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(Acts whose publication is obligatory)

COUNCIL REGULATION (EURATOM, ECSC, EEC) No 610/90

of 13 March 1990

amending the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 78h thereof,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 209 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Court of Auditors (3),

Whereas the conciliation provided for in the Joint Declaration of 4 March 1975 of the European Parliament, the Council and the Commission (4) took place in a Conciliation Committee;

Having regard to the conclusions of the European Council which met in Brussels on 11, 12 and 13 February 1988;

Whereas, in view of the evolution of the general budget of the Communities and of the experience acquired in the actual application of the Financial Regulation (5), as last amended by Regulation (ECSC, EEC, Euratom) No 2049/88 (6), (hereinafter called the 'Financial Regulation'), it is necessary to adjust some of the provisions of the said Financial Regulation;

Whereas the structure of the budget must be improved and the conditions essential for more effective management of appropriations must be created;

Whereas the concepts 'differentiated appropriations' and 'non-differentiated appropriations' must be defined, specifying that multiannual operations call for the entry of differentiated appropriations;

Whereas certain provisions need to be revised, notably in respect of the arrangements for provisional twelfths and transfers;

Whereas there are grounds for clarifying the provisions concerning the implementation of the budget;

Whereas provisions should be inserted in the Financial Regulation on the procedure for amending and supplementary budgets, the establishment of financial statements, improvements to the organization of relations between the institutions and the Court of Auditors and the information to be given to the budgetary authority on the utilization of advances from the EAGGF Guarantee Section;

Whereas it is necessary to improve the presentation of the appropriations for research and technological development activities;

Whereas the Financial Regulation should contain special provisions for the management of Community external aid and for the administrative appropriations relating to staff serving outside the Community and related administration;

Whereas, in view of changes in legislation governing food aid, it no longer seems necessary to retain special provisions for this area in the Financial Regulation;

Whereas, in the light of technological advances in management and accounting systems, provisions should be laid down to implement the budget with the help of data-processing techniques;

Whereas it is preferable for certain amounts in connection with the awarding of contracts and with inventories to be determined by the rules for the implementation of this Financial Regulation,

(1) OJ No C 115, 8. 5. 1989, p. 1 and OJ No C 193, 31. 7. 1989, p. 14.
(2) OJ No C 120, 16. 5. 1989, p. 230.
(3) OJ No C 72, 20. 3. 1989, p. 1.
(4) OJ No C 89, 22. 4. 1975, p. 1.
(5) OJ No L 356, 31. 12. 1977, p. 1.
(6) OJ No L 185, 15. 7. 1988, p. 3.

HAS ADOPTED THIS REGULATION:

Article 1

The Financial Regulation is hereby amended as follows:

1. In the second subparagraph of Article 1 (1), the third indent is replaced by the following:

   '— the revenue and expenditure of the European Atomic Energy Community which may be charged to the budget pursuant to the Euratom Treaty and to the measures taken in implementation thereof.'

2. In Article 1 (2), the second subparagraph is replaced by the following:

   'Expenditure may not be authorized for a period extending beyond the financial year.'

3. Article 1 (3) is replaced by the following:

   '3. Administrative expenditure arising from:

   — contracts which have been concluded, in accordance with local usage, or

   — contractual provisions relating, in particular, to the supply of equipment,

   for the periods extending beyond the financial year shall be charged to the budget for the financial year in which it is effected.'

4. Article 1 (3a), (4) and (5) is replaced by the following:

   '4. The budget may include differentiated appropriations and non-differentiated appropriations. Differentiated appropriations are those which give rise to commitment appropriations and payment appropriations.

   Multiannual operations give rise to the entry of differentiated appropriations.

   Commitment appropriations shall cover, for the current financial year, the total cost of the legal obligations entered into for operations whose implementation extends over more than one financial year.

   Payment appropriations shall cover expenditure arising from commitments entered into in the current financial year and/or preceding financial years.

   5. Differentiated appropriations shall be shown in the budget as follows:

   — the commitment appropriation authorized for the financial year concerned and the payment appropriation for the same financial year shall be entered under the appropriate heading,

   — the estimated annual payment appropriations required for the subsequent financial years shall be set out against the commitment appropriations in an indicative schedule in the remarks column.

   The distinction between commitment appropriations and payment appropriations shall be made in the framework of the budget procedure.

   6. The sum of the non-differentiated appropriations and the commitment appropriations of the differentiated appropriations shall constitute the appropriations for commitments.

   The sum of the non-differentiated appropriations and the payment appropriations of the differentiated appropriations shall constitute the appropriations for payments.

   7. The legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted.

   This time limit shall be determined with due regard to the need for multiannual implementation of the operations financed and the specific conditions of implementation in relation to the various spheres of intervention.

   The Commission may, in special circumstances, adjust the time limit for implementation of these commitments, on the basis of appropriate proof supplied by the recipients.'

5. Article 2 is replaced by the following:

   'Article 2

   The budget appropriations must be used in accordance with the principles of sound financial management, and in particular those of economy and cost-effectiveness. Quantified objectives must be identified and the progress of their realization monitored.

   Member States and the Commission shall cooperate to ensure the adequacy of systems for decentralized management of Community funds. Such cooperation shall include the prompt exchange of all necessary information.'

6. The following Article is inserted:

   'Article 3

   1. Any proposal or communication submitted by the Commission to the Council which may have budgetary consequences, including significant changes in the number of posts, must include a financial statement. Where necessary, the financial statement must be updated to take account of the progress of discussions.

2. For activities of an operational nature, the financial statement shall include appropriate justification of the sum to be contributed by the Community, supported, if appropriate, by relevant statistical data.

3. In the case of multiannual operations, the financial statement shall contain the estimated schedule of annual requirements in appropriations and posts. In drawing up this schedule, account shall also be taken of the "financial perspective" annexed to the Interinstitutional Agreement on budgetary discipline and improvement of the budget procedure (1).

4. Where appropriate, the Commission shall record in the financial statement any information regarding fraud prevention measures in the sector concerned.

5. At the start of the budget procedure, the Commission shall supply appropriate information enabling a comparison to be made between the development of appropriation requirements and the original estimates contained in the financial statements.

(1) OJ No L 185, 15. 7. 1988, p. 33.'

7. Article 3 becomes Article 4 and is replaced by the following:

'Article 4

1. Subject to Article 27, all revenue and expenditure shall be entered in full in the budget and in the accounts without any adjustment against each other.

2. Total revenue shall cover total appropriations for payments.

Notwithstanding the preceding subparagraph, certain revenues shall not be used for any other purpose, notably:

— financial contributions from Member States to certain research programmes pursuant to the second subparagraph of Article 6 and Article 11 (2) (c) of Council Decision 88/376/EEC, Euratom of 24 June 1988 on the system of the Communities' own resources (1),

— revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests,

— contributions to Community activities from non-member States or various bodies,

— revenue from third parties in respect of work carried out at their request.

3. The Commission may accept any donation made to the Communities, and in particular foundations, subsidies, gifts and bequests.

The Commission may accept donations which may involve some financial charge only subject to prior authorization from the European Parliament and the Council, which shall act on the matter within two months of the date of receipt of the request from the Commission. If no objection has been made within that period, the Commission shall take a final decision in respect of acceptance.

(1) OJ No L 185, 15. 7. 1988, p. 24.'

8. Article 4 becomes Article 5: the present text becomes paragraph 1 and the following paragraph is added:

'2. No expenditure may be committed or authorized in excess of the authorized appropriations, without prejudice to Article 27 (2).'

9. Article 5 becomes Article 6 and is replaced by the following:

'Article 6

The financial year shall run from 1 January to 31 December.

The revenue of a financial year shall be entered in the accounts for the financial year on the basis of the amounts collected during the financial year, with the exception of the own resources for the month of January of the next financial year, in respect of which advance payment may be made pursuant to Article 10 (2) of Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources (1).

The readjustment of entries in respect of value added tax own resources, of the supplementary resource based on GNP and, if appropriate, of financial contributions, shall be carried out in accordance with the third and fourth subparagraphs of Article 10 (3) of the abovementioned Regulation.

The alloted appropriations shall be used solely to cover expenditure properly entered into and paid in the financial year for which they were granted, save as otherwise provided in Articles 7 and 102, and to cover the debts relating to preceding financial years for which no appropriation was carried forward.

The commitments shall be entered in the accounts on the basis of the commitments contracted up to 31 December.

The expenditure of a financial year shall be entered in the accounts for that year on the basis of the expenditure for which authorization reached the financial controller not later than 31 December and the accounting officer not later than the following 10 January, and for which payment was effected by the accounting officer not later than 15 January.

Notwithstanding the two preceding subparagraphs, the expenditure of the EAGGF Guarantee Section shall be taken into account for a financial year in accordance with the rules laid down in Article 101.

(1) OJ No L 155, 7. 6. 1989, p. 1.'

10. Article 6 becomes Article 7.

(a) Point 1 is replaced by the following:

'1. In the case of budget headings where there is no distinction between commitment appropriations and payment appropriations, appropriations still uncommitted at the end of the financial year for which they were entered shall, as a rule, lapse.

Appropriations relating to remunerations and allowances of members and staff of the institutions and provisional appropriations may not be carried over.

However:

(a) a decision may be taken to carry over, to the next financial year only, appropriations still uncommitted at the close of the financial year, where the appropriations made to the headings in question in the budget of the next financial year are not sufficient to cover requirements, and those committed after 15 December for purchases of stores or equipment, performance of work or provision of supplies;

(b) appropriations in respect of payments still outstanding by virtue of commitments duly entered into before the close of the financial year, with the exception of commitments entered into after 15 December for purchases of stores or equipment, performance or work or provision of supplies, shall be carried over automatically to the next financial year only.'

(b) The last subparagraph of point 2 is replaced by the following:

'The Commission shall inform the budgetary authority by 15 March at the latest of the decision taken and state, for each budget item, how the agreed criteria were applied to each carry-over.

Provisional appropriations may not be carried over.'

(c) Point 3 is replaced by the following:

'3. In the case of appropriations for which a decision to carry over may be taken in accordance with point 1 (a), the Commission shall forward to the budgetary authority, not later than 15 February, the duly substantiated requests to carry over appropriations made by the European Parliament, the Council, the Court of Justice, the Court of Auditors and the Commission itself.

The carry-over of such appropriations can be proposed only for exceptional reasons in order to cope with compelling needs which cannot be met by appropriations from the next financial year. In principle, such carry-overs are intended to cover needs normally coming under the previous financial year but which, due to delays for which the authorizing officer was not responsible, could not be used in due time.

The Council shall consult the European Parliament and shall act by a qualified majority on the requests to carry over expenditure necessarily arising from the Treaties or from acts adopted pursuant thereto.

The European Parliament shall consult the Council and shall act on the requests to carry over expenditure other than that necessarily arising from the Treaties or from acts adopted pursuant thereto.

In the absence of a decision by the budgetary authority within a period of six weeks, the requests for carry-overs shall be deemed to be approved.'

(d) Point 4 is replaced by the following:

'4. Unused revenue and appropriations available at 31 December arising from the specific revenue referred to in Article 4 (2) shall be carried over automatically'.

(e) Point 5 is replaced by the following:

'5. The following appropriations shall lapse at the end of the year:

(a) appropriations from the previous financial year:

— carried over by decision of the budgetary authority under point 1 (a) which have been neither committed nor paid,

— carried over automatically under point 1 (b) which have not been paid,

— carried over by the Commission under point 2 and remaining unused at the end of the financial year;

(b) appropriations of the financial year which have not been carried over.'

(f) The last subparagraph of point 6 is replaced by the following:

'The Commission shall inform the budgetary authority by 15 March of the decision taken and state, for each budget item, the reasons for making these appropriations available again.'

(g) The following point is added:

'7. Revenue deriving from the repayment of advances by recipients of Community aid shall be entered in the suspense accounts.

At the start of each financial year, the Commission shall examine the volume of such revenue and assess the need for re-use in the budget heading from which the original expenditure was made, in the light of requirements.

The Commission shall take this decision before 15 February of each financial year and shall inform the budget authority by 15 March of the decision taken.

Revenue which has not been re-used shall be shown under miscellaneous revenue of the financial year in which it has been entered.'

(h) Point 7 becomes point 8 and is replaced by the following:

'8. The revenue and expenditure account shall show the automatic carry-overs, the appropriations carried over by decision of the budgetary authority, those carried over by decision of the Commission and the appropriations made available again by decision of the Commission after commitments have been cancelled or repaid.'

(i) Point 8 becomes point 9 and is replaced by the following:

'9. For the purpose of implementing the budget, the use of appropriations carried forward shall be shown separately, for each budget item, in each article in the accounts for the current financial year.'

11. Article 7 becomes Article 8 and:

— the first and second subparagraphs are numbered 1 and 2,

— the third subparagraph is replaced by the following:

'3. Expenditure relating to rents or certain associated expenditure which is payable in advance in accordance with provisions laid down by law or contracts may give rise to payments from 20 December onwards to be charged to the appropriations for the next financial year.'

12. Article 8 becomes Article 9 and is replaced by the following:

'Article 9

1. If the budget is not finally adopted at the beginning of the financial year, Article 78b of the ECSC Treaty, Article 204 of the EEC Treaty and Article 178 of the Euratom Treaty shall apply to commitment and payment of expenditure already approved in principle in the last budget duly adopted.

An item of expenditure shall be considered as having been approved in principle in the last budget duly adopted if it could have been charged to a specific budget heading under the financial year concerned.

2. (a) Commitments may be entered into in respect of any chapter:

— for up to one quarter of the total appropriations entered in the relevant chapter for the preceding financial year, account being taken of all transfers, plus one twelfth for each completed month,

— without exceeding the appropriations provided for in the draft budget or, in the absence thereof, in the preliminary draft budget.

The global provisional commitments of the EAGGF Guarantee Section referred to in Article 99 shall be treated as commitments for the purposes of these provisions.

(b) Payments may be made monthly in respect of any chapter:

— up to one twelfth of the total appropriations entered in the chapter concerned for the preceding financial year, account being taken of all transfers,

— as long as this measure does not have the effect of placing at the disposal of the Commission, for any month, appropriations in excess of one-twelfth of those provided for in the draft budget or, in the absence thereof, in the preliminary draft budget.

3. If the continuity of Community activities and administrative needs so require:

(a) for expenditure necessarily resulting from the Treaties or from acts adopted in accordance

therewith, the Council acting by a qualified majority may at the request of the Commission and after consulting the European Parliament, authorize simultaneously two or more provisional twelfths for both commitments and payments in addition to those automatically made available under paragraphs 2 (a) and 2 (b);

(b) for expenditure other than that necessarily resulting from the Treaties, or from acts adopted in accordance therewith, the second subparagraph of Article 78b (2) of the ECSC Treaty, the third subparagraph of Article 204 of the EEC Treaty and the third subparagraph of Article 178 of the Euratom Treaty shall apply.

The additional twelfths shall be authorized in whole.

The annual total authorized for each chapter by reason of the twelfths may not exceed the total for the corresponding chapter of the preceding year's budget, account being taken of transfers, nor may it exceed the total for the corresponding chapter of the draft budget or, where this is not available, the preliminary draft budget.

4. If, for a given chapter, the authorization of two or more provisional twelfths granted in the circumstances provided for in paragraph 3 does not enable the expenditure necessary to avoid a break in continuity of the Community's activity in the area in question to be met, an overstepping of the total provided for in the last subparagraph of paragraph 3 may, exceptionally, be authorized in accordance with the same procedures, provided that the overall total of the appropriations opened in the budget of the preceding year is not exceeded.'

13. Article 9 becomes Article 10 and the following is added as second subparagraph:

'Publication shall normally take place within one month of the date of the declaration of final adoption of the budget.'

14. Article 10 becomes Article 11 and is replaced by the following:

'Article 11

1. The budget shall be drawn up in ecus.

2. The ecu is the sum of specified amounts of the currencies of the Member States as set out in Council Regulation (EEC) No 3180/78 of 18 December 1978 changing the value of the unit of account used by the European Monetary Cooperation Fund (1) (2).

Any change in the composition of the ecu decided on in accordance with Regulation (EEC) No 3180/78 shall automatically apply to this provision.

3. The value of the ecu in a given currency shall be equal to the sum of the equivalents in that currency of the amounts of the currencies which make up the ecu.

It shall be determined by the Commission on the basis of the exchange rates recorded each day on the exchange markets.

The daily rates for conversion into the various national currencies shall be available each day and shall be published in the *Official Journal of the European Communities*.

4. Any operations involving conversion of the ecu into a national currency shall, in principle, be effected on the basis of the exchange rate applicable on that day; derogations from this principle may be permitted in exceptional cases, in accordance with the implementing rules referred to in Article 126.

(1) OJ No L 379, 30. 12. 1978, p. 1, as last amended by Regulation (EEC) No 1971/89 of 19 June 1989 (OJ No L 189, 4. 7. 1989).

(2) In accordance with Regulation (EEC) No 1971/89, as cited above, the ecu is composed as follows from 21 September 1989 (89/C 241/01):

— 0,6242 German marks,
— 0,08784 pound sterling,
— 1,332 French francs,
— 151,8 Italian lira,
— 0,2198 Dutch guilders,
— 3,301 Beglian francs,
— 0,130 Luxembourg francs,
— 0,1976 Danish kroner,
— 0,008552 Irish pounds,
— 1,440 Greek drachmas,
— 6,885 Spanish pesetas,
— 1,393 Portuguese escudos.'

15. Title II: the heading is replaced by the following:

'TITLE II

ESTABLISHMENT AND STRUCTURE OF THE BUDGET'

16. Section I: the heading is replaced by the following:

'SECTION I

ESTABLISHMENT OF THE BUDGET'

17. Article 11 becomes Article 12 and is replaced by the following:

'Article 12

The European Parliament, the Council, the Court of Justice and the Court of Auditors shall, each year before 1 July, draw up an estimate of their revenue and expenditure for the following year.

The Economic and Social Committee shall, before 1 June, forward to the Council an estimate of its revenue and expenditure for the following year.

These estimates shall be forwarded to the Commission and, for information, to the European Parliament and the Council, no later than 1 July.'

18. Article 12 becomes Article 13 and is replaced by the following:

'Article 13

1. The Commission shall, in the preliminary draft budget which it places before the Council not later than 1 September of each year, draw up a general statement of revenue of the Communities and consolidate the estimates referred to in Article 12.

It shall at the same time forward the preliminary draft budget to the European Parliament.

2. The Commission shall prepare a general introduction to the preliminary draft budget. This introduction shall contain in particular:

(a) financial tables covering the entire budget; and

(b) as regards the Commission subsections:

— a description of the policies for which the appropriations are requested, taking account of the principles and requirements set out in Article 2,

— an explanation of the changes in appropriations from one financial year to the next,

— a detailed statement on borrowing and lending policy.

3. Each of the other sections of the preliminary draft budget shall be preceded by an introduction prepared by the institution concerned and covering the points listed in the first and second indents of 2 (b).

4. The preliminary draft budget shall be accompanied by working documents containing the following information:

(a) in respect of staff:

— for each category of staff, a detailed list of budgetary posts and numbers of persons in post on the date of the submission of the preliminary draft budget, indicating their distribution by grade and administrative unit (or principal operational unit for the establishments of the Joint Research Centre),

— where a change in the number of persons in post is proposed, a statement justifying such changes;

(b) in respect of subsidies to the bodies set up pursuant to the Treaties or Acts adopted in accordance therewith and to the Supply Agency, an estimate of revenue and expenditure prefaced by an explanatory statement drawn up by the bodies concerned; for the European Schools, a statement showing revenue and expenditure prefaced by an explanatory statement.

5. The Commission shall also attach to the preliminary draft budget:

— an analysis of the financial management for the preceding financial year, as provided for in Article 80, and a balance sheet of assets and liabilities of the Communities as at 31 December of the preceding financial year, as provided for in Article 81, and

— an opinion on the estimates of the other institutions; this opinion may contain different estimates, accompanied by the reasons therefor.'

19. The following Article is inserted:

'Article 14

The Commission may, on its own initiative or if requested by the European Parliament, the Council, the Court of Justice or the Court of Auditors in respect of their section, present to the Council a letter of amendment to the preliminary draft budget necessitated by the receipt of new information which was not available at the time the preliminary draft was established.

However, save in very exceptional circumstances, the Commission must put such letter of amendment to the Council at least 30 days before the first reading of the draft budget by the European Parliament, and the Council must put the letter of amendment to the draft budget to the European Parliament at least 15 days before the said first reading.'

20. The following Article is inserted:

'Article 15

1. In the event of unavoidable, exceptional or unforeseen circumstances, the Commission may submit preliminary draft supplementary and/or amending budgets.

Preliminary draft supplementary budget shall mean any proposal which would either increase the total amount of appropriations for commitments and/or payments, or finance one or more new operations without increasing the total amount of appropriations.

Preliminary draft amending budget shall mean any proposal which would involve modifications to the budget of a financial or technical nature, without causing an increase in the total amount of appropriations and without providing for new operations.

2. Preliminary draft supplementary and/or amending budgets shall be subject to the provisions of

Article 78 of the ECSC Treaty, Article 203 of the EEC Treaty and Article 177 of the Euratom Treaty.

They shall be submitted, examined, established and finally adopted in the same form and according to the same procedure as the budget whose estimates they are amending. They must be substantiated by reference to the latter.

3. All preliminary draft supplementary and/or amending budgets must, as a general rule, be forwarded to the Council by the date laid down for the submission of the preliminary draft budget for the following financial year.

The competent authorities shall discuss them in the light of their urgency.

4. Requests for supplementary and/or amending budgets from the European Parliament, the Council, the Court of Justice or the Court of Auditors shall be forwarded by the Commission to the budgetary authority. The Commission may attach a dissenting opinion.

5. Where the Council, having received a preliminary draft supplementary and/or amending budget, considers that it is not necessary to prepare up a draft budget, it shall determine its position after an exchange of views with the European Parliament.

6. Preliminary draft supplementary and/or amending budgets shall be accompanied by statements of grounds and the information available on the implementation of the budget for the preceding and current financial years at the time of their establishment.'

21. Article 13 becomes Article 16.

22. Article 14 becomes Article 17 and is replaced by the following:

'Article 17

1. The budget shall be adopted in accordance with Article 78 of the ECSC Treaty, Article 203 of the EEC Treaty and Article 177 of the Euratom Treaty.

2. Once the budget has been declared finally adopted by the President of the European Parliament, each Member State shall, from 1 January of the following financial year or from the date of the formal declaration if it is made after 1 January, be bound to make over to the Community the payments due as specified in Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources (1).

(1) OJ No L 155, 7. 6. 1989, p. 1.'

23. The following Article 18 is inserted:

'Article 18

The Commission and the budgetary authority may agree to bring forward certain dates for the transmission of the estimates, and for the adoption and transmission of the preliminary draft and draft budgets. This agreement may not, however, have the effect of reducing or delaying the periods allowed for consideration of these texts under Article 78 of the ECSC Treaty, Article 203 of the EEC Treaty and Article 177 of the Euratom Treaty.'

24. Section II: the heading is replaced by the following:

'SECTION II

STRUCTURE AND PRESENTATION OF THE BUDGET'

25. Article 15 becomes Article 19 and is replaced by the following:

'Article 19

1. The budget shall consist of:

— a general statement of revenue,

— separate sections subdivided into statements of revenue and expenditure of the European Parliament, the Council, the Commission, the Court of Justice and the Court of Auditors. The revenue and expenditure of the Economic and Social Committee shall be entered in the section dealing with the Council and presented in the form of a statement of revenue and expenditure, subdivided in the same way as the sections of the budget and subject to the same rules.

The Commission section shall consist of:

— a "Part A" for the staff and administrative expenditure of that institution.

The revenue and expenditure of the Office for Official Publications of the European Communities shall be attached to this part of the Commission section,

— a "Part B" for operating expenditure, divided into as many subsections as are required.

2. Within each section, the items of revenue and expenditure shall be classified according to their type or the use to which they are assigned under titles, chapters, articles and items.

3. The budgetary nomenclature shall be determined as regards the apportionment of revenue and expenditure under separate titles, chapters and articles, during the budgetary procedure.

4. Each section of the budget, and Parts A and B of the Commission section, may include a chapter for "provisional appropriations" and a "contingency reserve" chapter. The appropriations entered in these chapters may be used only by means of transfer

in accordance with the procedure laid down in Article 26.

5. The Commission section may include a "negative reserve" limited to a maximum amount of ECU 200 million. This reserve, which shall be entered in a separate chapter, may comprise both appropriations for commitments and appropriations for payments.

This reserve must be drawn upon before the end of the financial year by means of transfer in accordance with the procedure laid down in Article 26.

6. The subsection for EAGGF Guarantee Section expenditure shall include a monetary reserve, for which the entry, utilization and financing conditions are determined by Council Decision 88/377/EEC of 24 June 1988 concerning budgetary discipline (1), and Decision 88/376/EEC, Euratom of 24 June 1988 on the system of the Communities' own resources and by the provisions adopted for implementing the latter.

7. In addition, the document showing all the borrowing and lending operations referred to in Article 20 (5) shall be annexed to Part B of the Commission section.

(1) OJ No L 185, 15. 7. 1988, p. 29.'

26. Article 16 becomes Article 20 and is replaced by the following:

'Article 20

The budget shall show:

1. In the general statement of revenue:

— the estimated revenue of the Communities for the financial year in question, divided into titles, chapters, articles and items,

— the revenue for the preceding financial year, divided into titles, chapters, articles and items,

— appropriate remarks on each subdivision.

2. In the section for each institution:

(a) as regards the statement of revenue:

— the estimated revenue for each institution for the financial year in question, divided into titles, chapters, articles and items, following a decimal classification system,

— the revenue entered in the budget for the preceding financial year and the revenue established for the last financial year for which accounts have been closed, using the same classification,

— appropriate remarks on each revenue heading;

(b) as regards the statement of expenditure:

(ba) in the case of the various items, articles, chapters and titles:

— the appropriations made available for the financial year in question, these appropriations being the commitment appropriations and the payment appropriations for the budget headings for which this distinction has been agreed,

— the appropriations made available for the preceding financial year,

— the actual expenditure in the last financial year for which the accounts have been closed, determined as follows:

— for the headings where the distinction between commitment appropriations and payment appropriations has not been made:

— actual payments in the last financial year for which the accounts have been closed plus the carryovers to the next financial year,

— for the headings where the distinction between commitment appropriations and payment appropriations has been made:

— in commitments: commitments entered into during the financial year against appropriations for that financial year and against appropriations carried over from the preceding financial year;

— in payments: payments made during the financial year against appropriations for that financial year and against appropriations carried over from the preceding financial year;

(bb) appropriate remarks on each subdivision. These remarks shall include:

— the basic legal instrument, where one exists,

— all such explanations as may be necessary concerning the nature and purpose of the appropriations,

— in the case of operations covered by commitment appropriations and payment appropriations: an indicative schedule of the payments for the financial year concerned and subsequent financial years.

3. As regards staff:

— for each section of the budget, an establishment plan setting the number of permanent and temporary posts for each grade in each category and in each service authorized within the limits of the budget appropriations. The staff of the supply agency shall be shown separately in the Commission's establishment plan,

— an establishment plan for staff paid from the research and technological development appropriations, classified by category and grade and distinguishing between permanent and non-permanent staff, authorized within the limits of the budget appropriations.

As regards scientific and technical staff, the classification may be based on groups of grades, in accordance with the conditions laid down in each budget. The establishment plan must specify the number of highly qualified technical or scientific personnel who are accorded special advantages under the Staff Regulations applicable to these officials;

— an establishment plan setting the number of posts for each grade in each category in:

— the Office for Official Publications,

— the European Centre for the Development of Vocational Training,

— the European Foundation for the Improvement of Living and Working Conditions.

The establishment plan shall show next to the number of posts authorized for the financial year the number authorized for the preceding year.

4. The establishment plan shall constitute an absolute limit for each institution; no appointment may be made in excess of the limit set.

Instances of half-time work authorized by the appointing authority in accordance with Article 55a of the Staff Regulations of officials of the European Communities may be compensated for by the recruitment of other staff within the limits laid down by the budget authority in the budgetary procedure.

5. As regards borrowing and lending operations:

(a) in the general statement of revenue, the relevant budget headings carrying a token entry and accompanied by appropriate remarks;

(b) in the Commission section:

— the budget headings relating to the categories of operation and carrying a token entry, so long as no effective charge which has to be covered by specific resources has arisen,

— remarks giving a reference to the legal basis and, where appropriate, the volume of the operations envisaged and the financial guarantee given by the Communities in respect of these operations;

(c) in a document annexed to Part B of the Commission section, as an indication:

— current capital operations and current debt management,

— the capital operations and debt management for the financial year in question.'

27. Article 17 becomes Article 21.

28. Article 18 becomes Article 22 and

(a) the following subparagraph is added to paragraph 1:

'The implementation of appropriations entered for significant Community action shall require a basic act, in accordance with the procedure and the provisions laid down in paragraph 3 (c) of Section IV of the Joint Declaration of 30 June 1982 (*).

(*) OJ No C 194, 28. 7. 1982, p. 1.'

(b) the following paragraph is added:

'3. In accordance with Article 2, each institution shall take the appropriate measures, in terms of both organization and follow-up, to ensure the achievement of the objectives which it has set for itself.'

(c) former paragraph 3 becomes paragraph 4 and is replaced by the following:

'4. With the exception of the cases provided for in Articles 28, 29, 39, 48 and 52 involving decisions overruling the Financial Controller, the Commission and each of the other institutions may delegate their powers of budgetary implementation in accordance with the

conditions laid down by their internal rules of procedure and within the limits which they themselves lay down in the act of delegation.

Those so empowered may act only within the limits of the powers expressly conferred upon them.

The acts of delegation shall be communicated to all the parties concerned in accordance with the implementing rules provided for in Article 126.'

(d) former paragraph 4 becomes paragraph 5.

29. The following Article is inserted:

'Article 23

Where revenue and expenditure operations are managed by means of integrated computer systems, the provisions of Sections II and III and of Title VI shall apply with due allowance for the possibilities and requirements deriving from computerized management. To this end:

— the supporting documents may remain with the authorizing officer or the accounting officer for the purposes of checking,

— signatures and approvals may be added in appropriate computerized form.

The conditions for implementing this Article shall be determined by the implementing rules provided for in Article 126.'

30. Article 19 becomes Article 24 and is replaced by the following:

'Article 24

Each institution shall appoint a financial controller.

He shall carry out his duties in accordance with the principles laid down in Article 2 and the provisions of Article 13 (3). He shall report to the Commission on any problem which he uncovers regarding the management of Community finances.

He shall be responsible for monitoring:

— the commitment and authorization of all expenditure,

— the establishment and collection of all revenue.

The financial controller must be consulted on the setting up of the accounting systems of the institution to which he is attached. He shall have access to the data of such systems.

Monitoring shall be carried out by that official by means of inspection of the files relating to expenditure and revenue and, if necessary, on the spot.

The financial controller may be assisted in his duties by one or more assistant financial controllers.

The special rules applicable to such officials, which shall be laid down in the implementing rules provided for in Article 126, shall be such as to guarantee that they are independent in the performance of their duties. Their appointment, their promotion and disciplinary rules or transfer, and any interruption or termination of appointment by whatever procedure shall be the subject of reasoned decisions to be forwarded, for information, to the European Parliament, the Council, the Commission and the Court of Auditors.

The persons concerned, and the institutions employing them, may institute proceedings before the Court of Justice. Where such an action is concerned with his independence, the financial controller may institute proceedings against his institution.'

31. Article 20 becomes Article 25 and is replaced by the following:

'Article 25

In each institution, the collection of revenue and the payment of expenditure shall be carried out by an accounting officer.

The accounting officer shall be appointed by the institution.

Without prejudice to the system provided for in Articles 4 and 5 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy (1), as last amended by Regulation (EEC) No 2048/88 (2), and subject to the second subparagraph of Article 53 on payments procedures, to Article 54 on imprests and to Article 111 on the financing of external aid of this Financial Regulation, the accounting officer alone is empowered to manage monies and other assets. He shall be responsible for their safekeeping.

The accounting officer shall be responsible for preparing the financial statements provided for in Articles 78, 79, 80 and 81 of this Financial Regulation.

He may be assisted in his duties by one or more assistant accounting officers, appointed under the same conditions as the accounting officer.

The special rules applicable to the accounting officer and to assistant accounting officers shall be laid down in the implementing rules provided for in Article 126.

(1) OJ No L 94, 28. 4. 1970, p. 13.
(2) OJ No L 185, 15. 7. 1988, p. 1.'

32. Article 21 becomes Article 26 and is replaced by the following:

'Article 26

1. Appropriations shall be earmarked for specific purposes by chapter and article.

2. The European Parliament and the Council may transfer appropriations from one chapter to another and from one article to another within their own sections of the budget.

The Court of Justice and the Court of Auditors may, within their own sections of the budget, transfer appropriations from one article to another within each chapter. They shall inform the budgetary authority and the Commission three weeks before making such transfers.

3. The Commission may, within its own section of the budget:

(a) transfer appropriations from one article to another within each chapter;

(b) transfer appropriations from one chapter to another within each of the titles relating to staff and administrative expenditure. It shall inform the budgetary authority three weeks before making such transfers.

4. Without prejudice to the provisions of paragraphs 2 and 3, the Commission may make proposals to the budgetary authority for transfers from one chapter to another within each budget section.

Proposals for transfers shall be accompanied by appropriate and detailed supporting documents showing the implementation of appropriations and estimates of requirements up to the end of the financial year, both for the headings to be credited and for those from which the appropriations are drawn.

Proposals made by the other institutions for transfers from one chapter to another shall be automatically forwarded to the authority; the Commission may attach its own opinion to such proposals.

5. The budgetary authority shall take decisions on transfers of appropriations as follows:

(a) in the case of proposals for transfers relating to expenditure necessarily resulting from the Treaties or from acts adopted in accordance therewith, the Council shall, after consulting the European Parliament, act by a qualified majority within six weeks, except in urgent cases. The European Parliament shall deliver its opinion within such time as will permit the Council to be apprised of it and to act within the time limit indicated. Where the Council does not act within this time limit, the proposals for transfers shall be deemed to be approved;

(b) in the case of proposals for transfers relating to expenditure other than that necessarily resulting from the Treaties or from Acts adopted in accordance therewith, the European Parliament shall, after consulting the Council, act within six weeks, except in urgent cases. The Council shall deliver its opinion, by a qualified majority, within such time as will permit the European Parliament to be apprised of it and to act within the time limit indicated. Where the European Parliament does not act within this time limit, the proposals for transfers shall be deemed to be approved;

(c) proposals for transfers relating both to expenditure necessarily resulting from the Treaties or from acts adopted in accordance therewith, and to other expenditure shall be deemed to be approved if neither the Council nor the European Parliament has decided otherwise within six weeks of the date on which the two institutions received the proposals. If, in the case of such proposals for transfers, the European Parliament and the Council reduce the proposal for a transfer by different amounts, whichever is the smaller of the amounts accepted by one of the two institutions shall be deemed to be approved. Where one of the institutions rejects the principle of the transfer, such transfer shall not be made.

6. Appropriations may also be transferred, by decision of the budgetary authority, between headings where a distinction is made between commitment appropriations and payment appropriations and headings involving non-differentiated appropriations.

7. Every proposal for a transfer within a chapter or from one chapter to another shall be subject to the approval of the financial controller, who shall certify that the appropriations are available.

8. Appropriations may be transferred only to budget headings for which the budget has authorized appropriations or carried a token entry.

9. This Article shall apply to the appropriations corresponding to revenue earmarked for a specific purpose under Article 4 (2) only as long as the revenue is not used for any other purpose.

10. Transfers within the titles of the budget devoted to the European Agricultural Guidance and Guarantee Fund, Guarantee Section, shall be the subject of special provisions under Article 104.'

33. Article 22 becomes Article 27 and

(a) in the first subparagraph of paragraph 1 'from Article 3' is replaced by 'from Article 4';

(b) paragraph 2 is replaced by the following:

'2. Notwithstanding Articles 4 and 5, the following sums may be re-used under the heading to which the initial expenditure was charged:

(a) revenue arising from the refund of amounts paid in error against budget appropriations;

(b) proceeds from the supply of goods and services to other institutions or bodies,

including refunds by such institutions or bodies of mission allowances paid on their behalf;

(c) insurance payments received;

(d) revenue from payments connected with lettings;

(e) revenue from the sale of publications and films;

(f) refunds of taxes — incorporated in the price of the products or services provided to the Commission — effected by Member States pursuant to the provisions of the Protocol on the Privileges and Immunities of the European Communities;

(g) revenue from the supply of goods and services against payment;

(h) proceeds from the sale of vehicles, equipment and installations and scientific and technical apparatus, equipment and materials which are being replaced or scrapped.

Such sums must be re-used before the end of the financial year following that in which the revenue was collected.

The chart of accounts shall include suspense accounts to record re-use operations in both revenue and expenditure.'

(c) in paragraph 3, 'Article 3' is replaced by 'Article 4';

(d) paragraphs 4 and 5 are replaced by the following:

'4. Notwithstanding Article 4, adjustments may be made in respect of exchange differences occurring in budget operations. The final gain or loss shall be included in the balance for the year.

5. In the cases referred to in paragraphs 1 (c) and 2 (b), (d), (e), (g) and (h), re-use and deduction shall be possible only if provision therefor is made in the remarks column in the budget.'

34. Article 23 becomes Article 28 and

(a) in the first subparagraph of paragraph 1, the second sentence is replaced by the following:

'Such proposals shall be sent to the financial controller of the institution for his approval and to the accounting officer for provisional registration.'

(b) in the first subparagraph of paragraph 1, (b) is replaced by the following:

'(b) the proposal is in order and conforms to the relevant provisions, in particular of the budget and of the regulation and also of all acts made in implementation of the Treaties and of the Regulations, and to the principles of sound financial management referred to in Article 2.'

(c) in the second subparagraph of paragraph 1, 'Article 106' is replaced by 'Article 126';

(d) in the last sentence of the last subparagraph of paragraph 1, 'every three months' is replaced by 'within one month';

(e) in the first subparagraph of paragraph 2, 'Article 106' is replaced by 'Article 126';

(f) in the second subparagraph of paragraph 2, (f) is replaced by the following:

'(f) the order conforms to the sound financial management referred to in Article 2'.

35. Article 24 becomes Article 29 and:

(a) the following sentence is added to the third subparagraph of paragraph 1:

'If necessary, he shall initiate the recovery procedure.'

(b) the second subparagraph of paragraph 2 is replaced by the following:

'The purpose of the approval of the financial controller shall be to establish that the waiver is in order and conforms with the principles of sound financial management referred to in Article 2. The proposal concerned shall be registered by the accounting officer.'

(c) in the last sentence of the third subparagraph of paragraph 2, 'every three months' is replaced by 'within one month';

(d) in paragraph 4, 'Article 106' is replaced by 'Article 126'.

36. Article 25 becomes Article 30.

37. Article 26 becomes Article 31 and is replaced by the following:

'Article 31

Estimates of the own resources and, if appropriate, of the contributions to be paid by the Member States referred to in Article 2 (7) of Decision 88/376/EEC, Euratom of 24 June 1988 on the system of the Communities' own resources, shall be entered in the budget, expressed in ecus. They shall be made available in accordance with Council Regulation (EEC, Euratom) No 1552/89.'

38. Article 27 becomes Article 32 and is replaced by the following:

'Article 32

The balance from each financial year shall be entered in the budget for the following financial year as revenue in the case of a surplus or expenditure in the case of a deficit.

The relevant estimates of such revenue or expenditure shall be entered in the budget during the budget procedure and, where appropriate, in a letter of amendment submitted pursuant to Article 14. They shall be drawn up in accordance with the principles set out in Article 15 of Regulation (EEC, Euratom) No 1552/89.

After the close of accounts for each financial year, any discrepancy with the estimates shall be entered in the budget for the following financial year through a supplementary or amending budget.

39. Article 28 becomes Article 33 and

(a) paragraph 1 is replaced by the following:

'1. The contributions for the financing of certain supplementary research programmes provided for in Article 11 (2) (c) of Decision 88/376/EEC, Euratom of 24 June 1988 shall be paid over as follows:

— seven twelfths of the amount shown in the budget not later than 31 January,

— the remaining five twelfths not later than 15 July.

2. If the budget is not finally adopted before the start of the financial year, the contributions provided for in paragraph 1 shall be based on the amount shown in the budget of the preceding financial year.'

(b) paragraph 2 becomes paragraph 3;

(c) paragraph 3 becomes paragraph 4 and is replaced by the following:

'4. The payments made shall be entered in the account provided for in Article 9 (1) of Regulation (EEC, Euratom) No 1552/89, and shall be subject to the conditions set out in Article 11 of that Regulation.'

(d) the following paragraph is added:

'5. The financial contributions referred to in Article 11 (2) (c) of Decision 88/376/EEC, Euratom of 24 June 1988 on the system of the Communities' own resources (for the completion of supplementary research programmes) shall be converted at the rate for the ecu applying on the last but one working day of the month preceding the final date for entry in the accounts.'

40. Article 29 becomes Article 34 and is replaced by the following:

'Article 34

1. The Commission shall, once a month, send figures to the European Parliament and the Council showing the implementation of the budget, and covering both revenue and expenditure. These figures shall also show details of the utilization of appropriations carried forward.

These figures shall be sent within 10 working days following the end of each month.

2. The Commission shall, four times a year, and in principle within the 30 working days following the end of the months of March, June, August and December, present to the European Parliament and the Council a report on the implementation of the budget, covering both revenue and expenditure. This report shall also give details of the utilization of appropriations carried forward from previous financial years.

The budgetary authority may examine these reports.

3. The figures and the quarterly report shall at the same time be sent to the Court of Auditors.'

41. Article 30 is repealed.

42. Article 31 becomes Article 35.

43. Article 31 becomes Article 36 and

(a) in paragaph 2, 'Article 96' is replaced by 'Article 99';

(b) in paragraph 3, 'Article 106' is replaced by 'Article 126'.

44. Article 33 becomes Article 37 and is replaced by the following:

'Article 37

Without prejudice to the provisions of Article 23, in each institution, proposals for commitments, accompanied by the supporting documents, shall be transmitted to the financial controller and to the accounting officer: they shall show, in particular, the purpose of the expenditure, the estimated amount involved, indicating the currency where possible, the budget item to which it is to be charged and also the name and description of the creditor; they shall be registered, after approval by the financial controller, in accordance with the implementing rules provided for in Article 126.'

45. Article 34 becomes Article 38 and

(a) the first subparagraph becomes paragraph 1;

(b) in paragraph 1, (d) is replaced by the following:

'(d) the principles of sound financial management referred to in Article 2 have been applied.'

(c) the following paragraph is added:

'2. Approval may not be conditional.'

(d) the second subparagraph becomes paragraph 3 and 'Article 106' is replaced by 'Article 126.'

46. Article 35 becomes Article 39 and

(a) in the first subparagraph, 'Article 34' is replaced by 'Article 38 (1)';

(b) in the second subparagraph, 'in the first two paragraphs of Article 18' is replaced by 'in the first two paragraphs of Article 22';

(c) in the final sentence of the last subparagraph 'every three months' is replaced by 'within one month'.

47. Article 36 becomes Article 40.

48. Article 37 becomes Article 41 and

(a) in paragraph 1, 'Article 106' is replaced by 'Article 126';

(b) paragraph 2 is deleted;

(c) paragraph 3 becomes paragraph 2.

49. Article 38 becomes Article 42.

50. Article 39 becomes Article 43.

51. Article 40 becomes Article 44 and the third indent is replaced by the following:

— 'the amount to be paid (in figures and words), expressed in ecus or in national currency,'.

52. Article 41 becomes Article 45 and in the first subparagraph 'Article 106' and 'Article 59' are replaced by 'Article 126' and 'Article 65' respectively.

53. Article 42 becomes Article 46 and

(a) the first subparagraph is replaced by the following and becomes paragraph 1:

'1. The authorizing officer may make payments by instalment in accordance with the rules governing the policy concerned or in accordance with contractual provisions.

Where this occurs, the first payment order shall be accompanied by documents establishing the creditor's claim to payment of the instalment in question. Subsequent payment orders shall refer to the supporting documents already furnished, and repeat the reference number of the first payment order.'

(b) the second, third and fourth subparagraphs become paragraph 2;

(c) in the third subparagraph, 'Article 106' is replaced by 'Article 126';

(d) in the fourth subparagraph, 'Article 49' is replaced by 'Article 54'.

54. Article 43 becomes Article 47 and

(a) the first subparagraph is replaced by the following:

'Without prejudice to the provisions of Article 23, payment orders shall be sent for prior approval to the financial controller.'

(b) in the second subpargraph, (b) is replaced by the following:

'(b) the payment order agrees with the commitment of expenditure and that the amount thereof is correct, taking account of the principles and requirements of sound financial management referred to in Article 2;'.

55. Article 44 becomes Article 48 and 'Article 35' is replaced by 'Article 39'.

56. The following Article is inserted:

'Article 48b

The detailed rules for the payment of any interest owed by recipients of Community aid in the event of recovery of undue payments to the Community shall be determined by the implementation provisions laid down in Article 128, without prejudice to any provisions laid down in the basic sectoral acts relating to Community policies.'

57. Article 45 becomes Article 50.

58. Article 46 becomes Article 51.

59. Article 47 becomes Article 52.

60. Article 48 becomes Article 53: in the second subparagraph, 'Article 106' is replaced by 'Article 126'.

61. Article 49 becomes Article 54 and

(a) in the first subparagraph, 'Article 106' is replaced by 'Article 126';

(b) the following is inserted as a new second subparagraph:

'Only the accounting officer may replenish the imprest accounts, save in exceptional cases defined in the implementing rules of this Regulation.'

(c) the second subparagraph becomes the third subparagraph.

62. The following section is inserted:

'SECTION IV

MANAGEMENT OF POSTS'

63. The following Article is inserted:

'Article 55

1. Within each institution the following shall be established:

(a) a file identifying the posts and containing a job description for each category A post;

(b) an organization chart showing the organization of the departments detailing the tasks of each administrative unit.

2. If the note "to be abolished" is placed against a post in the budget, it may no longer be filled when the next vacancy arises in the same career.'

64. The heading of section I in Title IV is replaced by the following:

'SECTION 1

CONTRACTS FOR THE SUPPLY OF GOODS AND SERVICES; CONTRACTS FOR PURCHASE, LEASE AND HIRE'

65. Article 50 becomes Article 56 and paragraph 1 is replaced by the following:

'1. Contracts for the purchase or hiring of buildings or goods, for the provision of services or for the performance of construction work shall be in writing. Apart from contracts relating to the purchase of a building already constructed or to the leasing of a building, all such contracts shall be concluded after an invitation to tender has been issued either by the automatic public tendering procedure or the discretionary tendering procedure.

However, contracts may be made by private treaty in the circumstances referred to in Article 58.

Contracts may be made against invoice or bill of costs in cases provided for in Article 63.'

66. Article 51 becomes Article 57 and in paragraph 3 'Article 106' is replaced by 'Article 126'.

67. Article 52 becomes Article 58 and

(a) in point (a) 'where the contract . . . involves an amount not exceeding ECU 6 500' is replaced by 'within the limit laid down in the implementing rules provided for in Article 126';

(b) in point (b), 'Article 51' is replaced by 'Article 59'.

68. Article 53 becomes Article 59.

69. Article 54 becomes Article 60 and is replaced by the following:

'Article 60

In each institution, before the authorizing officer takes a decision, contracts involving sums exceeding an amount specified in the implementing rules provided for in Article 125 shall be submitted for the opinion of an Advisory Committee on procurements and contracts.

If required, an advisory committee on procurements and contracts common to all the institutions may be set up.

Details of the operation of these committees shall be laid down in the implementing rules provided for in Article 126.'

70. Article 55 becomes Article 61 and in the first subparagraph 'Article 54' is replaced by 'Article 60'.

71. Article 56 becomes Article 62 and

(a) in the first subparagraph, 'Article 106' is replaced by 'Article 126';

(b) the third subparagraph is replaced by the following:

'Beyond the limit laid down by the implementing rules provided for in Article 126, the provision of security shall be obligatory. A guarantee may be retained until final acceptance.'

72. Article 57 becomes Article 63 and is replaced by the following:

'Article 63

Contracts may be made against invoice or bill of costs where the estimated value of the goods, services or works does not exceed the limits laid down by the implementing rules provided for in Article 126.'

73. Article 58 becomes Article 64 and is replaced by the following:

'Article 64

Without prejudice to the provisions laid down in this Regulation, when concluding contracts referred to in this Regulation, each institution shall comply with the Directives on public works and supplies adopted by the Council in implementation of the Treaty establishing the European Economic Community, whenever the amounts involved are equal to or greater than the amounts provided for in those Directives.

The implementing rules provided for in Article 126 shall include the supplementary provisions which may be required in order to implement this Article.'

74. Article 59 becomes Article 65 and is replaced by the following:

'*Article 65*

Permanent inventories showing the quantity and value of all movable and immovable property belonging to the Communities shall be kept in accordance with a model drawn up by the Commission. Only movable property exceeding a specific value laid down in the implementing rules provided for in Article 126 shall be entered in those inventories.

Each institution shall carry out its own inspection to ascertain that entries in the inventory correspond to the facts, in accordance with the implementing rules provided for in Article 126.'

75. Article 60 becomes Article 66 and in the first subparagraph 'Article 106' is replaced by 'Article 126'.

76. Article 61 becomes Article 67 and in the first subparagraph 'disposed of' is replaced by 'sold, given away free of charge . . .'.

77. Article 62 becomes Article 68 and in the first subparagraph 'Article 59' is replaced by 'Article 65'.

78. Article 63 becomes Article 69 and in the last sentence 'in European units of account' is replaced by 'in ecus'.

79. Article 64 becomes Article 70 and is replaced by the following:

'*Article 70*

The chart of accounts shall make a clear distinction between budgetary accounts and cash accounts.

It shall comprise two parts:

(a) accounts of budgetary expenditure and revenue, which show the detailed implementation of the budget;

(b) the balance sheet accounts, which disclose the assets of the institutions. These accounts shall show the expected effect of the Comunities' legal obligations.

The detailed conditions for the establishment and operation of the chart of accounts for transactions relating both to assets and to the implementation of the budget shall be determined by the implementing rules provided for in Article 126.

The accounts shall make it possible to draw up an annual balance of assets and a monthly statement of revenue and expenditure by chapter and article.

These statements shall be forwarded to the financial controller, the authorizing officer and the Court of Auditors.'

80. Article 65 becomes Article 71 and

(a) in the first subparagraph, 'Article 96 and 102' is replaced by 'Article 99';

(b) in the second subparagraph, 'the third subparagraph of Article 42' is replaced by 'the second subparagraph of Article 46 (2)'.

81. Article 66 is repealed.

82. Article 67 becomes Article 72.

83. Article 68 becomes Article 73 and the following sentence is added:

'The same shall apply if they neglect to issue payment orders or are, without justification, late in issuing them, thereby rendering the institution liable to civil action by third parties.'

84. Article 69 becomes Article 74.

85. Article 70 becomes Article 75 and:

(a) in the first subparagraph of paragraph 1 'the third paragraph of Article 46' is replaced by 'the third subparagraph of Article 51';

(b) in paragraphs 3 and 5 'Article 106' is replaced by 'Article 126';

(c) the third and fourth subparagraphs of paragaph 3 become paragraph 4;

(d) paragraph 4 becomes paragraph 5.

86. Article 71 becomes Article 76.

87. Article 72 becomes Article 77.

88. Article 73 becomes Article 78 and

(a) the introduction and point 1 is replaced by the following:

'The Commission shall draw up, not later than 1 May of the following year, a consolidated revenue and expenditure account of the general budget of the European Communities for the financial year ended 31 December. The consolidated revenue and expenditure account shall include:

1. a table of revenue comprising:

— estimated revenue for the financial year,

— amendments to the revenue estimates as a result of supplementary or amending budgets and additional revenue as specified in the second subparagraph of Article 4 (2),

— entitlements established in the course of the financial year,

— entitlements still to be collected from the preceding financial year,

— revenue collected during the financial year and revenue carried over pursuant to Article 7 (4),

— amounts still to be collected at the end of the financial year,

— the cancellation of established entitlements.

Statements shall be attached to this table showing revenue carried over pursuant to Article 7 (4) and, where appropriate, the balances and gross amounts of the operations referred to in Article 27 (2).

A statement should also be attached giving a breakdown, by Member State, of the amounts still to be collected at the end of the financial year corresponding to own resources covered by a recovery order.'

(b) in the last indent of point 2 'Article 6' is replaced by 'Article 7';

(c) in point 3:

— in the fourth indent, 'Article 6' is replaced by 'Article 7',

— in the fifth indent, 'Article 6' is replaced by 'Article 7',

— in the second subparagraph 'Article 22 (2)' is replaced by 'Article 27 (2)';

(d) the following indent is added to point 4:

'— for each financial year for which the accounts have been closed, a breakdown, by item and by Member State, showing the impact of clearance decisions during the financial year and using the budgetary nomenclature of the relevant financial year.'

89. Article 74 becomes Article 79 and is replaced by the following:

'Article 79

Each institution shall, not later than 1 March, transmit to the Commission, after submitting it to its financial controller the information required for drawing up the revenue and expenditure account and the balance sheet, together with a contribution to the analysis of the financial management referred to in Article 80.'

90. Article 75 becomes Article 80 and is replaced by the following:

'Article 80

1. The revenue and expenditure account shall cover all revenue and expenditure transactions relating to the preceding financial year for each institution. It shall be submitted in the same form and following the same subdivision as the budget.

2. The revenue and expenditure account shall be preceded by an analysis of the financial management in respect of the year in question.

For the drawing up of this analysis, each institution shall supply details on the realization of the principles and objectives as referred to in Article 2.'

91. Article 76 becomes Article 81 and is replaced by the following:

'Article 81

1. The Commission shall draw up not later than 1 May a consolidated balance sheet of assets and liabilities of the Communities as at 31 December of the preceding financial year. A statement showing the movements and balances of the accounts at the same date shall be attached thereto.

The balance sheet shall include, on the assets side, the amount of revenue to be collected and, on the liabilities side, the amount of expenditure chargeable to the financial year, which have not yet been entered in the accounts.

2. These documents shall be submitted to the financial controller.'

92. Article 77 becomes Article 82 and '1 June' is replaced by '1 May'.

93. Article 78 becomes Article 83 and is replaced by the following:

'Article 83

1. The Court of Auditors and its members may, in carrying out the task of the Court, be assisted by officers of the Court. The Court itself or one of its members shall notify the authorities with which the delegated office is to work of the tasks delegated to him.

2. The European Parliament, the Council and the Commission shall inform the Court of Auditors, as soon as possible, of all decisions and rules taken pursuant to Articles 4 (4), 7 (2), (3) and (6), 9, 17 (1) and 26.

3. The institutions shall transmit to the Court of Auditors any rules of procedure they adopt in respect of financial matters.

4. The Court of Auditors shall be informed of the appointment of authorizing officers, financial controllers, accounting officers and administrators of imprest accounts and of the acts of delegation or appointment under Articles 22, 24, 25 and 54.'

94. Article 79 becomes Article 84 and 'Article 19 of Council Regulation (EEC, Euratom, ECSC) No 2891/77 and to Article 80 of this Financial Regulation' is replaced by 'Article 18 of Council Regulation (EEC, Euratom, ECSC) No 1552 /89 and to Article 85 of this Financial Regulation'.

95. Article 80 becomes Article 85 and is replaced by the following:

'Article 85

The audit carried out by the Court of Auditors shall be based on records and, if necessary, performed on the spot. Its purpose shall be to establish that all revenue has been received and all expenditure incurred in a lawful and proper manner having regard to the provisions of the Treaties, the budget, the Financial Regulations and all other Acts adopted pursuant to the Treaties, and that the financial management has been sound.

For the performance of its task, the Court of Auditors shall be entitled to consult, in the manner provided for in Article 87, all documents and information relating to the financial management of the departments or bodies subject to its inspection; it has the power to make enquiries of any official responsible for a revenue or expenditure operation, and to use any of the auditing procedures appropriate to those departments or bodies.

The Court of Auditors, in order to obtain all the necessary information for the performance of the task entrusted to it by the Treaties and the Acts taken to implement them, may be present, at its request, during the operations carried out by the Commission in implementation of Articles 8 and 9 of Regulation (EEC) No 729/70 and Articles 17 and 18 of Regulation (EEC, Euratom) No 1552/89. This measure shall also apply to the inspection of any fund set up by the Communities.

At the request of the Court of Auditors, each institution shall authorize finance organizations holding Community deposits to enable the Court to ensure that external data tally with the accounts.'

96. Article 81 becomes Article 86.

97. Article 82 becomes Article 87 and

(a) in the first subparagraph, the following is added:

'and all documents and data created or stored on a magnetic medium.';

(b) in (b) in the second subparagraph, 'the first paragraph of Article 80' is replaced by 'the first subparagraph of Article 85';

(c) the final subparagraph is replaced by the following:

'The grant of Community funds to beneficiaries outside the institutions shall be subject to the agreement in writing by the recipients to an audit being carried out by the Court of Auditors on the utilization of the amounts granted.'

98. Article 83 becomes Article 88 and is replaced by the following:

'Article 88

The annual report of the Court of Auditors provided for in Article 78 of the ECSC Treaty, Article 206a of the EEC Treaty and Article 180a of the Euratom Treaty shall be governed by the following provisions:

1. The Court of Auditors shall transmit to the Commission and the institution concerned, by 15 July at the latest, any comments which are, in its opinion, of such a nature that they should appear in the annual reports. These comments must remain confidential. Each institution shall address its reply to the Court of Auditors by 31 October at the latest. The replies of the institution other than the Commission shall be sent simultaneously to the Commission.

2. The annual report shall contain an assessment of the soundness of financial management.

3. Without prejudice to any summary report or general comments which the Court of Auditors may see fit to make, the annual report shall include a section for each institution. The Court shall take all necessary steps to ensure that the replies of each institution to its comments are published immediately following those comments.

4. The Court of Auditors shall transmit to the authorities responsible for giving discharge and to the other institutions, by 30 November at the latest, its annual report accompanied by the replies and it shall ensure publication thereof in the *Official Journal of the European Communities*.'

99. Article 84 is repealed.

100. Article 85 becomes Article 89 and is replaced by the following:

'Article 89

1. The European Parliament, upon a recommendation from the Council acting by a qualified majority, shall, before 30 April of the following year, give a discharge to the Commission in respect of the implementation of the budget. If that date cannot be met, the Parliament or the Council shall inform the Commission of the reasons for the postponement.

If the European Parliament postpones the decision giving discharge, the Commission shall make every effort to take measures, as soon as possible, to facilitate removal of the obstacles to that decision.

2. The discharge decision shall cover the accounts of all revenue and expenditure of the Communities, the resulting balance and the assets and liabilities of the Community shown in the balance sheet. It shall include an assessment of the responsibility of the Commission's budgetary management over the past financial year.

3. The financial controller shall take account of the comments in the decisions giving discharge.

4. The institutions shall take all appropriate steps to act on the comments appearing in the decisions giving discharge.

5. At the request of the European Parliament or the Council, the institutions shall report on the measures taken in the light of these comments, and, in particular, on the instructions given to those of their departments which are responsible for the implementation of the budget. Such reports shall also be transmitted to the Court of Auditors.

The institutions must give an account, in an annex to the revenue and expenditure account for the next financial year, of the measures taken in the light of the comments appearing in the decisions giving discharge.

6. Supporting documents pertaining to the accounts and the preparation of the revenue and expenditure account and the balance sheet shall be kept for a period of five years following the date of the decision giving discharge in respect of the implementation of the budget.

However, the documents relating to transactions not finally closed shall be kept for longer than the said period until the end of the year following the year in which such transactions are finally closed.

Each institution shall decide which department will keep the supporting documents.'

101. The following Article is inserted:

'Article 90

1. In addition to the annual report, the Court of Auditors may also, at any time, submit observations, in the form of special reports, on specific questions and deliver opinions at the request of one of the institutions of the Communities.

2. The special reports shall be transmitted to the institution or body concerned.

The institution concerned shall have two and a half months in which to inform the Court of Auditors of any comments it wishes to make on the observations in question.

Should the Court of Auditors decide to have such observations published in the *Official Journal of the European Communities*, it shall include after them any comments submitted by the institution or institutions concerned.

The special report shall be transmitted to the European Parliament and the Council, each of which shall decide in conjunction with the Commission what action, if any, is to be taken in response.

3. If the opinions referred to in paragraph 1 do not relate to proposals for legislation or draft legislation on which it has been consulted, they may be published by the Court of Auditors in the Official Journal. The Court shall take its decision on publication after consulting the institution which requested the opinion or the institution concerned by the Court's analysis. Opinions published in the Official Journal shall be accompanied by the replies of the institution or institutions concerned.'

102. Title VII: the heading is replaced by the following:

'TITLE VII

SPECIAL PROVISIONS APPLICABLE TO RESEARCH AND TECHNOLOGICAL DEVELOPMENT APPROPRIATION'

103. Article 86 to 94 are replaced by the following:

'Article 91

The provisions of Titles I to VI and XII shall apply to the research and technological development appropriations entered in the special subsection provided for in Article 92, save as otherwise provided in this Title.

Article 92

1. The appropriations relating to the activities covered by this Title shall be entered in a special subsection of Part B of the Commission section.

This subsection shall contain the appropriations intended for the realization of research and technological development objectives through the implementation of the following:

(a) direct action consisting of research programmes carried out by the establishments of the Joint Research Centre (JRC) and in principle entirely financed from the general budget of the European Communities.

(b) indirect action consisting of programmes carried out under contracts to be concluded with third parties and in principle partially financed from the general budget of the European Communities (shared-cost action projects);

(c) concerted action consisting of work undertaken by the Community to coordinate the individual research projects carried out in the Member States, in respect of which the administrative expenditure alone is financed from the general budget of the European Communities;

(d) possible financial contributions by the Community to supplementary programmes in accordance with Article 130l of the EEC Treaty, or to research and development programmes undertaken by several Member States, including participation in the structures created for the execution of those programmes, in accordance with Article 130m of the EEC Treaty, or cooperation with third countries or international organizations as provided for in Article 130n of the EEC Treaty, or participation in the joint undertakings provided for in Article 130o of the EEC Treaty;

(e) other activities of the JRC such as exploratory research, scientific and technical support activities for the Commission and services for outside bodies and individuals.

2. The appropriations for projects under the framework programme of activities in the field of research and technological development shall be entered separately in this subsection.

Article 93

1. The nomenclature of the special subsection provided for in Article 92 shall be based on the purpose of the expenditure in achieving research and technological development objectives or in the other activities referred to in that Article.

The remarks for each subdivision shall also show:

— the number of staff authorized for the current year,

— details of supplementary programmes, programmes undertaken by several Member States and cooperation with third countries or international organizations, with an indication of the amount of any financial contribution from the Community.

2. However, staff appropriations for the joint Research Centre shall be entered separately in a single chapter.

Article 94

The following shall be annexed to the special subsection referred to in Article 92:

— a table of equivalence giving the breakdown by purpose and type of expenditure of the appropriations made available in the subsection, as specified in the implementing rules provided for in Article 126.

For management purposes, the Commission may create appropriation accounts corresponding to the instruments of implementation,

— a provisional schedule of commitments and payments showing the planned utilization of the commitment appropriations and the corresponding payment appropriations. The schedule shall be reviewed annually.

Article 95

Notwithstanding Article 26, the Commission may, within the subsection referred to in Article 92, transfer appropriations from one chapter to another in respect of the activities referred to in Article 92 (1) (a) and of the exploratory research referred to in Article 92 (1) (e), provided that these activities fall under the framework programme.

These transfers may not have the effect of increasing or decreasing by more than 15% in commitment appropriations and payment appropriations the initial allocation entered in the budget for each of the programmes referred to in Article 92 (1) (a). They may not have the effect of increasing the appropriations earmarked for exploratory research by more than 5% in commitment appropriations and payment appropriations of the initial allocation for the total of the programmes referred to above.

This special provision does not concern staff appropriations for the JRC.

For the purposes of the application of Article 26, the budget headings relating to the activities referred to in Article 92 (1) (b), (c) and (d) shall be regarded as chapters.

Article 96

1. The Commission may provide services for outside bodies or individuals, in accordance with the remarks in the budget for the chapters and articles in question.

Notwithstanding Article 5, the resulting revenue may give rise to additional appropriations:

— in commitments, equal to the amount of the repayments provided for in the contracts concluded with the outside bodies or individuals,

— in payments, equal to the entitlements established from these repayments.

2. Notwithstanding Article 7 (2), additional appropriations shall be maintained until they are cancelled by means of the revenue and expenditure account.

3. Where provision is made in the remarks column for certain categories of expenditure to be repaid to the general budget, such repayments shall be booked to the statement of revenue, in accordance with the implementing rules, under headings entered specifically for this purpose.

Article 97

1. With regard to the award of contracts in the fields falling under this Title, the implementing rules provided for in Article 126 may lay down special provisions on:

— the limit values determining the conditions for concluding contracts,

— the operation and the determination of the powers of the advisory commitee on procurements and contracts.

2. By way of derogation from the first subparagraph of Article 66, the sale of scientific and technical equipment shall be permitted without prior notice, on the basis of a decision by the authorizing officer taken after the Advisory Committee on Procurements and Contracts has delivered its opinion.'

104. Article 95 becomes Article 98 and is replaced by the following:

'Article 98

The provisions of Titles I to VI and XII shall apply to expenditure financed by the EAGGF Guarantee Section, in accordance with Regulation (EEC) No 729/70, effected through the authorities or bodies referred to in Article 4 (1) of that Regulation and under the implementing provisions adopted pursuant to Article 5 (3) of that Regulation, save as otherwise provided in this Title.

Special operations which the Commission manages directly, shall be implemented in accordance with the rules laid down in Title III of this Regulation.'

105. Article 96 becomes Article 99 and

(a) the first two subparagraphs become paragraph 1;

(b) the following paragraph is added:

'2. The Commission shall make a monthly report to the Parliament and the Council; the report shall be forwarded within 30 working days of the end of the month of implementation of the actual expenditure by the Member States. The report shall include data permitting an assessment of:

— the trend in expenditure, taking account of the early warning system provided for in Article 6 of Council Decision 88/377/EEC of 24 June 1988 concerning budgetary discipline,

— the projected trend in expenditure during the financial year in relation to market trends.'

106. Article 97 becomes Article 100 and in paragraph 2 'Article 96' is replaced by 'Article 99'.

107. Article 98 becomes Article 101.

108. Article 99 becomes Article 102 and in paragraph 3, 'Articles 97 and 98' is replaced by 'Articles 100 and 101'.

109. Article 100 becomes Article 103 and is replaced by the following:

'Article 103

Global provisional commitments which have been made for a financial year in accordance with Article 99 and which have not been specifically committed under the budget nomenclature in accordance with Article 100 by 1 February of the following financial year, shall be released under the original financial year.'

110. Article 101 becomes Article 104 and is replaced by the following:

'Article 104

1. Transfers from one article to another within each chapter shall be made by decision of the Commission, to be taken not later than 31 January in accordance with the procedure provided for in Article 13 of Regulation (EEC) No 729/70.

The Commission shall inform the budgetary authority of such transfers.

2. Not later than one month before 31 January of the following financial year, the Commission may submit proposals to the budgetary authority for transfers of appropriations from one chapter to another. Acting by a qualified majority, the Council, after consulting the European Parliament, shall take a decision within three weeks. The European Parliament shall deliver its opinion in sufficient time to enable the Council to take note of it and act within the stipulated period. Failing a decision by the Council within that period, the transfer proposals shall be deemed to be approved.

3. Decisions on transfers relating to the monetary reserve referred to in Article 19 (6) shall be taken in accordance with Article 26 (5) (a).'

111. Title IX and Article 102 thereof are repealed.

112. The following is inserted as Title IX:

'TITLE IX

SPECIAL PROVISIONS APPLICABLE TO EXTERNAL AID

SECTION I

GENERAL PROVISIONS

Article 105

1. The provisions of Titles I to VI and XII shall apply to external aid financed from the Community budget, save as otherwise provided in this Title.

2. The appropriations assigned by the Community to its cooperation policy shall be used either under cooperation agreements with a financial protocol ("preferential agreements") or as aid granted unilaterally.

3. The appropriations may be earmarked in particular for grant aid, special loans, risk capital or interest rate subsidies, and shall be used by the Commission, which may confer authority on behalf of the Community to administer a part thereof, either on the European Investment Bank or, under its responsibility, on other organizations.

This provision shall not prejudice the audit powers of the Court of Auditors under Article 206a of the EEC Treaty.

4. The following provisions shall govern the use of appropriations by the Commission.

5. The amount of special loans and risk capital granted shall be shown in the balance sheet provided for in Article 81.

Article 106

1. Any cooperation project adopted by the Commission may be covered by:

— a financing agreement drawn up between the Commission, acting for the Community, and the Government of the recipient State or the governing bodies of the recipient organizations or institutions, hereinafter referred to as the recipient,

— or a contract with international organizations, or natural or legal persons responsible for carrying out the project.

2. The financing agreement or contract shall determine the financial commitment of the Community for the measure concerned. No expenditure in excess of this amount may be charged to the budget without an additional commitment.

3. In addition, a loan contract shall be drawn up between the Commission, acting for the Community, and the borrower in respect of any investment project financed by a special loan.

SECTION II

IMPLEMENTATION

Article 107

Projects covered by a financing agreement shall be implemented by the recipient in close collaboration with the Commission, which shall retain responsibility for the utilization of appropriations.

Article 108

1. These functions performed by the Commission may be referred to in the preferential agreements or the financing agreements as those of chief authorizing officer.

2. The Commission, in close cooperation with the recipient, shall ensure that participants in tendering procedures can compete on an equal footing, that there is no discrimination and that the tender selected is economically the most advantageous. In particular, it shall approve the terms of the invitation to tender before it is issued, be apprised of the results of the examination of the tenders, and approve the proposal for the award of the contract.

Article 109

1. In the case of preferential agreements in particular, the recipient may appoint a national authorizing officer to represent the national authorities in all operations relating to projects financed by the Community which are the subject of an agreement between the recipient State and the Community.

2. The recipient shall submit invitations to tender to the Commission for agreement before issuing them. On the basis of the decisions thus endorsed and in close cooperation with the Commission, the recipient shall issue invitations to tender, receive tenders, preside over the examination of tenders and establish the results of the tendering procedure.

The Commission shall normally be represented when tenders are being examined, where the basic price of the invitation to tender exceeds the limit fixed in the financing agreement or contract.

3. It shall transmit to the Commission for agreement the results of the examination of the tendering procedure and a proposal for the award of the contract. It shall sign contracts, additions to contracts and estimates and shall notify the Commission thereof. For contracts, additions to contracts, and estimates, the Commission, where

appropriate, shall enter into individual commitments in accordance with the procedures laid down in Articles 36 to 39. Individual commitments shall count towards the commitments under the financing agreements provided for in Article 106 (2).

4. Where appropriate, the recipient shall validate and authorize any expenditure which is the subject of an agreement between the recipient and the Community against appropriations committed by the Commission. It shall remain financially liable to the Commission until the Commission clears the operations for the execution of which the recipient is responsible.

Article 110

1. For the purposes of applying the preferential agreement or financing agreement between the Community and the recipient State, and in respect of the appropriations for which it is the authorizing officer, the Commission may be represented in the recipient State by a representative approved by that State.

. While operations are in progress the Commission's representative shall verify, on the basis of documents and on the spot, that the work or services comply with their description in the financing agreements, contracts or estimates.

Article 111

1. For payments in a currency other than that of the recipient State, the Commission shall make payment direct for services provided in connection with projects financed with grant aid.

2. For payments in the currency of the recipient State, accounts denominated in ecus or in the currency of one of the Member States may be opened with a financial institution in the recipient State in the name of the Commission or, by common agreement, of the recipient.

In the case of preferential agreements, the tasks referred to in paragraphs 5 and 6 may be entrusted to a financial institution, referred to as the paying agent.

3. The accounts referred to in paragraph 2 shall be replenished to meet actual cash requirements. Transfers shall be made in ecus or, exceptionally, in the currency of a Member State, and converted into the curreny of the recipient State as payments fall due, at the exchange rate ruling on the day of payment.

4. Interest on the deposits in the accounts referred to in paragraph 2 shall be used exclusively for the projects concerned, unless agreed otherwise when the functions of paying agent are being exercised by a public financial institution.

The paying agent shall not be remunerated for his services.

5. Within the limits of the funds available, the paying agent, after obtaining the approval of the Commission's representative, shall make the payments authorized after verifying that the supporting documents provided are substantively accurate and in order.

6. At regular intervals, and at least once a quarter, the paying agent shall send the Commission a statement of actual expenditure and revenue, together with supporting documents.

7. Payments made and revenue received in the currency of the recipient State shall be subject to a clearance procedure before they are finally booked to the budget appropriations. Clearance shall consist of an examination by the Commission to establish that validation, authorization and payment and the collection of revenue have been properly effected, in accordance with this Financial Regulation.

SECTION III

AWARD OF CONTRACTS

Article 112

Notwithstanding Title IV of this Financial Regulation, the award of contracts financed by the Community for recipients of external aid shall be governed by the following provisions.

Article 113

The procedure to be followed for the award of works, supply or service contracts shall be specified in the financing agreement or the contract, subject to the following principles.

Article 114

1. Participation in tendering procedures shall be open on equal terms to all natural and legal persons coming within the scope of application of the Treaties and to all natural and legal persons in the recipient State.

The specifications shall therefore require tenderers to state their nationality and to present the supporting evidence normally acceptable under their own law.

2. In exceptional cases and with proper justification, it may be decided, on the basis of the specific conditions laid down in the basic instruments governing cooperation and in accordance with the

appropriate authorization procedures, to allow nationals of third countries to tender for contracts financed by the Community.

Article 115

The Commission and the recipient shall take the necessary implementing measures to guarantee as wide a participation as possible, on equal terms in tendering procedures and other procedures for the award of contracts financed by the Community.

To this end, without prejudice to Articles 116 to 118, care shall be taken in particular to:

(a) ensure advance publication in reasonable time of invitations to tender in the *Official Journal of the European Communities* and the official gazette of the recipient State;

(b) eliminate any discriminatory practice or technical specifications liable to hamper wide participation on equal terms by all natural or legal persons of the Member States and of the recipient State.

Article 116

In urgent cases or where the nature, small scale or particular characteristics of certain works or supplies so warrant, the Commission or the recipient may, by agreement with the Commission stating the reasons therefor, exceptionally authorize;

— the award of contracts after open invitations to tender, confined to a specific geographical area,

— the award of contracts after restricted invitations to tender,

— the conclusions of contracts by private treaty,

— the performance of contracts through public works departments.

Article 117

The Commission and the recipient shall ensure that Articles 115, 116 and 118 are observed for each operation and that the tender selected is economically the most advantageous, with due regard notably to the cost of performance, running costs involved, technical merit, the qualifications of and the guarantees offered by the tenderers, the nature and conditions of execution of the works or supplies.

The Commission and the recipient shall ensure that all the selection criteria are specified in the invitation to tender.

The result of invitations to tender shall be published at the earliest possible date in the *Official Journal of the European Communities*. Where appropriate, it should also be possible to publish the result of invitations to tender in the official gazette of the recipient State.

Article 118

1. Contracts for services and technical cooperation shall be awarded after restricted invitations to tender.

For contracts for services and technical cooperation, the Commission shall — if need be after a process of preselection — draw up a restricted list of candidates, using criteria which guarantee that they have the requisite qualifications, professional experience and independence, and taking account of their availability for the project in question.

2. However, some contracts may be awarded by private treaty, particularly in the following cases:

— short or small projects,

— projects being carried out by non-profit-making institutions or associations,

— extensions to projects already under way,

— where the invitation to tender has been unsuccessful.

3. Contracts for services and technical cooperation shall, as a general rule, be prepared, negotiated and concluded by the Commission.

4. In the case of preferential agreements, or in cases where express provision is made therefore in the financing agreements, the tasks referred to in paragraph 3 shall be delegated to the recipient, in agreement and in collaboration with the Commission's representative.

Article 119

Only service contracts awarded in the interests of the Commission shall be governed by the provisions of Articles 56 to 64 of the Financial Regulation.

SECTION IV

AUDITING OF ACCOUNTS

Article 120

1. Each agreement to finance an investment project shall make express provision for the Court's power of audit.

2. Should the Court of Auditors wish to carry out audits on the territory of recipient States, or States in which recipients are located, it shall do so by agreement with the relevant authorities of the State concerned. Such audits shall be limited to the inspection agreements implemented pursuant to

the provisions governing Community aid and shall not apply in respect of the execution arrangements which are the responsibility of the national authorizing officer.'

113. The following is inserted as Title X:

'TITLE X

SPECIAL PROVISIONS APPLICABLE TO THE MANAGEMENT OF APPROPRIATIONS RELATING TO STAFF SERVING OUTSIDE THE COMMUNITY AND TO THEIR ADMINISTRATION

Article 121

The provisions of Titles I to VI and XII shall apply to activities in this field, save as otherwise provided in this Title.

Article 122

The expenditure of a financial year shall be booked to the accounts for that year on the basis of the expenditure for which notification of authorizations reaches the Financial Controller not later than 31 December and in respect of which payment is made before 15 January. However, expenditure involving payments made not later than 31 December under the imprest accounts may still be booked to the accounts for that year up to 15 February of the following year.

Article 123

In accordance with Article 126 the Commission shall adopt implementing rules relating, in particular, to:

— the award of contracts,

— the keeping of inventories,

— the system of accounts,

— imprest accounts.'

114. Title X becomes Title XI.

115. Article 103 becomes Article 124 and

(a) paragraph 2 is replaced by the following:

'2. The appropriations for the Office, the total amount of which shall be entered under a special budget heading within Part A of the section of the budget relating to the Commission, shall be set out in detail in an Annex to that part. The appropriations shown under this specific budget heading may be transferred in accordance with the conditions set out in Article 26.

The Annex shall take the form of a statement of revenue and expenditure, subdivided in the same way as the sections of the budget.

The appropriations entered in that Annex shall cover all the financial requirements of the Office in the performance of its duties in the service of the Communities' institutions.

3. Where necessary, the estimates may be adjusted during the financial year by the Management Committee of the Office, which shall take decisions on the transfers required within the Annex as a result of such adjustments. It shall inform the budgetary authority three weeks before effecting transfers form one chapter to another.';

(b) paragraph 3 becomes paragraph 4 and the third subparagraph is deleted;

(c) paragraph 4 is deleted;

(d) in the second subparagraph of paragraph 6, 'Article 22' is replaced by 'Article 27';

(e) in paragraph 9, 'Articles 73 and 76' is replaced by 'Articles 78 and 81'.

116. Article 104 becomes Article 125.

117. Article 105 is repealed.

118. Article 106 becomes Article 126.

119. Article 107 is repealed.

120. Article 108 is repealed.

121. The following Article is inserted:

'Article 127

At three-year intervals, the European Parliament and the Council shall examine this Financial Regulation in the light of a proposal from the Commission. Any financial regulations amending this Financial Regulation shall be adopted by the Council after recourse to the conciliation procedure if the European Parliament so requests.'

122. The following Article is inserted:

'Article 128

Until the entry into force of the implementing rules provided for in Article 126, the limit values to be specified for the purposes of Articles 58, 60, 62, 63 and 97 shall be as follows:

— Article 58 first subparagraph, subparagraph (a): the limit below which contracts may be made by private treaty shall be ECU 10 000,

— Article 60: the limit above which the powers of the Advisory Committee on Procurements and Contracts take effect shall be ECU 35 000,

— third subparagraph of Article 62: the threshold for compulsory security shall be ECU 250 000,

— Article 63: the limits below which contracts may be made against invoice or bill of costs shall be ECU 750 and ECU 2 000 respectively for expenditure away from the provisional places of work,

— Article 97: the limit below which contracts may be made by private treaty shall be ECU 75 000 for scientific and technical equipment and for works contracts,

— the limits for the powers of the Advisory Committee on Procurements and Contracts shall be:

  — ECU 350 000 for scientific and technical contracts and contracts relating to the purchase of buildings,

  — ECU 75 000 for equipment and supply contracts not of a scientific or technical nature,

  — ECU 25 000 for equipment and supply contracts not of a scientific or technical nature, to which the provisions of Article 58 (c), (d), and (e) apply.'

123. Article 109 becomes Article 129.

124. The following Article is inserted:

'Article 130

The financial rules of Community bodies having legal personality and receiving subsidies from the general budget must, as far as possible, correspond to the provisions of this Financial Regulation and depart from them only when the specific requirements of their individual operation so dictate.'

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 March 1990.

For the Council

The President

D. J. O'MALLEY