and consumer affairs
14 December 1995	Humanitarian Summit in Madrid
March 1996	ECHO restructured and a separate Evaluation Unit established
28 March 1996	Communication from the Commission to the Council and Parliament on Linking Relief, Rehabilitation and Development
Spring 1996	ECHO's Evaluation Manual published
20 June 1996	Council Regulation (EC) No. 1257/96 concerning humanitarian aid
June 1996	ECHO meeting with Partners in Barcelona to discuss Evaluation Manual
9 December 1996	ECHO's first TV and radio award presented in Dublin
9–10 December 1996	Forum on Ethics in Humanitarian Aid, Dublin
16–17 December 1996	ECHO meeting with Member States in Valencia to discuss Evaluation Manual
January 1997	Alberto Navarro takes over from Santiago Gomez-Reino as Director of ECHO
12 May 1997	Court of Auditors' report published
27 September 1997	Commissioner Bonino and her delegation detained by Taliban police during a visit to a Kabul clinic
1998	Commission working paper on 'Security of Relief Workers and Humanitarian Space', SEC (98) 797
March 1998	ECHO/ICRC conference on aid agency security in Lisbon
7 April 1998	ECHO/ODI conference on humanitarian principles in London
January 1999	Revised FPA comes into force
April 1999	Publication of the report on the evaluation of ECHO's work from 1996–99, undertaken in accordance with Article 20 of the 1996 Council Regulation
November 1999	ECHO discussion paper on 'Towards a Human Rights Approach to European Commission Humanitarian Aid?'
January 2000	Poul Nielson, former Danish Minister for Development Cooperation, appointed Commissioner for Development Cooperation and Humanitarian Affairs
March 2000	Costanza Adinolfi takes over as Director of ECHO
25–26 October 2001	Conference on 'Child Soldiers: A Cooperative Approach to Defining Good Practice' in Brussels to present findings of an ECHO-commissioned study conducted by Save the Children Fund UK.

Table 2: ECHO's expenditure by region (%)

	1993	1994	1995	1996	1997	1998	1999	2000
Ex-Yugoslavia	63.32	35.25	33.90	28.48	23.00	23.78	57.31	20.00
ACP countries	16.51	42.41	30.60	42.34	43.00	27.68	16.41	35.00
CIS and Eastern Europe	8.61	12.25	20.28	8.39	9.00	10.33	7.29	10.00
Asia, Iraq, Middle East	7.43	6.78	10.01	15.78	20.00	20.96	14.31	26.00
Latin America	2.02	2.81	3.95	2.90	5.00	6.24	6.26	6.00
Global								3.00

Note: The 1999 figure for Asia includes 30m euros for Turkey

2.4 More than just a bank: ECHO's search for an identity

ECHO was originally expected to develop a capacity for direct action, and the 1996 Council Regulation concerning humanitarian aid did not rule out the option of ECHO becoming operational.² Despite this, ECHO has remained largely a funding organisation (with the exception of two specific 'direct actions' – the European Community Task Force in Former Yugoslavia and ECHO-Flight). This may be due to the pressure to disburse funds. Like other Commission services, ECHO is judged each year by the amount of funds it has spent, or at least committed to partners. Since ECHO was set up as a separate organisation within the Commission, its focus at first was on establishing appropriate administrative systems and relationships with funded organisations; many of ECHO's staff members were relatively young, with little or no experience of working in the humanitarian aid field and/or with NGOs.

ECHO remained ambivalent about whether it should develop the capacity to directly implement programmes. This led to some tensions with implementing partners. If ECHO was not going to undertake direct actions, it would have to develop a full working relationship with them. But if it intended to deliver services itself, it could be setting itself up as a rival organisation. This ambiguity has now been clarified, with ECHO committing itself to funding the delivery of humanitarian assistance (rather than implementing it) in its 2001 mission statement. This is probably the result of the Article 20 evaluation and the subsequent discussions of ECHO's role by the Council and Parliament. The evaluation report recommended that ECHO must confirm clearly that it is a donor, not an operational organisation. Therefore, all direct operations must be prohibited and ECHO's 'operational agency' terminology should be dropped in favour of terms such as 'decisions' and 'ECHO-funded actions' (Franklin Advisory Services, 1999: 17). The Council noted that ECHO does not have a rapid response unit with the operational capacity to deal with acute emergencies, but it only agreed that the matter required further consideration (rather than taking a decision on the matter) (Council of the European Union, 2000: Annex

VI). The European Parliament, on the other hand, appears to have taken it for granted that 'ECHO is a financing and not an operational body' (European Parliament, 2000: 12). Nevertheless, a number of ECHO staff members feel that the decision to restrict ECHO to a funding role is 'a pity', and continue to harbour a desire for ECHO to be more active in the field in service delivery.

Although ECHO has not developed a capacity for project implementation, it has expressed a wish to be 'more than just a bank'. This desire for a wider role has several possible sources. ECHO's original mandate expected it to 'give the Community's humanitarian aid effort a higher profile' (CEC, 1993: 8). This was no doubt a reflection of the bureaucratic imperative within the Commission to establish a distinct identity for the EC. In the absence of a common foreign policy, raising the profile of the Community's humanitarian aid would be one way of establishing the EC as an international actor. Thus, the Commission anticipated that ECHO would be more than a funding agency. As the world's largest humanitarian aid donor, ECHO may have felt that it *ought* to play a more prominent part in the humanitarian aid field. Thus, ECHO's 1997 Strategy points out that the volume of aid disbursed is comparable to that of the US or all 15 EU Member States put together. It goes on to state that 'Even in isolation, these figures imply responsibility and scope for a proactive approach' (ECHO, 1997: 11). On a more practical level, ECHO's first director, Santiago Gomez-Reino, and some staff members did not want ECHO 'to be just the organisation signing the cheque', but to have more say in determining how implementing organisations spent ECHO funds. Some ECHO staff members still feel that ECHO should exercise more control over the design and implementation of projects. Finally, since ECHO was set up as a separate organisation for a period of seven years, its position within the Commission has never been entirely secure. In particular, ECHO viewed the Commission's emphasis on the relief-development link since 1996 and the requirement in the Council Regulation that ECHO's performance be reviewed in 1999 as a threat. Establishing a distinctive role for itself in the humanitarian aid field may have been one response.

2.5 Trying to lead

ECHO's desire to be more than just a bank was supported by the appointment in 1995 of a Commissioner, Emma

² Article 9 of the Council Regulation states that the Community may finance humanitarian operations undertaken by the Commission or Member States' specialised agencies.

Bonino, with specific responsibility for humanitarian aid. Bonino was outspoken on humanitarian issues, and gained a high profile through her media appearances. Under Bonino's leadership, ECHO attempted to take a lead on a variety of humanitarian issues. ECHO has never made any clear statement about the role it wants to play in the humanitarian aid field. This may have been due to its difficult position between the Member States, other Commission DGs and the European Parliament, rather than a lack of clear policy direction.

Bonino made her intentions clear soon after her appointment. In December 1995, ECHO convened a 'Humanitarian Summit' in Madrid under her aegis. This was attended by the US Agency for International Development (USAID), the heads of several UN agencies and representatives from American and European NGO networks. It resulted in the signing of the 'Madrid Declaration', which called upon the international community to commit itself to a humanitarian agenda (CEC, 1996:Annex 1). This agenda is fairly uncontroversial, but its main limitation is implicitly acknowledged by the Declaration itself, namely that many of the principles cannot be translated into practice without political will. Although the Declaration had little real impact on the international community, it was an early example of ECHO cooperating with its US counterparts.

In March 1996, ECHO established a planning, strategy and policy analysis unit to facilitate information-sharing and the dissemination of best practice. As part of this undertaking, ECHO commissioned NGO networks to organise meetings, such as a seminar on gender issues in November 1996 and a 'Forum on Ethics in Humanitarian Aid' in December 1996. The theme of the latter meeting was picked up by ODI at a one-day conference in April 1998, funded by ECHO, entitled 'Humanitarian Principles in an Unprincipled World'. Although the papers presented at these meetings have been influential and widely circulated, debate at the meetings does not appear to have been taken on board within ECHO itself. ECHO's funding of these meetings would appear to be a way of increasing its visibility and of being seen to take a lead on humanitarian issues, rather than a genuine desire to engage in the debates.

ECHO also established a separate evaluation unit in March 1996, which published an 'Operational manual for the evaluation of humanitarian aid' shortly afterwards. This was a significant initiative because it was one of the first attempts to design an evaluation methodology specifically for humanitarian aid projects. It was ambitious in its aim to provide a methodology for use not only by implementing partners, but also by Member State aid agencies and other organisations. However, the manual fell far short of this aim because it did not address some of the fundamental existing problems with evaluation, such as baseline data collection and the limitations of restricting the scope of an evaluation to the activities of a single agency. Member States and implementing partners, some of whom have considerable experience in the area, were consulted only after the publication of the manual. Thus, an opportunity was missed to incorporate their experience as well as to build support for the manual.

From 1997 onwards, ECHO began to take a greater interest in human rights. On 27 September, during a visit to a Kabul clinic, Bonino and her delegation were detained by the *Taliban* religious police for over three hours. At a press conference in Islamabad following the incident, the Commissioner commented that she had met some of the women of Kabul and that 'it was one of the most moving encounters of my life'. As a result, when the European Parliament called on the international community to show its support for Afghan women on International Women's Day in 1998, Bonino personally committed herself to supporting this campaign, entitled 'A Flower for the Women of Kabul'. ECHO, as part of its commitment to raising public awareness about the humanitarian crisis in Afghanistan, provided material support to give a consistent 'look' to the campaign. This included mock-ups for posters and leaflets as well as TV spots.

The Commissioner also underlined her concerns about the human rights situation in Afghanistan at the press conference:

Let me stress, once and for all, that Islam is not at issue here; nor is the Koran, or the Sunna. What is at issue is that gross violations of human rights and humanitarian conventions are taking place in the country, and that the international community cannot simply look elsewhere while this happens. I am confident that the European Union will never acquiesce in this reality, and I do hope that the whole UN system will remain committed to upholding the basic principles which are written in stone in all international instruments on human rights.

Given the Commissioner's growing interest in human rights issues, ECHO produced a discussion paper entitled 'Towards a Human Rights Approach to European Commission Humanitarian Aid?' in November 1999. The paper was careful to point out that DG RELEX was responsible for funding 'traditional' human rights activities, so that its focus was on mainstreaming the human rights concept into ECHO-funded humanitarian activities. It also emphasised that adopting a human rights approach did not mean that ECHO should go beyond its humanitarian mandate, or start applying human rights conditionality to its humanitarian aid. This position on conditionality has been endorsed by the European Parliament (although it is not necessarily reflected in the policies of individual Member States) (European Parliament 2000: 7). The Parliament has suggested that ECHO should increase coordination and cooperation with human rights NGOs/experts, which would enable it to work on human rights issues without compromising its impartiality (European Parliament, 2000: 14).

Following publication of the paper, ECHO did not make much progress in implementing its recommendations. A former ECHO staff member has suggested that this was because the paper had a very mixed reception from ECHO's NGO partners. Francophone NGOs, in particular, were opposed to the paper because some felt that ECHO should not have a role in monitoring human rights. This left ECHO paralysed because, given that it is not operational, it needs a degree of consensus amongst its implementing partners in order to act. This may be why there is no mention of hu-

man rights in the revised Framework Partnership Agreement (FPA), the document governing ECHO's relationship with implementing organisations, which was introduced in January 1999. In addition, the Article 20 evaluation of ECHO argued that, in most cases, an emphasis on human rights could lead to contradictions with ECHO's priority of saving lives. Therefore, it recommended that ECHO should not get involved in human rights advocacy (Franklin Advisory Services, 1999: 12).

An operational issue about which Bonino expressed concern and which ECHO has taken up is that of the security of aid agency personnel. In response to the growing number of attacks on humanitarian aid workers, ECHO developed a Commission working paper in 1998 on 'Security of Relief Workers and Humanitarian Space'. Together with the ICRC, it also organised a conference entitled 'Humanitarian Action: Perception and Security' in Lisbon in March 1998. Concern about the security of aid workers is reflected in Provision II of the current FPA, which expects implementing partners to take all necessary measures to ensure the security of their staff. But interest in the issue seemed to decline, and the 1998 working paper did not form the basis for a Communication from the Commission, as intended.

2.6 More focused and more 'professional'

Since 1999, there has been a shift within ECHO towards greater professionalism and a more limited role. There are a number of reasons for this. One is ECHO's implication in the financial scandals which led to the resignation of the Commission in 1999. Another was the Article 20 evaluation, which made several recommendations for changes to the internal management of ECHO. The third was the appointment in 2000 of Commissioner Poul Nielson, who was keen to withdraw ECHO from the 'grey zone' between emergency and development activities. ECHO's move towards specialisation fitted well with the development of other crisis management tools within the Commission, and as part of the Common Foreign and Security Policy (CFSP) (Macrae *et al.*, 2002).

Nielson's wish to limit ECHO's role to emergency interventions comes at a time when the Commission and the Council are developing a number of instruments for crisis intervention. This has received support within ECHO as staff members are keen to stress that humanitarian aid should be kept strictly separate from instruments developed under the CFSP. In fact, ECHO has long taken the view that humanitarian aid should not be influenced by political interests. Its 1997 Strategy Paper makes it clear that 'Political goals such as prevention and long-term development are strictly speaking outside the scope of ECHO's operations', although it does acknowledge 'interdependencies' (ECHO, 1997: 3). Nevertheless, partly due to the Commission's inability or unwillingness to replace ECHO funding with other instruments in on-going crises, and helped by the broad definition of humanitarian aid in the 1996 Council Regulation, ECHO became increasingly involved in the so-called 'grey zone' between emergency and development

activities. ECHO's performance in the grey zone was criticised by the Article 20 evaluation, which suggested three possible solutions to the problem:

- return to a stricter definition of emergency aid;
- develop a twin-track approach within ECHO itself; and
- create a long-term planning structure within the Commission but outside ECHO responsible for actions in the grey zone.

Although the evaluators favoured the second option, the Commissioners and Member States supported a stricter definition of the scope of ECHO's activities (Macrae *et al.*, 2002). This coincided with the development of a variety of instruments for crisis intervention since 1999 as part of the CFSP.

The potential for a common foreign policy has existed since the entry into force of the Maastricht Treaty in 1992. This rationalised a number of pre-existing and emerging foreign policy structures and purposes into the CFSP.³ It did this as part of the creation of three domains of activity or 'Pillars' for the new Union:

1. The European Communities (EC) which covers the essentially economic responsibilities of the EC before the Maastricht Treaty
2. The Common Foreign and Security Policy
3. Judicial and Home Affairs.

The Commission has an exclusive right of initiative and implementation on pillar I issues. But this does not mean that the three areas are functionally separate or administered by organisationally distinct groups: organisational elements in the EC framework of pillar I participate in pillars II and III. Hence, the Article 20 evaluation recommended that ECHO should be involved in meetings of the CFSP pillar II committee, and this has been supported by the European Parliament (European Parliament, 2000: 14). This has led to some confusion about respective responsibilities as well as a struggle for control between the Commission and the structures responsible for pillar II.

The confusion about responsibilities has been increased by the development of parallel structures for crisis management under the Commission and the Council. Civil protection is one example. A Council decision on 22 January 2001 established the Political and Security Committee (PSC) as a permanent Brussels-based committee.⁴ The PSC is composed of officials of ambassadorial rank from each Member State, and is expected to provide political and strategic direction to crisis management operations, whether civilian or military.⁵ The PSC recommends an overall EU strategy in a particular crisis to the Council, though the Commission retains the authority to undertake measures within its competence.

³ Much of the description of the three pillars is drawn from ICG 2001a.

⁴ The description of the PSC and CIVCOM is based on ICG 2001a.

The PSC also provides guidelines to – and receives advice from – the Military Committee and the Committee for Civilian Aspects of Crisis Management (CIVCOM). The latter was established by a Council decision on 22 May 2000. The Feira European Council of June 2000 identified four priority areas in which the Union intends to strengthen its capacity, which would then be available to operations led by the UN, the Organisation for Security and Cooperation in Europe (OSCE) or the EU itself. These are: policing, strengthening the rule of law, strengthening civil administration and civil protection. At the Gothenburg Council in June 2001, civil protection was defined as ‘the provision of assistance to humanitarian actors in covering the immediate survival and protection needs of affected populations’ (ICG, 2001a: 32). The Swedish Presidency also launched the idea of headline goals for civil protection, to be coordinated by CIVCOM. The targets which were approved comprise:

- a pool of 100 experts to be on 24-hour call (so that they can be despatched within 3–4 hours) who can form ten-strong assessment teams;
- a Civil Protection intervention team of 2,000 which can be deployed at short notice; and
- supplementary resources from relevant NGOs which can be deployed within two weeks.

The next task, begun during the Belgian Presidency, is to elaborate scenarios when this pillar II capacity will operate.

However, there has been tension with the Commission, which believes that civil protection is part of pillar I, where it has exclusive right of initiative. This is clear from the Communication on the financing of civilian crisis management operations, in which the Commission repeatedly stresses the areas of civil crisis management in which it has ‘competence as well as valuable expertise’ (CEC 2001b: 4). One of these areas is civil protection; DG Environment (DG ENV) already has a unit for this. This is a coordination mechanism for civil protection both within and outside the EU, responsible for assembling and dispatching assessment and coordination teams when a disaster occurs. In principle, it has only been used for natural disasters, but it can be deployed in man-made disasters as well under Title V of the Amsterdam Treaty. Although the headline goals are being operationalised, it is still unclear who will decide how to deploy this capacity. Therefore, the Commission is still trying to position itself *vis-à-vis* CIVCOM. Humanitarian aid has not been identified as a priority area for CIVCOM, and ECHO and Nielson have argued that humanitarian aid should not be regarded as a crisis management tool. Therefore, there has been a separation between the responsibilities of ECHO and CIVCOM. However, ECHO remains concerned about the deployment of CIVCOM capabilities beyond the immediate outbreak of a crisis. ECHO’s position is that a civil protection mechanism has added value in the immediate aftermath of crises, for example if there is a massive outflow of refugees. But after this period, relief is already provided

⁵ Although this is only when the Council has agreed a comprehensive framework for response.

by other actors, such as NGOs and the UN agencies. Since the EU is already supporting these actors through ECHO, it is questioning the added value of a civilian crisis management mechanism.

Other developments related to the CFSP are likely to affect ECHO more directly. The uneasy relationship between humanitarian aid and military action was highlighted by the Kosovo crisis and more recently in Afghanistan. This is likely to be sharpened by the development of the Rapid Reaction Force (RRF) as part of a European Security and Defence Policy (ESDP). In December 1999, the Helsinki European Council set the headline goal of a force of up to 60,000 available for deployment within 60 days by 2003. This will place military options at the disposal of the EU when it is considering crisis prevention or crisis management interventions. There is serious concern about the implications for the impartiality and safety of EC humanitarian aid programmes if these bodies operate beside a military force also under an EU flag. However, the Council clearly intends the various instruments used for crisis response to be closely coordinated. The Amsterdam Treaty, which entered into force in May 1999, established the office of the High Representative for the CFSP, which is to be held jointly with the post of Secretary-General of the Council of Ministers. The current High Representative, Javier Solana, was appointed by the European Council in 1999. He is also the Secretary-General of the Western European Union (WEU). The High Representative is responsible to the Council for formulating and implementing policy decisions relating to the CFSP. Therefore, he is the coordinator of pillar I and II joint actions in relation to crises. This has led to some dissatisfaction within the Commission, which sees crisis management as more of a joint responsibility.

There is also potential for a more direct link between EU military force and humanitarian aid. In 1992, at the time of the Maastricht Treaty, the Council of Ministers of the WEU issued the Petersberg Declaration.⁶ This included an outline of tasks which could be undertaken by military units of the WEU: humanitarian and rescue tasks; peacekeeping; and combat. These are now known as the Petersberg Tasks and, at the Cologne European Council meeting in June 1999, they were adopted as the principal goals for the use of military force by the EU.

In addition to the potential for links between EU humanitarian aid and military action, the development of a Rapid Reaction Mechanism (RRM) within DG RELEX creates the possibility of overlap between its functions and those of ECHO. On 26 February 2001, the General Affairs Council adopted a proposal put forward by the Commission for the establishment of the RRM.⁷ The main aim of this mechanism is to integrate existing Community instruments, such as election monitoring, human rights initiatives, media

⁶ At present, the WEU consists of 28 countries with four types of status – Member States, associate members (other European members of NATO), associate partners (countries of Central and Eastern Europe) and observers. Ten EU countries have Member State status, whilst the remaining five (Austria, Denmark, Finland, Ireland and Sweden) are observers.

support, police training, border management and mediation, into a single intervention. This is in order to provide short-term stabilisation while the bureaucratic steps of regular Community programmes are being undertaken, so RRM operations are authorised to last six months. The RRM will be financed through a separate budget line of 40m euros a year. This is relatively modest. According to a former ECHO official, the RRM is likely to be deployed for activities which are very visible and complementary to those of ECHO.

There has been concern that the RRM will attempt to encroach on ECHO's budget and activities. This is because the RRM can draw on existing Community instruments and budgets, listed in the Annex to the Regulation. These include 'humanitarian missions' and 'emergency assistance, rehabilitation and reconstruction'. However, Article 2§3 of the Regulation establishing the RRM is a clause of mutual exclusivity, i.e. the RRM is not to be invoked if the Regulation governing ECHO's funds has already been applied to the same situation. But the potential for the RRM encroaching on humanitarian aid funds remains in the form of the emergency reserve. This was established for humanitarian operations which 'could not be foreseen when the budget was established' (CEC, 2001b: 8). Currently, ECHO is able to draw on the reserve for large-scale emergencies, such as Kosovo and Afghanistan, when its budget has been largely spent or committed. However, the Communication on financing civilian crisis management operations recommends that the current emergency reserve be extended to CFSP crisis interventions. Since the RRM has a small budget, this is likely to be spent much sooner than ECHO's budget, and it will have recourse to the emergency reserve well before ECHO. Thus, ECHO may not be able to draw on the emergency reserve at all, and may have to divert funds from its existing programmes and Global Plans to cover new large-scale emergencies.

The Commission has tried to keep the two instruments separate. The Commission communiqué on the adoption of its proposal distinguishes between them by arguing that 'Humanitarian action is focused on the individual. Interventions under the RRM are rather aimed at the preservation or reestablishment of the civic structures necessary for political, social and economic stability. While ECHO is politically neutral, the RRM is intended to operate in the context of crisis management' (ICG, 2001b: 12).

It is interesting that the Commission views ECHO as politically neutral. Although ECHO's funding has been used to cover longer-term activities, it has consistently stressed that its aid is provided in an impartial manner. This was enshrined in the 1996 Council Regulation. The preamble states that 'humanitarian aid decisions must be taken impartially and solely according to the victims' needs and interests'. However, as indicated by her stance on the *Taliban* in Afghanistan, Bonino did not always maintain a neutral position. Also, whilst ECHO has tried to ensure that its humanitarian aid is not influenced by political interests, it has acknowledged that, despite Bonino's repeated statements

that humanitarian aid is a 'shared European value' rather than a 'policy', it is 'an integral part of Europe's external identity, and all the more so in parts of the world where it is not possible to deploy other instruments' (ECHO, 1997: 3). In addition, the potential for a common foreign policy was not realised until recently. In its absence, there was a danger that humanitarian aid would take its place. But the development of the CFSP instruments and the RRM threaten to undermine the perception of ECHO's impartiality. ECHO has therefore renewed its emphasis on impartiality. Its recent mission statement declares that the victims of disasters are its major stakeholders. Therefore 'the action and decisions of ECHO are determined solely by the assessment of humanitarian needs and are not guided by or subject to political consideration'. In addition, the draft preamble of the new FPA states that 'Humanitarian assistance will not be guided by or subject to political considerations, and humanitarian aid projects will be agreed impartially and solely according to the beneficiaries' needs and interests'. This is in contrast to the current FPA, which only makes a brief reference to impartiality as one of the criteria for determining an NGO's suitability for EC funding.

The European Parliament has also been keen to protect ECHO's impartiality. This is reflected in the Parliament's request to the Commission to take appropriate steps to stop the increased politicisation of humanitarian aid because it should essentially address the effects of a crisis, not its causes (European Parliament, 2000: 8). The Parliament has also noted that, if the Commission focuses on the development of an EU civil protection capacity, there is bound to be overlap between the RRM and humanitarian aid (European Parliament, 2001). The Council appears to have adopted a more pragmatic approach. At a meeting last year, it noted that, while maintaining the independence of humanitarian aid, ECHO needs to 'bear in mind' the complementary responsibilities relating to conflict prevention and crisis management assumed by the EU (Council of the European Union, 2000: 20). As a former ECHO official noted, the relationship between ECHO and other crisis management structures remains uneasy.

Although Nielson has been keen to ensure that ECHO focuses on its core mandate to provide emergency assistance and the Council and Commission have developed a number of crisis management tools, ECHO has continued to take an interest in the humanitarian issues supported by Bonino. There was some concern within ECHO that human rights issues would be regarded as outside the core mandate. However, the October 1999 Communication on the assessment and future of Community humanitarian activities stated that, as part of its longer-term strategic review, the Commission was keen to launch a debate on several issues, including ensuring that human rights were protected as part of humanitarian aid operations. In keeping with this commitment, mainstreaming human rights considerations is one of the cross-cutting priority issues identified in ECHO's 2001 Aid Strategy. This states that ECHO's humanitarian aid interventions will aim to avoid negative side effects or undermining the human rights of recipients. They will also attempt to ensure that activities contribute

⁷ The description of the RRM is drawn from ICG 2001b.

to creating respect for the human rights of recipients and for International Humanitarian Law. The mainstreaming will be implemented through ECHO's standard contracts with partner organisations. ECHO will check whether a project proposal:

- considers the human rights situation in the field; and
- if and how the project will impact on human rights.

Despite this strong statement of human rights concerns, ECHO staff members emphasise that ECHO's interventions cannot be made conditional on the human rights situation in a country. Within the Commission, DG RELEX remains the focal point for human rights issues. Therefore, ECHO shares information on human rights issues with DG RELEX, and may ask it to take up matters at a political level.

Despite the statement in the 2001 Aid Strategy, the draft contract format of the FPA, which is in the process of being revised, does not appear to reflect these questions. The draft preamble states that 'humanitarian aid projects will aim at protecting the human rights of the victims, or as a minimum at ensuring that the assistance will not undermine these rights'. There is no indication (either in the 2001 Strategy or in the draft FPA) about how ECHO intends to monitor partners' compliance with this undertaking in a systematic manner. At present, this depends largely on the time and commitment of individual field experts. However, ECHO is discussing the establishment of a database to consolidate the information it receives on human rights issues. Staff members are aware of the potential sensitivity of information relating to human rights. Therefore, the internal rules of confidentiality for financial and auditing information will apply to this database. Despite ECHO's moves to mainstream human rights issues, there has been virtually no discussion of this commitment by ECHO's partner NGOs (although there have been very detailed negotiations about other aspects of the FPA). This may be because the NGOs feel that ECHO is not serious about a genuine debate on the issue, as is the case with the notion of 'partnership'. It may also be because they do not see funding levels directly linked to human rights concerns.

Although interest in security declined briefly, it is once again a topical issue. The Swedish, Belgian and now the Spanish presidencies have all stressed the importance of the security of relief workers. So it is not surprising that ECHO's 2001 Aid Strategy has the safety of relief workers as a cross-cutting priority issue. The financial reflection of this focus on security is ECHO's 'Grant Facility for Training, Studies and Networks in the Humanitarian Field'. This was first introduced in 2000. In 2001, the training component has two priority areas. One of these is human resource development, 'with an emphasis on Security and Safety'. Of the 1.8m euros available under this grant facility, 1.4m euros have been allocated to the training element.

ECHO's continuing interest in a range of humanitarian issues is reflected in its recent focus on child soldiers. It commissioned a study by Save the Children Fund UK, the results of which were presented at a conference entitled 'Child Soldiers: A Cooperative Approach to Defining Good Practice' in October 2001.

Whilst ECHO has continued to support debate on humanitarian issues, since 1999 it has focused far more attention on improving its performance. Like NGOs and other humanitarian aid actors, ECHO has been under pressure to become more professional. Criticism of its performance began with the Court of Auditors study, undertaken in 1995 and published in 1997. This has continued with the Article 20 evaluation. Although the evaluators were keen to stress that 'ECHO is currently financing the delivery of humanitarian assistance at least as well as any other organisation, and probably better and in a more cost-efficient manner than any other comparable international organisation', their report made several recommendations for changes in ECHO's internal management (Franklin Advisory Services, 1999: Preamble).

One of these was to introduce 'better quality control of the results or impact of ECHO aid through monitoring, evaluation and indicators' (Franklin Advisory Services, 1999: 15). This was in order to address the criticism that ECHO attempted to achieve accountability and transparency through 'sometimes inadequate ex-ante and over-detailed input-based financial controls' at the expense of focusing on objectives, results and impact (Franklin Advisory Services, 1999: 7). The evaluators were careful to argue that the imposition of indicators by donors, without supporting initiatives such as developing a capacity for both monitoring and evaluation, can be counter-productive. Therefore, they advised against the introduction of a requirement to include indicators in all ECHO projects unless it is within the framework of a comprehensive quality control function.

However, in the subsequent Communication on the future of EC humanitarian aid, it is clear that the Commission took the criticism about ECHO's focus on inputs rather than results and the absence of performance indicators to heart. Therefore, the Commission undertook to introduce objectives and associated indicators in Global Plans and communication and disaster preparedness activities. It also committed itself to requesting indicators in projects wherever possible.

The Commission's undertaking to adopt the use of performance indicators met with the Council's approval. In its response to the Communication on the future of humanitarian aid, the Council mentions its previous invitation to the Commission, in May 1999, to continue efforts to focus on impact, results achieved and ex-post control. It argues that this requires improved management information systems, the enhanced use of performance indicators and the monitoring of aid, and welcomes the Commission's move towards the use of such tools (Council of the European Union, 2000: 24).

In line with its intention to introduce objectives and request performance indicators for projects wherever possible, ECHO has been considering incorporating these into its contractual agreement, the FPA. Due to its emphasis on inputs, which ECHO can verify, ECHO refers to the existing contract as a 'contrat de moyens', or a contract of means. This fitted with the francophone management ethos which has prevailed within the Commission. However,

following the financial scandals in 1999 and with the appointment of a new College of Commissioners in 2000, there has been a shift towards more Anglo-Saxon methods, like results-based management. In keeping with this shift as well as due to some pressure from field staff (many of whom are former NGO staff), ECHO now intends to move towards the use of objectives and performance indicators. This should give partners more flexibility to adapt to changes in the field because they can change activities and even sectors as long as these are within the overall objectives. ECHO will verify if the objectives have been achieved through performance indicators. In keeping with the idea of partnership and 'common trust', verification will depend largely on partners' capacity to provide information on its rate of success. ECHO intends to ask the partner 'How will you judge whether you have been successful?'. However, ECHO will also monitor projects through its local offices. The expatriate experts and local staff based there will assess the results of projects and compare these with other donors.

This change in focus is reflected in the new standard forms for project proposals. These include a request for a work-plan which includes:

- the overall objectives to which the project will contribute (i.e. the organisation's or ECHO's general intervention strategy);
- one specific project objective (with indicators which will be used to assess the organisation's performance in delivering the benefits);
- results, which refers to the goods/services to be delivered (with indicators to assess performance in delivering the goods/services);
- the activities to be undertaken, with an indicative schedule.

Performance indicators will not be required for emergency interventions. In addition to the work-plan, the forms include sections on needs assessment and risks and assumptions. Agencies are encouraged to use logframes in their application (ECHO intends to introduce training on logframes for its own desk officers and perhaps for partners as well).

Thus, according to ECHO staff members, ECHO will not impose standard performance indicators (which would not apply equally in all circumstances) but will use indicators suggested by the partner in the proposal. These indicators should be the outcome of a negotiated process between ECHO and the partner. This should overcome the problem of a lack of agreement on performance indicators in the humanitarian aid field, although a Task Force of the Humanitarian Aid Committee will be considering the issue. ECHO has also been discussing performance indicators with the UK government, and trying to draw on the best practice of its partners.

Since the Article 20 evaluation recommended that performance indicators be introduced as part of a wider quality control function, ECHO has been considering the use of quality as a management tool. There is a view within ECHO that, as NGOs are becoming more complex and consolidating their position as economic actors, there are a number of management tools, such as ISO 9000 certificates,

which can be modified and applied to them. If an NGO showed that it was a quality organisation and compliant with an ISO 9000 standard, this would reassure donors that their money would be well spent. However, there is still considerable debate about the applicability of ISO 9000 standards, which are for the service sector, particularly around the use of terms such as client and product.

Another recommendation made by the Article 20 evaluation was that ECHO should use appropriate project cycle management (PCM). The Commission addressed this in the 1999 Communication by committing itself 'To continue its efforts at reviewing the project management cycle, taking into account the constraints of humanitarian and emergency response' (CEC, 1999: 19). The issue was also taken up by the European Parliament in its response to the Communication. It cautioned that the principles of PCM needed to be introduced in a way which was appropriate for ECHO's activities and resources (European Parliament, 2000).

As part of a PCM approach, ECHO introduced a 'Project Appraisal Sheet', or 'fiche op.' (short for 'fiche de suivi d'operation') as it is more commonly known within ECHO – in autumn 1999. This contract management tool consolidated the various tools that had been used in different parts of ECHO since 1996. The current fiche op. is used mainly to facilitate structured information exchanges between field and desk staff. It enables staff to see what happened, why and when over the lifecycle of a project. It also shows why ECHO decided to fund one part of a project and not another. A fiche op. is started when ECHO receives a project proposal and agrees to it. The document has a front page for general project information such as contract details (contract number, amount, start and end dates of the operation), any modifications made to the contract, contact details for the partner organisation and an outline of project beneficiaries (number, type and location). Subsequent pages provide for summaries of the initial project appraisal by a desk officer, monitoring reports, contract modifications and final evaluation. Fiche ops. are also used to provide information to the ECHO hierarchy and higher up to the Commission. They provide a structured analysis of projects and the recommendations of desk officers to decision-makers.

In accordance with its commitment to improve PCM, ECHO is in the process of revising its fiche op. As the current fiche op. is a word-processed document, there is a limit to the ways in which it can be used and it is not helpful in building up institutional memory. Therefore, ECHO is developing dedicated IT applications to process information from fiche ops. This will mean that they can be used to create, over time, a structured database of partners' performance. This will help track financial data, such as how much ECHO has spent and on what, how much it has spent per country, and how much per year. At present, this information is only available in a rough-and-ready fashion. The fiche op. will help provide it in a user-friendly, structured way. This statistical analysis will also enable ECHO to see how well it is performing. However, there will be a very long trial period for the new fiche op., so it is not likely to be used ECHO-wide until the end of 2002.

ECHO's new, more general, focus on measuring performance is also reflected in its mission statement and 2001 Strategy. According to the mission statement: 'ECHO, as an active donor of humanitarian aid, intends to measure the performance of its implementing partners as well as its own performance against the highest international standards'. With regard to its own performance, ECHO states that it intends to concentrate on efficiency, the transparency and accountability of the management of funds, and results. In its 2001 Strategy, ECHO also states that its interventions will be needs-based, with the main criterion being the vulnerability of the population. This is to be assessed on the basis of measurable humanitarian indicators, such as the number of refugees/IDPs in a given country, the extent to which the area is disaster-prone and morbidity and mortality rates. In addition, ECHO intends to initiate measures to ensure a per-beneficiary allocation of funds that takes into account the different levels of complexity of operations, the objective needs that result from the geographic location and the nature of specific crises. However, it acknowledges that this will be problematic as there is currently no sound methodological and empirical basis for the assessment of the balanced per-beneficiary allocation principle.

Thus, following the Article 20 evaluation, ECHO is introducing a raft of measures to improve its performance and that of its partner organisations. However, the problem it continues to face is that of building its capacity to monitor performance, particularly as there are few widely-accepted performance indicators in the humanitarian aid field.

3. Mechanisms for influence

One of the factors behind ECHO's desire to be 'more than just a bank' was the wish to be more involved in the humanitarian aid programmes it funded. One of the ways in which ECHO is proactive is through Global Plans, its funding strategies for relatively stable longer-term crises. This section begins by describing how these operate. Donors can also exercise influence on humanitarian aid programmes through their choice of implementing partners. Therefore, this section also looks at ECHO's relations with two important channels for funding – UN agencies and NGOs – and its attempts to establish a strategic dialogue with its largest partners. These relationships are governed by ECHO's funding mechanism, the Framework Partnership Agreement. This section concludes with a brief examination of one way in which ECHO can monitor the aid programmes it funds and exercise some influence over them – its network of field offices.

3.1 Global Plans

In 1994, ECHO introduced funding strategies, called Global Plans, for longer-term crises. These are 'intended to provide a coherent framework for action in a given country or region where the scale and complexity of the humanitarian crisis is such that it seems likely to continue' (Official Journal, 1996: Article 15). Global plans are used in protracted situations which are sufficiently stable to allow ECHO to

develop country- or region-wide strategies, usually for 12 months at a time (though Global Plans may be for six months). This enables ECHO to have just one funding decision for the crisis (though it signs operational contracts with individual organisations within a Global Plan), and it does not allocate additional funding for the given area unless another emergency occurs. Since the 1996 Council Regulation, Global Plans are used for non-emergency situations where ECHO has programmes of over 10m euros. Although the notion of programmed assistance appears to contradict the emergency nature of humanitarian aid, according to an ECHO desk officer, 'Global Plans are for situations in which humanitarian aid is an articulation of the absence of a political relationship with the government and/or other authorities in a country'. According to this officer, approximately 70% of ECHO's aid is provided through Global Plans.

In theory, if the Global Plan is not the first for the area, ECHO commissions an external evaluation of the previous Plan. This is then the starting point for the forthcoming Plan. If the Plan is the first for an area, the choice of partners and activities to be funded by ECHO is usually based on what ECHO is already funding. There does not appear to be a standardised decision-making procedure for deciding how much funding to allocate to a Global Plan and ECHO's choice of partners. The Global Plan is generally drawn up by ECHO representatives in the field and the desk officer (who may make a field visit), in consultation with implementing partners as well as Member State representatives in the field. A Global Plan usually provides an update on the situation in the country and an outline of ECHO's priorities. The desk officer in Brussels then revises it, if necessary, and it is discussed at a one-day workshop in Brussels with headquarters-level representatives of implementing partners. Following the workshop, the Global Plan is finalised for presentation to the Humanitarian Aid Committee (HAC) for approval. Thus, Global Plans should enable Member States to have a say in ECHO's expenditure. Global Plans are usually presented to the HAC at its regular meetings, but a written procedure is used to obtain authorisation if a decision is required in between meetings. On a few occasions, HAC members have requested further information before accepting a plan. However, no Global Plan has ever been rejected by the HAC and, according to one representative on it, some Member States believe that they have only limited influence over ECHO's spending decisions.⁸

Global Plans are a useful mechanism for ECHO because they enable it to take a more proactive approach to a situation rather than simply responding to partners' requests as and when they are received. They are also easier to administer than individual contracts because only one funding decision is required. Additionally, Global Plans should improve field-level coordination amongst implementing partners.

One difficulty with Global Plans has been that, although the strategy should be developed by desk officers together

⁸ Interview with Dutch representative in January 2000 for the *Global Humanitarian Assistance 2000* report.

with partners and ECHO experts in the field, the extent of the consultation depends on individuals in Brussels. Hence, NGOs have experienced difficulties due to lack of information about Global Plan deadlines unless they are already included in the Plan, and even UN agencies have felt excluded from the process. However, at a meeting on 13 December 2001, ECHO provided partners with an overview of Global Plans for the coming year, including deadlines for most of them. This is a first attempt to improve the transparency of the process.

The Court of Auditors found that:

The Commission often confined itself to responding, fully or partly, to proposals submitted by partners, keeping within the limits of an amount of total financing determined beforehand and shared out in a manner that endeavoured to ensure a certain balance between the sectors involved, the groups of partners and the geographical origin of the NGOs. (Official Journal, 1997: paragraph 3.3)

ECHO's concern to ensure a balance of NGOs from different Member States has been exploited by entrepreneurial NGOs in the past (Mowjee, 2001).

Finally, for organisations which are included in the Global Plans, these have the advantage of providing certainty that contracts will be renewed. According to one NGO staff member: 'Once you get into a sector with ECHO, you generally stay there ... Theoretically, all you're getting from ECHO is a six-month contract. Life would be an absolute nightmare if that was actually the case ... it usually works alright because one contract rolls into the next contract rolls into the next.' But organisations which have not been included in the first Global Plan for a crisis have found it difficult to be included in the process later. Unless ECHO finds that the performance of one of its partners is inadequate or has funds left over after allocations to existing partners, it is highly unlikely to include additional partners. The difficulty has been exacerbated because, although some desk officers share copies of the finalised Global Plan with partners which have been included, the final text is regarded as an internal ECHO document which is not for publication. However, ECHO is trying to increase its flexibility by emphasising that the list of partners and allocated amounts provided in a Global Plan is only indicative so that it can make changes.

3.2 Funding channels

ECHO's main implementing partners have been European NGOs and UN agencies. Whilst NGOs have tended to receive a greater proportion of ECHO's funds than UN agencies, this trend has become particularly marked in recent years. It peaked in 2000, with NGOs receiving 65% of ECHO's funding. With the appointment of Nielson, however, this trend looks set to change. According to the Refugees International bulletin of 31 October 2001, Nielson forecast changing funding patterns: 'ECHO's use of NGOs, UN and other organizations reflects what is best in the situation. Situations change and so does the pattern of how we distribute through different partners'. The sense that ECHO is trying to choose partners which can best meet the needs of a particular situation is also reflected in ECHO's 2001 Strategy. When outlining ECHO's focus on 'forgotten crises', the strategy stresses that 'ECHO will select the partners for its interventions in accordance with the best practice approach it intends to introduce into its overall policy'. The guiding principles for this selection process will be:

- Proven performance: both in the field and in sound financial management.
- Core capacities and mandates of its partners: primary partners for ECHO in this approach may be those with a specific, universal mandate, such as the UN and the ICRC.

This principle will apply for all three categories of partners – NGOs, the Red Cross and the UN.

The table below shows the percentage of the EC humanitarian aid budget provided to the UN agencies which are the main recipients of this funding. It is clear from this that UNHCR has received the largest share of ECHO's funding (WFP receives considerable funding from the food aid budget which is administered by DG DEV).

Although the percentage of ECHO's funding channelled through the UN agencies was relatively small throughout the 1990s, there was a particularly sharp drop in 1998 and 1999. This may have been due to the fact that the UN agencies had not agreed to the revised FPA which was introduced in January 1999 (WFP had no ECHO contracts until May 1998). The UN agencies have had a number of difficulties with the FPA. They have consistently argued that its focus on projects does not fit with their programme

Table 3: EC humanitarian aid funding for UN agencies (%)

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
UNDHA/OCHA	0	0	0	0.05	0.09	0.15	0.01	0	0.06	0
UNDP	0.1	0.14	0	0	0.09	0	0	0.17	0.19	0.36
UNHCR	11.78	23.57	14.71	23.53	15.78	21.88	16.33	10.69	11.67	6.81
UNICEF	2.99	1.24	2.28	1.58	1.14	1.49	1.97	2.32	2.32	2.24
UNRWA	0	0	1	0.06	0.04	0.27	0.27	0.03	0.06	1.17
WHO	0	1.15	1.55	0.07	0	0.58	0.57	0.17	0.88	0.35
WFP	8.77	10.79	11.93	6.28	5.06	7.43	11.48	4.81	4.38	8.79
Total ¹	25.72	37	31.74	31.94	22.52	31.97	30.90	18.45	19.65	20.71

Note: ¹ Includes contributions to other UN agencies

approach and that this leads to the development of artificial 'projects' to enable them to apply for ECHO funds. It is also difficult for them to adapt their procedures to comply with the FPA's reporting requirements.⁹ Hence, the Commission has expressed concerns about accountability. The UN agencies argue, however, that they have strict auditing and accounting procedures which have been agreed by the Member States which comprise the EU. In addition, Commission representatives attend meetings of the Executive Boards of UNHCR and WFP.

There are several possible reasons for the generally low level of ECHO funding for UN agencies. The Commission has summed up the obstacles to programmatic, longer-term cooperation between the EC and the UN (CEC, 2001a). These include:

- the severe constraints imposed by the Financial Regulation; inadequate reporting by UN entities on implementation;
- negative perceptions of the UN's performance in a number of instances;
- the identification of shortcomings in UN security when managing humanitarian operations in a number of crises; and
- the lack of visibility of EC financing of operations carried out by the UN (this has also been of concern to the European Parliament (European Parliament, 2000)).

In addition, there is a perception within the Commission that the UN agencies have very high personnel costs (although ECHO does not contribute any additional staff costs to the UN). Since the UN agencies often implement parts of their programmes through NGOs, the Commission believes that it is better value for taxpayers' money to fund the NGOs directly. In reply, the UN agencies have pointed out that their added value is their capacity for co-ordination. Also, unlike the NGOs, they have specific mandates which they can use to negotiate access.

Apart from these difficulties, which have prevented the Commission from providing UN agencies with predictable and stable funding, the Commission does not feel able to contribute to CAPs (although projects funded under Global Plans may be part of a CAP). According to the Commission, one reason is that coordinating CAPs with Commission strategies would require far more inter-institutional co-ordination (including at the field level) than currently occurs (CEC, 2001a). Another reason may be that it is difficult to account separately for the Commission's contribution through CAPs. The Commission also finds the level of administrative costs associated with CAPs too high. Additionally, there is a view within ECHO that the CAP results in an inflated 'shopping list' or menu of different requests, rather than a genuinely strategic document. Although it may be difficult for the Commission to justify its failure to participate in high-profile CAPs, the Commission is clear that funding the core budget of the UN should remain the responsibility of UN Member States (CEC, 2001a).

⁹ In WFP's case, internal regulations do not allow for the detailed audits which ECHO wishes to undertake.

Following the refusal of the UN agencies to sign the 1999 FPA and the Article 20 evaluation, the Council pressured the Commission into adapting its funding procedures to the needs of UN agencies. It expressed a wish that ECHO fund UN agencies 'in keeping with their programme-based approach and specific mandates, while gaining a better understanding of their strengths and weaknesses, and encouraging their efforts to improve standards' (Council of the European Union, 2000: 23). There has also been active support for the UN from within the Commission since the more traditionally pro-UN countries (like Sweden) joined the EU in 1995. Hence, when there is a meeting of any of the committees on humanitarian aid or development, the pro-UN countries usually coordinate the approach to UN affairs. This pressure for support to the UN has led to the negotiation of an 'umbrella agreement' between the UN and the Commission as a whole. A Framework Agreement on the 'Principles Applying to the Financing or Co-financing by the Community of Programmes and Projects Administered by the United Nations' was signed in August 1999 (in addition to the December 1994 Agreement on the financial control clause which applies to all contracts and financing agreements between the Commission and the UN). This was followed by an exchange of letters on 12 October 2000 to clarify certain aspects of the Agreement. However, this has still not proved to be a satisfactory framework for collaboration. Therefore, the UN and the Commission have agreed on the need for further written guidance on the 1994 financial control clause, as well as a process for renegotiating the 1999 Agreement (United Nations, 2001). Within the Commission, the review of the Framework Agreement is to be conducted by EuropeAid. This should include an arrangement on a disputed verification clause which is similar to that between the UN and the World Bank, as the Commission has threatened to reduce or suspend support to UN agencies which fail to meet acceptable standards (CEC, 2001a).

Given the continuing difficulties in negotiating a workable funding agreement with the UN, in spring 2001 the Commission issued a 'Communication from the Commission to the Council and the European Parliament. Building an Effective Partnership with the United Nations in the Fields of Development and Humanitarian Affairs'. This had two main aims: to build a more transparent, financially predictable and easily monitored partnership with chosen UN agencies, funds and programmes (which will be selected on their ability to match the objectives of the EC); and to strengthen the involvement of the EC in policy dialogue with the UN. The latter aim may be due to the view in the Article 20 evaluation that the Commission 'punches well below its weight in the international arena' on humanitarian issues (Franklin Advisory Services, 1999: 16). This led the Council and Parliament to recommend that ECHO try to increase its presence at the headquarters of important humanitarian agencies, if resources permit, and that it ensure that the EU's influence in international organisations is more representative of its political strength and contribution to humanitarian aid (Council of the European Union, 2000: 23; Parliament, 2000: 8). The way in which the EC intends to achieve this is made clear in the Communication – the Commission wishes to have a more active role in the

governing bodies of UN agencies. More specifically, the Communication states that it intends to focus on results rather than inputs, which will enable it to provide funds 'on a global basis' to the UN provided that the UN offers the Commission some form of permanent representation in its programming and administrative organs, as well as external audit arrangements (CEC, 2001a: 7). The Commission is already on the Board of the FAO and WFP, and has observer status on UNHCR's ExCom; it hopes to achieve full participation in ExCom.

Although the Framework Agreement and the Communication on partnership with the UN should make it easier for the Commission to provide greater funding to the UN agencies, there may still be resistance from within parts of the Commission, like ECHO. EuropeAid, which operates under the same Financial Regulation as ECHO, has adapted its procedures to those of the UN. However, as there is a derogation for humanitarian aid in the Financial Regulation, the Framework Agreement refers humanitarian aid funding for the UN agencies back to the FPA. This enables ECHO to apply a homogeneous system to its partners. ECHO believes that it would be inappropriate to treat NGOs and the UN agencies very differently. This is because some of ECHO's NGO partners are sub-contracted by the UN agencies. If an NGO is getting funds from ECHO and a UN agency, it would be confusing for both ECHO and the NGOs if different sets of rules applied. Also, despite Nielson's pro-UN philosophy (that it is important to work with the UN agencies because of their global mandates and in order to help them perform better), ECHO desk and field officers have preferred to fund NGOs rather than UN agencies. One reason for this is that many of ECHO's field experts formerly worked for NGOs. In addition, there has generally been a perception amongst ECHO staff that NGOs are more efficient and accountable than UN agencies. ECHO prefers to work through NGOs, which are easier to monitor and control. Hence, the broader intention of the Commission to work more closely with UN agencies may not be translated into practice.

3.3 Strategic dialogue

In its response to the Article 20 evaluation, the Council encouraged ECHO to strengthen regular high level dialogue with international humanitarian organisations (Council of the European Union, 2000: 23). Hence, according to ECHO's 2001 Strategy, its 'strategic orientation will strive for maximum complementarity and coherence with other key players' priorities'. In order to develop 'a common vision and effective division of labour', ECHO began to engage in a 'strategic dialogue' about particular countries, themes and priorities with other major humanitarian players. These comprise other Commission services, both in the field (delegations/technical experts) and at headquarters (e.g., DG DEV food aid division), major donors (including Member States) and agencies (the UN, Red Cross and NGOs). The dialogue with implementing partners should also enable ECHO to fund NGOs and UN agencies in ways which are appropriate to their working methods, as it committed itself to doing in the Communication on the future of humanitarian aid.

In December 2000, ECHO initiated strategic dialogues with individual UN agencies, the ICRC and IFRC, as well as NGO umbrella groups such as VOICE, ACT and the MSF family, to discuss matters of cooperation and geographic strategies. This involved the ECHO Director, Heads of Unit and desk officers. The overall aim was that ECHO would offer predictability of funding in return for a clear idea of the strategies and activities of these organisations. According to a former ECHO official, there is an element of control in the dialogue because ECHO wants to know what its partners are doing; if their objectives don't match ECHO's, ECHO will probably switch to another partner.

The dialogue with the UN agencies proved more difficult as it highlighted a structural problem – that their priorities had already been determined, together with the donors on their governing bodies, who approve their strategy and budget. Therefore, they were simply seeking funding from ECHO for this strategy. The Commission clearly intends to address this problem through a greater role in the governing bodies of the UN agencies. In the meantime, the UN agencies are looking for predictability from the strategic dialogue – where they can expect support and seeing how they can solve any problems. ECHO, on the other hand, wants more accountability and better compliance with its reporting requests. There is a view within ECHO that the dialogue has not been as productive as it could be because desk officers feel that it has been imposed on them.

3.4 The Framework Partnership Agreement

ECHO provides funding to implementing partners through the FPA contractual agreement. This was introduced in 1993 because the Commission's normal procedures were too cumbersome for emergency responses. ECHO also felt that it was necessary to replace the 'easy informality' which had characterised funding relations in the past with a more structured relationship. The FPA consists of three parts: a general contract with an organisation; general clauses that apply to all projects submitted by the agency; and the operational contract which covers individual project proposals, as well as reporting. This standard format applies to all ECHO implementing partners and, by 1998, around 180 humanitarian agencies had signed the FPA.

The general clauses which apply to all projects consist of 33 Articles which cover various financial and operational issues. These highlight the fact that the FPA was designed to enable ECHO to exercise administrative and financial control over contracts with partners. Although the FPA was intended to make the Commission's emergency funding faster and more effective, ECHO's implementing partners experienced a range of difficulties with it. These included considerable delays in receiving decisions on proposals, as well as advance and final payments and ECHO's emphasis on the financial aspects of contracts. In view of this, in November 1994 NGO partners suggested changes to the FPA to overcome these difficulties. Following lengthy negotiations (interrupted in 1995 by the passing of the Council Regulation), a revised FPA was introduced in January 1999.

Although the current FPA retains the original focus on financial issues, it contains a preamble with the definition and outline of humanitarian aid from the 1996 Council Regulation, as well as the eligibility criteria for NGOs set out in Article 7 of the Regulation. It also includes three Provisions which state the general principles of the 'partnership'. Provision II commits the signatories to:

- respect humanitarian principles;
- 'establish the linkage between relief, rehabilitation and development';
- involve beneficiaries 'in the management of relief aid';
- ensure that victims are presented as dignified human beings in any publicity or advertising; and
- take necessary measures for the security of aid workers.

However, according to desk officers ECHO does not hold partners to these commitments in a systematic way (though some desk officers may check NGO proposals for evidence of these commitments or include an appraisal in an evaluation). In Provision III, the Partners 'commit themselves to regular exchanges of information', despite hard lobbying by a Brussels-based NGO network group, Voluntary Organisations in Co-operation in Emergencies (VOICE), to get ECHO to commit itself to regular dialogue and consultation with NGOs. However, Provision III provides for an annual meeting between ECHO and a 'representation mandated by the humanitarian organisations' in order to 'monitor the implementation of the Framework Partnership Contract and its procedures'. ECHO has honoured its commitment to an annual meeting with partners although the most recent of these, in November 2001, did not focus on the FPA but on four issues: human resources, partnership, quality, and linking relief, rehabilitation and development.

With regard to the General Conditions, the revised FPA follows the format of the original, although most of the articles are spelt out in greater detail, and are clearly based on ECHO's experience of implementing the FPA. One of the significant changes in the revised FPA is that ECHO commits itself to response times. Thus, under Article 4 it undertakes to acknowledge receipt of project proposals within ten calendar days and, under Articles 21 and 25, to make advance and final payments within 60 calendar days. Although ECHO appears to have met the target for acknowledging the receipt of proposals, partners have sometimes experienced delays in receiving payments. In cases like the crisis in Afghanistan, ECHO's speed of response seems to have been determined by the visibility of the emergency.

The revised FPA was initially valid for one year, but ECHO's Partners experienced a number of problems with its implementation early on. Therefore, VOICE established an 'FPA Watch' group consisting of about 30 NGOs in spring 1999 to collate problems raised by its members. As the 157 NGOs which are ECHO Partners seemed broadly supportive of this initiative, FPA Watch had its first meeting with ECHO in September 1999. The initial problems raised by the NGOs included:

- the absence of a definition of an expatriate in the FPA, leading to different interpretations by ECHO staff;

- ECHO's failure to take account of NGO comments before the publication of a user's guide to the FPA (leading to different interpretations of certain rules);
- differences in the interpretation of flat rates or lump sums by ECHO staff (whilst the general understanding was that this is a fixed rate to be paid regardless of actual costs, some ECHO staff members treated it as a maximum amount); and
- the length of time taken by ECHO to approve projects (usually 4–8 weeks).

Despite these difficulties, ECHO extended the FPA for one year, until December 2000. It then began a process of revising the FPA early in 2000. ECHO invited VOICE to a series of 'technical' meetings beginning in June 2000. However, it has emphasised that its discussion with NGOs, represented by the FPA Watch group, is a consultation rather than a negotiation. This means that changes to the FPA will be ECHO's decision and do not require the agreement of the NGOs.

At that point, the position of the FPA Watch group, as expressed in a letter to the ECHO Director in May 2000, was that the NGOs were generally satisfied with the FPA and felt that amendments to it should be restricted to clarifying misunderstandings, filling in gaps and maintaining the flexibility of the FPA (Minutes of FPA Watch meeting, 5 June 2000). The FPA Watch group also decided that a smaller group would need to focus in more detail on the proposed changes, and to represent NGOs in the regular meetings with ECHO. Therefore, it established an FPA Task Force of four NGOs (with a fifth member being an observer from the IFRC Liaison Office). By July 2001, the Task Force felt there should be greater coordination and solidarity with the IFRC and the Red Cross Societies as the organisations would be signing the same FPA and had common positions on many issues.¹⁰

The FPA was extended again until December 2001, and discussions regarding the changes to the FPA continued. The issues of the definition of an expatriate and of lump sums tended to dominate at first, with the FPA Watch group seeking legal advice on these matters. The group was also concerned about the quality of the documentation received from ECHO and the lack of time to read and discuss it (Minutes of FPA Watch meeting, 29 May 2001). By July 2001, the FPA Task Force felt it necessary to express additional concerns in a formal letter to ECHO. In particular, it felt that ECHO was not devoting sufficient resources to the consultation process. There was also a sense that ECHO had an unexpressed agenda, which was to develop a far more contractual relationship with NGOs (Minutes of FPA Task Force meeting, 6 July 2001). Statements from ECHO to the effect that NGOs which have not received funding for two years will not remain Partners and that it intended to reduce the number of contracts it has to manage by signing very few for less than 200,000 euros have reinforced fears that ECHO is seeking to restrict the number of NGOs

¹⁰ As the ICRC is due to sign an FPA adapted for international organisations, it has not been engaged in the consultation process with NGOs.

with which it works (Minutes of FPA Task Force meeting, 12 July 2001 and FPA Watch Group meeting, 2 August 2001).

Once ECHO provided an outline of the revised General Conditions, discussions between the Task Force and ECHO began to focus on the details and wording of its Articles. The issues which began to emerge included:

- the introduction of a local administration costs line item to make up for any losses incurred by the NGOs by the change of the lump sum for personnel to real costs;
- arbitration; and
- rules for procurement (Minutes of FPA Watch group meeting, 2 August 2001).

By the end of August, ECHO had also drafted a Preamble and Provisions for the FPA, which was made available to the NGOs for comment. However, at this point, the Commission decided to revise the Financial Regulation, and it was unclear how this would affect the FPA. The Task Force continued to comment on and suggest amendments to the FPA, for instance, that the Provisions should include a reference to the code of conduct for EC civil servants and a commitment to building the local capacity of beneficiaries.

At a meeting with the ECHO Director on 7 September 2001, NGOs raised five issues which have come to dominate their concerns about the new FPA. These were:

- administrative costs;
- lump sums (with a possible shift away from these for personnel towards a comprehensive list of real costs);
- procurement;
- arbitration (particularly for the Article in the General Conditions which allows ECHO to judge whether NGO staff are sufficiently qualified); and
- co-financing (which centres around the possibility that ECHO may move towards requiring a degree of co-financing by NGOs).

3.5 Field offices

ECHO has established an extensive network of field offices staffed by independent consultants, 'experts' or 'correspondents' and local staff (unlike Delegates, ECHO experts are not Commission officials). Usually, a field office has two experts and three or four local staff members. The offices operate independently of Commission Delegations, although the Delegations formally manage the bank account for each office. At present, ECHO has approximately 70 field experts in 40 offices. There has not been much change in the number of offices over the last few years as some (such as those in Turkey, Bosnia and Honduras) have closed, while new ones have been opened.

This network of experts has enabled ECHO to greatly increase the number of operational staff without increasing its number of official staff members (since ECHO experts are non-statutory staff, consultants hired on short-term

contracts, and paid from a separate budget line for project administration costs). According to an ECHO desk officer, of the approximately 140 staff members based in Brussels, about 35 are geographical desk officers. With the approximately 70 field experts, ECHO can triple the number of staff members working directly on projects. In addition, as field experts are non-statutory staff, ECHO can recruit people with relevant experience rather than following the Commission's recruitment procedures, which tend to result in the appointment of staff with little or no experience of the humanitarian aid field. Thirdly, ECHO's field presence is a reflection of the process of deconcentration in the Commission – DG RELEX has been transferring considerable authority to the Commission Delegates.

The key task of the field expert is 'to maximise humanitarian aid'. This can include conducting needs assessments, monitoring the dynamics of a humanitarian situation and checking on humanitarian operations financed by ECHO. This information is submitted to ECHO Brussels in two main formats. Since each project has a fiche op. associated with it, experts are asked to provide input into this in the form of verification of the project's status. In addition, ECHO has a matrix for each country where it is operational. This shows the constraints of operating there and ECHO's proposed strategy. The matrix is the responsibility of geographical desks and ECHO experts provide information for this.

Field experts may also participate in coordination meetings with donors or NGOs. Since ECHO has about 1,500 operations running in a given year and may be funding 20–40 projects in a single refugee camp, field offices try to coordinate some of the projects. However, experts do not police ECHO projects by checking NGO accounts. Rather, their task is to check two aspects linked to the budget – project performance and the status of the project (whether it is running on time). The latter is necessary because the Financial Regulation makes it difficult to modify contracts and lengthening a project from six to 12 months may involve changing the Commission's financial decision.

ECHO field experts are regarded as the eyes and ears of the Commission in the field. ECHO desk officers can only spend a limited amount of time in the field, so experts are invaluable for monitoring the work of partners. They provide feedback on the local situation to desk officers in Brussels, make proposals/suggestions and may be consulted by ECHO Brussels and involved in the writing of Global Plans. However, as they are not Commission officials, experts cannot have political responsibilities, agree/sign contracts or promise funding to implementing organisations, or take individual policy initiatives. There is also a clause in the contracts of ECHO experts saying that they cannot act as diplomatic authorities (although they can represent ECHO at a technical level). In practice, if there is no other EC representation, they may be the *de facto* representatives of the Commission.

To facilitate communication between ECHO experts, there is an annual meeting in Brussels. These meetings cover a variety of themes relating to humanitarian aid. There are

also regional seminars in Africa and the Balkans (Pristina). In addition, ECHO experts come to Brussels for briefing and debriefing sessions.

ECHO's network of field experts is potentially a powerful tool for monitoring the performance of implementing partners, both within and between countries, if experts exchange information. According to an ECHO desk officer, this is very *ad hoc* at present, although ECHO will be able to collate information far more systematically once it has established its database for information from fiche ops.

4. Checks and balances

4.1 The Humanitarian Aid Committee

The 1996 Council Regulation concerning humanitarian aid provided for a Humanitarian Aid Committee (HAC) 'composed of the representatives of the Member States and chaired by the representative of the Commission' (Article 17). Although this is an advisory group on management and policy issues, one of its main functions is to approve decisions on Global Plans. This replaces the previous system, whereby Member States were simply informed of the Commission's funding decisions at quarterly meetings. The HAC also discusses ECHO policy on a more general level. Currently, there is an annual meeting to discuss ECHO's priorities for the year ahead. Finally, the HAC is meant to be a forum for exchanging information about how different donors are responding to a crisis, although even Member States admit that the information tends to flow from ECHO, rather than in both directions.

On average, the HAC meets about eight times a year (although there have been attempts to make the meetings monthly). There may be special meetings if a major crisis erupts; two meetings focused solely on Kosovo, for example. The HAC's discussions of Global Plans can be divided into two broad areas:

- *Quality control.* This involves looking at how coherently a plan is put together. The HAC has a broad agreement with ECHO about the elements that a plan should address and how they should be structured to ensure some consistency. This has led to the inclusion of a section on the impact of previous assistance and lessons learned, and one on what assistance other donors are providing, and how ECHO's input fits into this. According to a HAC member, the quality of analysis in these sections varies considerably, and the HAC is constantly trying to improve it.
- *Content.* This focuses on whether ECHO is putting too much or too little money into the specific crisis; whether ECHO should be remaining engaged or developing an exit strategy; in the case of a multi-country plan, whether the balance of countries is right; and whether the types of assistance are right. Each discussion is different because it is not certain what Member States are going to bring to the table.

Whilst the emphasis of some Member States is on the quality of analysis in the Global Plans and on choosing effective

channels for the disbursement of funds, others are sometimes concerned about the balance between NGOs of various nationalities, and advocate on behalf of 'their' NGOs.

The HAC has never rejected a Global Plan. This has led to some dissatisfaction amongst Member States with the HAC, which is suspected to be no more than a rubber-stamp mechanism. Senior ECHO officials tend to share this view. They have also expressed dissatisfaction with the HAC's inability to provide swift feedback on sudden crises like the bombing campaign in Afghanistan, and its failure to improve coordination among Member States and between Member States and ECHO. Although Member States have had little direct influence on ECHO, ECHO staff members have pointed out that they exercise indirect power. This is because ECHO tries to anticipate the response of Member States and to put forward proposals which are as '15-country neutral' as possible.

Whilst the HAC is one link between ECHO and the Member States, the formal channel for communication between ECHO and the Council of Ministers is the Council's Development Cooperation Working Group. The HAC is a management/advisory committee, designed to assist, guide and influence ECHO rather than to provide a formal reporting channel. Hence, the Article 20 evaluation was supervised by the working group, and the Council's conclusions on the evaluation were discussed and formulated in the Development Cooperation Working Group. In theory, the working group deals with policy issues whilst the HAC deals with programme issues, though there is an overlap in their responsibilities.

4.2 The European Parliament

In 1998, the Commission identified a case of fraud within ECHO relating to four contracts for the Former Yugoslavia, signed between 1993 and 1994. The European Parliament fiercely criticised the handling of these cases (ICG, 2001b). Pressure from Parliament regarding the more widespread incidence of fraud in other Commission departments eventually led to the resignation of the entire College of Commissioners, led by Jacques Santer, in 1999.

4.3 Legal framework: the Council Regulation on humanitarian aid

Following a Commission proposal, the Council adopted Regulation (EC) No. 1257/96, which provided a legal base for ECHO, on 20 June 1996. The introductory paragraphs of the Regulation make a number of statements about the scope of humanitarian aid:

- 'people in distress, victims of natural disasters, wars and outbreaks of fighting, or other comparable exceptional circumstances have a right to international humanitarian assistance where their own authorities prove unable to provide effective relief';
- 'humanitarian assistance encompasses not only relief operations to save and preserve life in emergencies or their

immediate aftermath, but also action aimed at facilitating or obtaining freedom of access to victims and the free flow of such assistance’;

- humanitarian assistance may ‘include an element of short-term rehabilitation aimed at facilitating the arrival of relief, preventing any worsening in the impact of the crisis and starting to help those affected regain a minimum level of self-sufficiency’;
- the sole aim of humanitarian aid ‘is to prevent or relieve human suffering’. It must be ‘accorded to victims without discrimination on the grounds of race, ethnic group, religion, sex, age, nationality or political affiliation and must not be guided by, or subject to, political considerations’;
- ‘the independence and impartiality of non-governmental organizations and other humanitarian institutions in the implementation of humanitarian aid must be preserved, respected and encouraged.’

The last paragraph stipulates that ‘procedures should be established for the implementation and administration of humanitarian aid financed by the European Community from the general budget’. The main procedure is ECHO’s FPA. In addition to the opening paragraphs, Chapter I outlines the objectives and general principles of humanitarian aid. Article 1 of the Regulation defines humanitarian aid as comprising:

Assistance, relief and protection operations on a non-discriminatory basis to help people in third countries, particularly the most vulnerable among them, and as a priority those in developing countries, victims of natural disasters, man-made crises, such as wars and outbreaks of fighting, or exceptional situations or circumstances comparable to natural or man-made disasters ... Such aid shall also comprise operations to prepare for risks or prevent disasters or comparable exceptional circumstances.

This aid is to be provided ‘for the time needed to meet the humanitarian requirements resulting from these different situations’. Article 2 then elaborates seven potential objectives for humanitarian aid operations. The remaining Articles in chapter I detail the items which Community humanitarian aid may finance. Article 5 stipulates that ‘Community financing under this Regulation shall take the form of grants’, and that these ‘shall be exempt from taxes, charges, duties and customs duties’.

Chapter II lays out the ‘procedures for the implementation of humanitarian aid’. This includes Article 7, which lists the criteria which NGOs must meet in order to be eligible for Community funding. Other Articles state the types of organisations which are eligible for funding, and call for greater coordination in the humanitarian aid field.

Chapter III covers the ‘procedures for the implementation of humanitarian operations’. This focuses on the decision-making procedures within the Commission, and outlines the rules for the operation of the HAC. The final Articles concentrate on accountability. Article 18 provides for regular evaluations of Community-financed humanitarian operations, Article 19 requires the Commission to submit an Annual Report to the European Parliament and the Council with a summary of the operations financed, and

Article 20 states that three years after the Regulation comes into force, ‘the Commission shall submit an overall assessment of the operations financed by the Community’ under the Regulation. The Commission is also requested to submit suggestions for the future of the Regulation and proposals for amendments, if necessary, at the same time.

An evaluation was conducted in April 1999, in accordance with Article 20. This made a number of suggestions for amendments to the Regulation. Although these were not taken up by the Commission at the time, there is now discussion within ECHO about revising the Council Regulation.

4.4 The Financial Regulation¹¹

The Financial Regulation governs the Community budget and is a basic element of administration in the Commission. It consists of a ‘constellation’ of 20 or more instruments which control how the Community budget operates. This common set of rules applies regardless of the purpose for which funds are used. The Regulation must be followed by any organisation which executes the budget, although an organisation may have a specific derogation. This derogation may be in the implementing documents of the Financial Regulation, or in the organisation’s own legal base. In ECHO’s case, the derogation for humanitarian aid is not in the 1996 Council Regulation concerning humanitarian aid, but in the Financial Regulation.

The Community budget consists of obligatory and non-obligatory expenditure, and the European Parliament has different powers in relation to these when establishing the budget. For many years, the Parliament has been calling for a review of the Regulation in order to remove the distinction between the two types of expenditure. Having all expenditure on the same footing would give the Parliament greater power. Therefore, the review of the Financial Regulation is not just about improving management tools and clarifying issues, but also about the institutional development of the EU system.¹² The Financial Regulation has already been modified a number of times to take account of changes to the EU institutions. Thus, it is a living piece of legislation. However, this is the first successful attempt in 30 years to look at the whole constellation together. With the adoption of the Amsterdam Treaty, this will be legislated through the co-decision procedure (i.e., both the Council and the European Parliament must be consulted and the Parliament must adopt the regulation).

The revision to the Financial Regulation also has implications for Member States. Since the Regulation applies to any organisation implementing the Community budget, the revised version will introduce new procedures for Member States’ bodies spending funds from the budget.

¹¹ This section draws heavily on the minutes of the FPA Watch Group meeting on 20 September 2001, and on a telephone interview with Pablo Ibanez of ECHO V.

This is because responsibilities are being increasingly decentralised to agencies of Member States. Also, the revised Regulation will have a section on fraud. This will make it the responsibility of Member States to treat questions of fraud in the Community budget as they would incidences of fraud in their own budget. They will have the same responsibilities and be expected to take the same actions. Finally, there will be some technical elements about specific funds.

The Financial Regulation has two parts:

- the regulation itself; and
- the implementing modalities.

According to the 1996 Council Regulation, ECHO's funding comprises grants, not contracts, which means that ECHO's rules fall under the implementing modalities. When ECHO received the draft implementing modalities, it found that these contained no derogation for humanitarian aid. This implied that ECHO should introduce calls for proposals, restrict administrative costs to 7% and request a contribution of at least 10% towards project costs from NGOs. To avoid these restrictions, ECHO requested a derogation for humanitarian aid. According to an ECHO staff member, in November 2001, it received a derogation which should enable it to maintain the minimum level of flexibility required by a humanitarian aid donor. However, there is no guarantee that the Financial Regulation itself will be adopted in the very near future, particularly if the parties involved in the co-decision procedure disagree.

¹¹ However, the distinction between obligatory and non-obligatory expenditure is in the Treaty, not just the Regulation, so it will remain even when the Financial Regulation has been revised.

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