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(Acts whose publication is obligatory)

COMMISSION REGULATION (EURATOM, ECSC, EC) No 3418/93

of 9 December 1993

laying down detailed rules for the implementation of certain provisions of the Financial Regulation of 21 December 1977

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities [1], as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 [2], and in particular Article 126 thereof,

After consulting the European Parliament and the Council,

Having regard to the opinions of the Court of Justice, the Court of Auditors and the Economic and Social Committee,

Whereas certain provisions of Articles 11, 22, 23, 24, 25, 28, 29, 36, 37, 38, 41, 45, 46, 49, 53, 54, 57, 58, 60, 62, 63, 64, 65, 66, 70, 75, 94, 97, 123 and 128 of the Financial Regulation explicitly provide that detailed rules shall be drawn up for their implementation;

Whereas Commission Regulation 86/610/EEC, Euratom, ECSC [3] requires a number of changes, in particular as a result of the revision of the Financial Regulation;

Whereas implementing rules should be laid down to clarify the treatment of certain contributions by third parties to Community activities;

Whereas it would be clearer and more rational to incorporate all the implementing rules in force in one text and to repeal Regulation 86/610/EEC, Euratom, ECSC;

Whereas the drawing-up of the rules in question does not preclude the drawing-up at a later date of other implementing rules for which no formal provision is made in the Financial Regulation but which might subsequently appear appropriate,

HAS ADOPTED THIS REGULATION:

TITLE I

CONDITIONS UNDER WHICH THE ECU IS TO BE APPLIED TO REVENUE AND EXPENDITURE

(Article 11 (4) of the Financial Regulation)

Article 1

Conversions between the ECU and national currencies shall as a rule be made at the daily ECU rate published in the *Official Journal of the European Communities*. However, for accounting purposes provided for in Articles 69 to 72 of the Financial Regulation, pursuant to Article 11 (4) of the Financial Regulation, conversion between the ECU and national currencies shall be made at the monthly ECU rates calculated on the basis of the rate on the penultimate working day of the month preceding that for which the rates are established.

Article 2

Where commitment proposals and debt establishments are drawn up in a national currency, they shall be converted into ECU in accordance with the rule laid down in Article 1.

The corresponding payment order and the recovery order must be drawn up in the same currency.

The balance, expressed in ECU, of a commitment or of an established entitlement in a national currency shall be

[1] OJ No L 356, 31. 12. 1977, p. 1.
[2] OJ No L 70, 16. 3. 1990, p. 1.
[3] OJ No L 360, 19. 12. 1986, p. 1.

revalued every month when the statement of the budgetary accounts is established. The final revaluation of the balance of commitments for the financial year shall be made at the December rate; the balance of established entitlements shall be revalued at the rate of 31 December for the purposes of drawing up the balance sheet.

In addition, these balances may also be revalued in the course of a month if there has been a currency realignment.

Article 3

By way of derogation from the provisions of Article 1, the rate to be used for the month 'n' for which statements of expenditure out of advances financed by the EAGGF Guarantee Section are made pursuant to Article 3 (5) of Commission Regulation (EEC) No 2776/88 [1], shall be that of the tenth day of the month 'n+1' or the first preceding day for which a general quotation is available.

This rate shall also be used for the corresponding advances laid down in Articles 4 and 5 of Regulation (EEC) No 2776/88.

The differences in national currency between the financial resources made available to the Member States for month 'n' and the expenditure entered in the accounts for the same month shall be reconverted into ECU at the rate on the tenth day of the month 'n+2'.

Article 4

The December rates of the ECU shall be used to calculate the commitments outstanding at the end of the financial year and, in the case of non-differentiated appropriations, to determine the appropriations to be carried over.

Payments made in respect of a given financial year between the first and 15th day of January of the following year shall be entered in the accounts, for budget purposes, at the December rate of the ECU.

Article 5

Payments against outstanding commitments under non-differentiated appropriations shall be made, for the equivalent of the amounts carried over, in national currencies or in ECU; payments shall be entered in the accounts at the rates in force at the time of payment. Any payments made in excess of the appropriations carried over for each budget heading shall be taken into account when the balance for the year is being calculated in accordance with Article 15 of Council Regulation (EEC, Euratom) No 1552/89 [2].

In the case of differentiated appropriations, the adjustments of commitments outstanding from earlier years worked out at the time of the revaluations shall be entered in the budget accounts and included in the table in the revenue and expenditure account recording payments against commitments from previous financial years.

TITLE II

DELEGATION OF POWERS

(Article 22 of the Financial Regulation)

Article 6

The acts by which powers are delegated pursuant to Article 22 (4) of the Financial Regulation shall designate those members of staff of the institution authorized to sign for and on behalf of the delegator.

In such acts reference shall be made to the provisions of the rules of procedure referred to in Article 22 (4) setting out the conditions governing the delegation of powers.

Article 7

The acts referred to in Article 6, accompanied by a specimen signature of the official to whom powers have been delegated, shall be communicated:

— to the delegatee,

— to the institution's accounting officer, who may not make any payment which has been authorized by officials not empowered to do so,

— to the institution's financial controller, who shall be responsible for verifying the legality and regularity of revenue and expenditure,

— to the authorizing officers, only in the case of delegation of powers by the financial controller or by the accounting officer, or of the subdelegation of powers by authorizing officers within the limits of the powers delegated to them,

— to the Court of Auditors.

The acts terminating such delegations of powers shall also be communicated as provided for above.

Article 8

In every case act of delegation shall specify the limits within which the delegatees are authorized to draw up proposals for the establishment of debts and for recovery

[1] OJ No L 249, 8. 9. 1988, p. 9.
[2] OJ No L 155, 7. 6. 1989, p. 1.

orders, proposals for the commitment of expenditure and payment orders, the numbers of the articles and items in respect of which powers have been delegated and, where appropriate, the length of time for which powers have been delegated.

Article 9

Acting in accordance with the provisions of the Financial Regulation and of this Regulation, each institution shall adopt such measures for administering appropriations as it deems necessary for the proper implementation of its section of the budget.

Each institution shall draw up a document containing the internal provisions adopted for this purpose. This document shall include the basic rules on the assignment of responsibilities to authorizing officers and administering departments for the implementation of the statement of expenditure and statement of revenue within the section for each institution.

The document referred to in the second paragraph and any other internal instructions of general scope for implementing the budget and the accounts shall be made available to all the departments involved in the management of the budget and to the Court of Auditors.

TITLE III

MANAGEMENT BY MEANS OF INTEGRATED COMPUTER SYSTEMS

(Article 23 of the Financial Regulation)

Article 10

1. For the purposes of Article 23 of the Financial Regulation 'integrated computer systems' means computerized management and accounting programmes which require the intervention of the authorizing officer, the financial controller and the accounting officer and set up by joint agreement between these departments.

2. Use of the systems is subject to the following rules:

(a) the system must check the availability of appropriations for the operation proposed and reject any operation for which appropriations are not available;

(b) the system must ensure that each operation is handled only by those officials empowered to do so in the departments of the authorizing officer, the financial controller and the accounting officer, in accordance with the provisions adopted by each institution under Article 9;

(c) the system must ensure effective separation of the functions of the authorizing officer, the financial controller and the accounting officer;

(d) the institution shall ensure that its internal and external procedures guarantee the security of the information and of the operation of the system;

(e) the institution shall ensure that the physical security of the system is guaranteed;

(f) without prejudice to the provisions of Articles 84, 87 and 89 of the Financial Regulation, each institution may, where the authorizing officer, the financial controller and the accounting officer consider by common accord that the system offers guarantees satisfying its security requirements, substitute computer media for the paper documents used previously, viz. commitment proposals, payment orders and recovery orders.

TITLE IV

RULES APPLICABLE TO THE ACCOUNTING OFFICER, TO THE ASSISTANT ACCOUNTING OFFICERS AND TO THE IMPREST ADMINISTRATORS

(Articles 25 and 75 of the Financial Regulation)

Section I

General provisions

Article 11

Each institution shall, by reasoned decision, appoint an accounting officer who shall be responsible for:

(a) the recovery of debts, the collection of receipts, the payment of expenditure and cash management;

(b) the keeping of the accounts and the preparation of financial statements in accordance with Articles 69 to 72 and 78 to 81 of the Financial Regulation.

Article 12

The institution may appoint, on the basis of the reasoned opinion of the accounting officer, one or more assistant accounting officers who shall report to the accounting officer and whose responsibilities shall be determined by the latter.

Article 13

The accounting officer shall be appointed by each institution from officials of category A or B who are nationals of the Member States.

Assistant accounting officers shall be appointed by each institution from officials of categories A and B and, in special cases, of category C who are nationals of the Member States.

The imprest administrators appointed under Article 83 of this Regulation shall be chosen from officials of categories A, B and C, or, should the need arise, from other staff having a status equivalent to those categories.

Article 14

The accounting officer and assistant accounting officers shall be chosen by the institution on the grounds of their particular qualifications as evidenced by diplomas or by equivalent professional experience.

Article 15

The duties performed by the accounting officer and the assistant accounting officers are incompatible with those of the authorizing officers, the imprest administrators and the financial controller.

The duties performed by the imprest administrators are incompatible with those of the financial controller.

Article 16

The accounting officer shall exercise his specific responsibilities in accordance with the provisions of the Financial Regulation.

In particular, the accounting officer shall ensure objectiveness in the keeping of the accounts and the preparation of the financial statements in accordance with Articles 69 to 72 and 78 to 81 of the Financial Regulation.

The institution shall provide the accounting officer with the personnel and equipment required for the proper performance of his duties.

Prior to the implementation of expenditure, the accounting officer shall ensure compliance with the requirements laid down by the Financial Regulation and by this Regulation, and shall ascertain the validity of the discharge and the absence of any material error.

He shall suspend payment and indicate all the reasons for this decision whenever the checks carried out reveal that the provisions referred to in the first four paragraphs have not been complied with.

Payments effected in non-compliance with the requirements of Article 51 (3) of the Financial Regulation shall result in disciplinary and possibly financial measures against accounting officers, assistant accounting officers and imprest administrators under the terms laid down in Article 22 and Articles 86 to 89 of the Staff Regulations of officials of the European Communities and the conditions of employment of other servants of the Communities (hereinafter referred to as 'the Staff Regulations').

Article 17

When the preliminary draft budget is being drawn up, the accounting officer shall be consulted on any problem of budgetary presentation which may affect budgetary accounting.

Section II

Performance of duties relating to the keeping of accounts and the preparation of financial statements

Article 18

1. In accordance with the fourth paragraph of Article 25 of the Financial Regulation, the accounting officer shall prepare the periodical statements and the revenue and expenditure account and balance sheet of the institution to which he belongs. For this purpose, he shall keep the accounts of all operations in the financial year and shall close the accounts at the end of the year.

2. The financial statements shall be submitted pursuant to Articles 79 and 81 of the Financial Regulation to the financial controller, then finally adopted by the institution.

3. In the event of an accounting officer terminating his duties, an interim statement of account shall be drawn up on the date of the termination of the officer's duties.

The statement shall be signed in acceptance by the accounting officer who is terminating his duties and by the new accounting officer.

Article 19

The other institutions shall send to the Commission by 1 March the revenue and expenditure account and balance sheet which they have drawn up and any document or information of use for the consolidation of accounts.

Article 20

The Commission's accounting officer shall centralize all the information he needs and shall draw up the consolidated revenue and expenditure account and balance sheet of the European Communities so that the Commission can adopt them and send them to the European Parliament, the Council and the Court of Auditors by 1 May.

Article 21

After its accounting officer has consulted the accounting officers of the other institutions, the Commission shall:

— adopt accounting methods common to all the institutions,

— adopt and keep up to date the structure of the chart of accounts of the institutions,

— harmonize the presentation of balance sheets.

It shall justify and explain any chance in accounting practice in the notes annexed to the balance sheet.

Section III

Performance of duties relating to cash management

Article 22

In accordance with the first paragraph of Article 25 of the Financial Regulation the accounting officer, who is responsible for the collection of revenue and the payment of expenditure, shall manage the corresponding monies.

The institution shall open or cause to be opened the necessary bank accounts after negotiating the terms in accordance with the principles of sound financial management. The operating terms for the accounts shall be subject to periodic review and where necessary to renegotiation; they shall be monitored by the financial controller.

The Commission's accounting officer shall be responsible, after consultation with the accounting officers of the other insitutions, for harmonizing the operating terms for the accounts opened by the various institutions.

Article 23

The accounting officer shall be responsible for managing the assets of the institution to which he belongs, for authorizing transfers between bank accounts and for conducting currency conversion operations in such a way that none of these accounts are in debit.

Transfers between bank accounts must be made within the limits of available funds.

Article 24

The Commission's accounting officer shall divide the funds available in the national treasuries and the central banks of the Member States between the Member States in accordance with Article 12 of Regulation (EEC, Euratom) No 1552/89.

Article 25

The accounting officer shall regularly reconcile the bank accounts with the bookkeeping and shall check that the terms negotiated are being properly applied.

Article 26

The accounting officer shall replenish the imprest accounts and monitor the financial aspects of these accounts.

Article 27

The Commission's accounting officer shall, in accordance the Article 1 of this Regulation, determine the rate of the ECU against each of the currencies which the institutions have to use for the implementation of the budget.

Section IV

Insurance

Article 28

The accounting officer, assistant accounting officers and imprest administrators shall insure themselves, through the institution, against the financial risks inherent in their duties.

Article 29

The premiums for the insurance shall be paid direct to the insurer by the institution.

Article 30

Without prejudice to:

— Articles 86 to 89 to the Staff Regulations,

— Article 75 of the Financial Regulation,

— the institution's right of recovery *vis-à-vis* third parties,

the institution, in accordance with the second paragraph of Article 215 of the EEC Treaty, shall bear all risks and deficits not covered by the insurers, in so far as the amounts credited to the guarantee account opened in the name of the official whose liability is involved are not sufficient to cover the deficit.

Section V

Special allowance and guarantee account

Article 31

The monthly amount of the special allowance referred to in Article 75 (4) of the Financial Regulation shall be:

— ECU 120 for the accounting officer,

— ECU 80 for assistant accounting officers,

— ECU 40 for imprest administrators, where the amount of the imprest is at least ECU 3 300 and where the period of the imprest is at least 30 consecutive days.

This allowance shall be denominated in ECU and the appropriate amount shall be credited in ECU to the guarantee account provided for in Article 32.

Article 32

A guarantee account in the name of each staff member concerned shall be opened in the institution's general accounts. At the request of each institution concerned, this account may be centralized in the Commission's general accounts. This account shall be credited periodically with the monthly allowance referred to in Article 31 and with annual interest corresponding to the annual average of the monthly rates applied by the European Monetary Cooperation Fund to its operations in ECU [1].

It shall be debited by the amount of the deficit for which the person concerned is declared liable by the institution which appointed him, in so far as the deficit is not covered by payments from the insurers.

Article 33

1. When an accounting officer or assistant accounting officer terminates his duties, any balance standing to his credit in the guarantee account shall be paid to him or to those entitled through him, after a decision has been taken by the authorities referred to in Article 22 of the Financial Regulation and the final discharge referred to in Article 77 of the Financial Regulation has been granted, and after the accounting officer, save where he himself is concerned, and the financial controller have given a favourable opinion.

2. When an imprest administrator terminates his duties, any balance standing to his credit in the guarantee account shall be paid to him or to those entitled through him, after agreement and verification by the accounting officer and the authorizing officer concerned and after the financial controller has given a favourable opinion.

3. The payments referred to in the first and second paragraphs shall be made exclusively on the written instructions of the head of the Directorate-General or administrative unit to which the accounting officer is assigned.

TITLE V

RULES APPLICABLE TO THE FINANCIAL CONTROLLER AND TO THE ASSISTANT FINANCIAL CONTROLLERS

(Article 24 of the Financial Regulation)

Article 34

Each institution shall, by reasoned decision, appoint a financial controller who shall be responsible for verification of the commitment and authorization of all expenditure and verification of all revenue under the budget of the Communities in respect of which the institution is the authorizing body.

Article 35

The institution may appoint one or more assistant financial controllers. They shall report to the financial controller, who shall decide on the powers to be delegated to them. They shall bear responsibility for the approvals they grant in pursuance of the powers delegated to them.

Article 36

The financial controller and the assistant financial controllers shall be chosen by the institution from nationals of the Member States on the grounds of their particular qualifications.

Article 37

The institution shall place at the disposal of the financial controller the staff and equipment necessary for the proper discharge of his control duties.

Article 38

All decisions relating to the delegation and subdelegation of powers by the financial controller or the assistant financial controllers shall comply with the provisions of Articles 6, 7 and 8.

Article 39

In carrying out his control duties, the financial controller shall be completely independent and shall be accountable only to the institution. He may not receive any instructions nor accept any constraint as regards the performance of the duties assigned to him pursuant to the provisions of the Financial Regulation by virtue of his appointment.

These provisions shall also apply to the assistant financial controllers, within the limits of the powers delegated to them by their immediate superior, the financial controller.

Article 40

The financial controller may present reports to the institution at any time and on any subject having financial implications, especially as regards the application of Article 2 of the Financial Regulation.

The institution shall, on request, send these reports to the European Parliament and the Court of Auditors unless it considers them confidential.

[1] Rate published every month in the C series of the *Official Journal of the European Communities*.

Article 41

The financial controller and assistant financial controllers shall have access to all supporting documents and to all other documents relating to the expenditure and revenue to be checked. They may carry out on-the-spot checks.

Article 42

The liability of the financial controller and of the assistant financial controller to disciplinary action and, where appropriate, to payment of compensation, within the meaning of Article 74 of the Financial Regulation, can be invoked only by the institution itself, in the circumstances set out in the second, third, fourth and fifth paragraphs.

The institution shall take a reasoned decision to conduct an inquiry. This decision shall be communicated to the person concerned and, if he is an assistant financial controller, to the financial controller. The institution may, on its direct responsibility, instruct one or more officials of a grade not lower than that of the member of staff concerned and not carrying out the duties of financial controller, authorizing officer or accounting officer, to conduct the inquiry. During the inquiry the person concerned and, if he is an assistant financial controller, the financial controller, must be given a hearing.

The report on the inquiry shall be communicated to the person concerned and, if he is an assistant financial controller, to the financial controller. The person concerned shall then be given a hearing by the institution with regard to that report.

On the basis of the report and of the hearing, the institution shall take a reasoned decision to give the person concerned a discharge in respect of the matter examined or a reasoned decision under Articles 22 and 86 to 89 of the Staff Regulations. Decisions entailing disciplinary action and/or financial penalties shall be communicated to the person concerned and, for information purposes, to the other institutions, the Court of Auditors and, if the person concerned is an assistant financial controller, to the financial controller.

The person concerned may lodge an appeal with the Court of Justice, in accordance with the provisions of the Staff Regulations, in respect of such decisions.

Article 43

Without prejudice to the appeal procedures provided for in the Staff Regulations, the financial controller and the assistant financial controllers may lodge an appeal with the Court of Justice with regard to any act relating to their control duties. Such appeals must be lodged within three months from the date of notification of the act in question.

The provisions of the first paragraph shall also apply to appeals by the institution against its financial controller or its assistant financial controllers.

Appeals shall be investigated and heard as provided for in Article 91 (5) of the Staff Regulations.

TITLE VI

RECOVERY OF DEBTS

(Articles 28 and 29 of the Financial Regulation)

Article 44

In accordance with Article 28 (1) of the Financial Regulation, the competent authorizing officer shall draw up an estimate for any measure which may give rise to or modify a debt due to the Communities. An estimate shall also be drawn up even where it is not possible from the act or decision giving rise to a future debt to ascertain the amount or due date: where possible, it shall indicate the estimated amount and the probable due date.

The estimate shall be forwarded to the financial controller for his approval and to the accounting officer for provisional registration.

Article 45

1. In accordance with Article 28 (2) of the Financial Regulation, the competent authorizing officer shall make out a recovery order without delay in respect of every established debt.

The recovery order shall be forwarded to the financial controller for his approval and to the accounting officer for registration. In particular, it shall indicate the due date.

2. The accounting officer shall proceed with recovery of the debt by requesting the debtor to pay the sum due by the date indicated.

3. Upon actual recovery of the sum due the accounting officer shall make out a revenue voucher, which shall be registered in the accounts. He shall inform the authorizing officer and the financial controller of the recovery effected.

4. Where a debt is not paid by the due date, the accounting officer shall take all due care to initiate the procedure for effecting recovery, where necessary, by all legal means.

5. Where a debt is to be recovered in successive instalments either in the course of a single financial year or over several financial years, it shall be registered in the accounts by means of a recovery order made out for the full amount as soon as it is established.

Article 46

Forward estimate within the meaning of Article 28 of the Financial Regulation shall be strictly limited to recurring revenue.

Individual cases to which such a forward estimate relates need not, therefore, be submitted separately to the financial controller for his approval.

Before the end of the financial year, the authorizing officer shall submit amendments to forward estimates to the financial controller for his approval to ensure that they correspond to the debts actually established.

Article 47

In accordance with Article 45 (3), the authorizing officer and the financial controller must be informed as soon as possible of each payment received. Where no recovery order has been made out pursuant to Article 45 in respect of a payment received, the amount in question shall be immediately credited to a suspense account in the general accounts and the competent authorizing officer should initiate the procedure for establishing the debt and make out the necessary recovery order with a view to booking the revenue to the budget. Any sum credited to such a suspense account which is found to have been unduly paid shall be repaid as soon as possible.

Article 48

Estimates and recovery orders shall be entered separately in the accounts and numbered chronologically so that the following can be readily ascertained in respect of all the debts of the institution:

— the measures taken which may give rise to a debt,

— the amounts of debts to be recovered,

— the due dates for payment of the debts,

— the debts which have been recovered,

— the debts still to be recovered together with the steps taken to secure recovery.

Article 49

The accounts must be organized in such a way that the financial controller is able to check, at any given moment, that the registration of the estimate of a debt and of recovery orders is correct and to carry out the tasks required of him under Article 29 (3) of the Financial Regulation.

Article 50

In accordance with Article 29 (2) of the Financial Regulation any proposal by the authorizing officer to waive the right to recover an established debt shall specify in particular the debtor, the type of revenue, the estimated amount, the budget item in question, the steps taken to secure recovery and the grounds for the proposed waiver.

If the superior authority of the institution overrules the financial controller's refusal to give approval, the decision shall be forwarded to the authorizing officer, who shall return the waiver proposal, together with the decision, to the financial controller. The waiver proposal, together with the decision, shall be registered in accordance with the first subparagraph of Article 28 (2) of the Financial Regulation.

TITLE VII

COMMITMENT OF EXPENDITURE

(Article 36 of the Financial Regulation)

Article 51

Before taking any measure which may give rise to expenditure, the competent authorizing officer must present the financial controller with a commitment proposal. The authorizing officer must ensure in advance that this measure is in conformity with the principles of sound financial management and in particular those of economy and cost-effectiveness provided for in Article 2 of the Financial Regulation. Such proposals shall in principle be drawn up in accordance with a standard form to be adopted by unanimous agreement by the authorizing officer, the accounting officer and the financial controller. Such commitment proposals must give the information referred to in Article 37 of the Financial Regulation.

Article 52

Draft decisions of a general nature taken by the institution and entailing an obligation vis-à-vis third parties to incur expenditure shall constitute measures which may give rise to expenditure, without any further decision being necessary.

Article 53

If a decision of principle must be taken by the institution before expenditure may be committed, the draft decision of principle shall first be submitted to the financial controller for approval, accompanied by the corresponding commitment proposal.

When the institution has approved the draft decision, the corresponding commitment proposal shall be submitted to the financial controller for approval.

Where the institution does not approve the draft decision or reduces the amount of expenditure proposed, the commitment proposal shall be cancelled or, where

applicable, replaced by a suitably amended commitment proposal, which shall be submitted to the financial controller for approval.

Article 54

Provisional commitments within the meaning of Article 36 (1) of the Financial Regulation shall be strictly limited to recurring expenditure. Individual commitments covered by such provisional commitments need not be submitted separately to the financial controller for approval.

In the case of provisional commitments, the authorizing officer shall check, on his own responsibility, that the individual commitments do not exceed the provisional commitment covering them.

Such provisional commitments shall not give rise to the automatic carryover of appropriations as provided for in Article 7 of the Financial Regulation unless they correspond, at the end of the financial year, to financial commitments actually entered into before the deadlines laid down in the Financial Regulation.

Expenditure of an administrative nature which is incurred repeatedly during the same budgetary year such as:

— staff expenditure (salaries and various allowances, recruitment expenditure, etc.),

— mission expenses,

— representation expenses,

— meeting expenses,

— freelance interpreters,

— exchanges of officials,

— rent,

— miscellaneous insurance,

— cleaning and maintenance,

— leasing,

— telecommunications,

— water, gas and electricity,

— periodicals (monthly bulletins, etc.),

— subscriptions,

shall be regarded as recurring expenditure.

Article 55

If, in the case of certain measures which may give rise to expenditure, no exact figures can be given for the expenditure when the relevant commitment proposal is presented to the financial controller and communicated to the accounting officer, the authorizing officer must estimate the expenditure involved and set out in his commitment proposal the basis on which he has arrived at his estimate.

Article 56

All commitment proposals must be submitted to the financial controller sufficiently early for him to state his position and make any comments he considers appropriate which may then be taken into account.

Article 57

Without prejudice to Article 23 of the Financial Regulation, proposals for the commitment of expenditure must be accompanied by all relevant supporting documents and, where appropriate, by any other documents and information which are necessary to enable the financial controller to establish what is required by Article 38 (1) of the Financial Regulation.

TITLE VIII

REGISTRATION OF PROPOSALS FOR THE COMMITMENT OF EXPENDITURE AFTER THE FINANCIAL CONTROLLER HAS GRANTED APPROVAL

(Article 37 of the Financial Regulation)

Article 58

Commitment proposals shall be registered by the institution's accounts department. This registration procedure must make it possible to ascertain at any given moment for each budget item or heading for the financial year:

1. the appropriations available;
2. the amounts of commitments entered into;
3. the payments made against these commitments;
4. the balance of commitments outstanding.

The registration must also make it possible to ascertain at any given moment:

1. the amount of the initial commitment, increased where applicable by any additional commitments;
2. the payments made against these commitments under previous financial years;
3. the amount of the commitment still to be paid at the beginning of the financial year;
4. payments in respect of the financial year;
5. the balance outstanding.

The amount of global provisional commitments under Article 99 of the Financial Regulation shall be similarly registered.

Article 59

The accounts must be organized in such a way as to guarantee that the financial controller is able to check that commitments and payments have been registered accurately.

TITLE IX

APPROVAL OF PROPOSALS FOR THE COMMITMENT OF EXPENDITURE

(Article 38 of the Financial Regulation)

Article 60

Subject to the provisions of Articles 10 and 61, approval shall take the form of the signature of the financial controller — or of an assistant financial controller or an official to whom powers have been delegated or subdelegated in accordance with Article 38 — on the commitment proposal, which shall be stamped and dated.

Article 61

In urgent cases, approval may be given in a note or by telex or by any other means which leaves no doubt as to the fact that the commitment proposal in question has been approved.

Article 62

If, pursuant to Article 39 of the Financial Regulation, the superior authority of the institution overrules the financial controller's refusal to grant approval, the decision shall be forwarded to the authorizing officer, who shall return the commitment proposal, together with the decision, to the financial controller. The commitment proposal, together with the decision to overrule, shall be registered in accordance with the provisions of Article 37 of the Financial Regulation.

Article 63

Articles 60, 61 and 62 shall apply to the proposals of global provisional commitments within the meaning of Article 99 of the Financial Regulation.

Article 64

If the financial controller considers that the supporting documents provided for in Articles 28 (2), 37, 41 and 45 of the Financial Regulation and further defined in Articles 65 to 73 of this Regulation are inadequate or incomplete, he shall postpone approval and return the proposal to the authorizing officer, specifying the supporting evidence required.

TITLE X

SUPPORTING DOCUMENTS

(Articles 28 (2), 37, 41 and 45 of the Financial Regulation)

Section I

Recovery of debts

Article 65

For recovery orders, the following shall constitute supporting documents: the decision or act giving rise to the debt, accompanied by documents enabling a check to be made of the type of debt, the calculation of the amount, the due date and the identity of the debtor, such as:

(a) in the case of own resources [1]:

— for customs duties, agricultural levies and sugar levies: the statements of accounts from the Member States in accordance with the implementing regulations [2],

— for VAT and GNP-based resources: the budget for the financial year (year n) which determines the amount, and, for the respective balances (year n+1 and subsequent years), the various statements, summary documents and statements of accounts provided for by the implementing regulations [2];

(b) in the case of other miscellaneous revenue: the basic act, decision, contract or agreement giving rise to the debt and the documents giving all the components of the calculation.

Section II

Commitment of expenditure

Article 66

For proposals for the commitment of expenditure, the following draft acts constituting obligations on the part of the institution shall consitute supporting documents:

(a) for expenditure incurred by virtue of contracts:

the draft agreement, contract, order form or similar document, accompanied, in the case of contracts, by the tenders received, the reasons for private treaty and, where appropriate, the opinion of the Advisory Committee on Procurement and Contracts (hereinafter referred to as 'the CCAM');

[1] Council Decision 88/376/EEC, Euratom (OJ No L 185, 15. 7. 1988, p. 24).

[2] — Council Regulation (EEC, Euratom) No 1552/89;
— Council Regulation (EEC, Euratom) No 1553/89 (OJ No L 155, 7. 6. 1989, p. 9).

(b) for aid granted autonomously:

— for financial assistance under the various funds or similar schemes: any documents which may be provided for in the relevant basic regulations and the decisions to grant the aid;

— for subsidies in general:

— the application submitted by the recipient, accompanied, where applicable, by an implementation report on previously granted subsidies,

— the reasons for the amount granted,

— the draft letter of agreement or similar documents,

— the budget estimate for the year for which the subsidy is requested or any substituting document.

Section III

Validation and payment of expenditure

Article 67

For supplies in general, the invoice drawn up by the supplier, accompanied, where appropriate, by a copy of the document giving rise to the Community's obligation (e.g. order form or contract) shall constitute a supporting document.

In all cases the document drawn up by the supplier must indicate:

— the nature and quantity of the supplies or, where appropriate, a description of the services rendered in that connection,

— the unit price and the total price,

— the Community's exemption from charges and taxes and, where appropriate, the amount of any charges, taxes and customs duties included in the price of the goods supplied.

This document or an attached document must be endorsed by the authorizing officer, or the official to whom he has delegated authority, to the effect that:

— the supplies have been duly received, with an indication of the date and the place of receipt,

— the supplies have been entered in the inventory, where this is required,

— all items in the invoice have been checked, and

— the opinion of the CCAM has been given where required.

Article 68

For services, the invoice (or bill of costs) drawn up by the supplier, accompanied, where appropriate, by the contract, shall constitute a valid supporting document.

This invoice (or bill of costs) must:

— state the nature of the service, where appropriate the unit price, the total price and the Community's exemption from charges and taxes or, in so far as this is possible, the amount of any charges and taxes in respect of the service which are included in the price,

— bear the endorsement 'passed for payment' signed by the authorizing officer or by the official to whom he has delegated authority, certifying that the service has been rendered properly and that all the items in the invoice (or bill of costs) have been checked.

Article 69

1. For study and research contracts, the following shall constitute supporting documents.

(a) a copy of the contract and of any supplementary agreements, to be attached to the first order to pay;

(b) any document which, pursuant to the financial provisions in the contract, substantiates the corresponding payments (request from the contractor, invoices, titles of the management committees in the case of contracts of association, or any other document substantiating expenditure). The final payment must be accompanied by a document drawn up by the authorizing officer certifying that the service has been rendered.

2. For decisions granting financial support under the various funds or similar measures, the following shall constitute supporting documents:

(a) a copy of the decision to be attached to the first order to pay;

(b) any document which, pursuant to the financial provisions in the basic regulations or the decisions to grant financial support, substantiates the corresponding payments (request for payment, declaration that the work has begun, progress reports and other documents). The final payment must be accompanied by a document certifying that the programme or project has been completed and containing a statement of the expenditure actually incurred on the programme or project.

3. For the subsidies referred to in the second indent of point (b) of Article 66, the following shall constitute supporting documents:

(a) a copy of the decision granting the subsidy;

(b) confirmation by the recipient that he accepts the Community checks referred to in Article 87 of the Financial Regulation and, if the volume of the subsidy warrants, a report on the implementation of the project and use of the funds received.

Article 70

For staff expenditure, the following shall constitute supporting documents:

(a) in respect of monthly salary:
- the complete list of staff, giving all the components of remuneration. This list shall be attached to the payment order,
- a form (personal information sheet) showing any change occurring in any component of remuneration. This form shall be drawn up on the basis of the decisions taken in each particular case,
- in the case of recruitments or appointments, a certified true copy of the recruitment or appointment decision shall accompany the first salary payment;

(b) in respect of other remunerations (staff paid on an hourly or daily basis):
- a statement produced by the authorizing officer showing the days and hours of attendance;

(c) in respect of overtime:
- a statement signed by the authorized official certifying the amount of overtime worked by the member of staff;

(d) in respect of mission expenses:
- the travel order duly signed by the competent authority,
- the 'statement of mission expenses' showing, in particular, the place of mission, the dates and times of departure and arrival at the place of mission, travel expenses, subsistence expenses, and other expenses duly authorized on production of supporting documents; this statement shall be signed by the official on mission and by the administrative superior to whom the appropriate powers have been delegated;

(e) in respect of other staff expenditure:
- the supporting documents referring to the decision on which the expenditure is based and giving all the components of the calculation.

Article 71

In the case of all commitments which involve payments in instalments, a certified true copy of the contract or the decision granting financial support shall be attached to the first payment order. Reference to that document and to the preceding payment(s) shall be made on the other payment orders.

When the final payment order is drawn up, the authorizing officer shall certify that the operation has been completed so that the appropriate measures may be taken as regards the accounts with, where appropriate, the cancellation of any commitment which has been entered into but not implemented.

Where, pursuant to Article 1 (7) of the Financial Regulation, a time limit has been determined, the accounts shall make it possible to identify and extract commitments which have not been definitively implemented one month prior to the date in question. The authorizing officers shall then be required to prepare the proposal for cancelling the commitment which has not been implemented or, where the requirements of Article 1 (7) are fulfilled, to submit a proposal amending the initial commitment accompanied by appropriate reasons.

Article 72

If a single supporting document covers several payments, all the payment orders shall bear a reference to the original document and the number of the payment order to which it is attached.

Article 73

Except in the cases referred to in Articles 65 to 72 above, if an original supporting document cannot be produced, a certified true copy may be substituted for it by the authorizing officer, who must explain why the original could not be produced and must certify that the payment has not been made.

TITLE XI

THE GRANTING OF ADVANCES

(Article 46 of the Financial Regulation)

Article 74

Apart from the advances provided for in the Staff Regulations or a provision laid down by regulation, the authorizing officer may grant advances to cover expenditure to be incurred by an official or other servant on behalf of his institution. Such expenditure, which generally comes under staff and administrative expenditure, may arise from specific business or relate to likely expenditure, the nature or amount of which is uncertain.

Article 75

The granting of such advances and the designation of the official or other servant shall be the subject of a decision by the authorities referred to in Article 22 of the Financial Regulation, on a proposal from the authorizing

officer, after the financial controller has granted approval and a favourable opinion has been given by the accounting officer. Such decisions shall specify the amount of the advance and the period during which it is to be used.

Where the nature of the expenditure is sufficiently certain, a commitment proposal shall be made before any advance is paid.

Article 76

The designated official or other servant shall be responsible for the funds placed at his disposal and shall take every precaution to ensure their safekeeping.

No later than 10 days after the purpose for which the advance was granted has been achieved, he shall give the accounting officer a detailed account of the use made of it and shall pay back any unused amount.

No later than six weeks after the above point in time the authorizing officer shall clear the advance in order to close the suspense account opened when it was granted.

TITLE XII

BANK AND POST OFFICE GIRO ACCOUNTS

(Article 53 of the Financial Regulation)

Article 77

To carry out financial transactions the institution may open bank and/or post office giro accounts in the Member States and, where appropriate, in non-member countries.

Article 78

The institution may also hold accounts with each Member State's central bank or approved financial institution.

Article 79

The institution shall communicate to all the financial institutions with which it has opened accounts the names and specimen signatures of the staff designated by it who are specifically authorized to open and draw on such accounts, and any limits on the withdrawals authorized for each member of staff so designated.

Article 80

To draw on accounts the joint signatures of two duly authorized members of the staff shall be required, one signature necessarily being that of the accounting officer, an assistant accounting officer or an imprest administrator.

In accordance with Article 53 of the Financial Regulation the institution shall designate officials empowered to sign cheques and postal and bank credit transfers.

Before signing any such document those officials shall check that the payment orders and the relevant cheques and postal and bank credit transfers correspond.

Article 81

As a general rule, payment of:

— the monthly remunerations of officials and other servants, and

— expenditure relating to supplies or services exceeding ECU 350 must be made by cheque, post office giro or bank credit transfer.

TITLE XIII

IMPRESTS

(Article 54 of the Financial Regulation)

Article 82

Imprest accounts may be set up when, because of its nature or particular urgency, the payment of certain expenditure cannot be effected by means of a payment order signed by the authorizing officer and approved by the financial controller. By way of derogation from Articles 40 and 51 of the Financial Regulation the imprest account administrator shall be authorized to make provisional withdrawals and effect the payment of expenditure subject to the subsequent application of Articles 40, 41, 44, 45, 47 and 50 of the Financial Regulation.

The creation of imprest accounts, their modification and any substantial adaptation of their operating conditions shall be the subject of decisions by the authorities referred to in Article 22 of the Financial Regulation on a duly substantiated proposal by the authorizing officer after a favourable opinion has been given by the accounting officer and the financial controller.

Article 83

Decisions to appoint imprest administrators shall be taken by the authorities referred to in Article 22 of the

Financial Regulation, on a proposal from the authorizing officer, after a favourable opinion has been given by the accounting officer.

Such decision shall indicate the responsibilities of the imprest administrator.

Article 84

The decisions referred to in Articles 82 and 83 shall be communicated to the authorizing officers, the financial controller, the accounting officer and the Court of Auditors.

Article 85

1. The decision setting up an imprest shall specify, in particular:

(a) the maximum amount which can be set aside as an imprest and its purpose;

(b) whether a bank and/or post office giro account is to be opened in the name of the institution concerned;

(c) the nature and maximum amount of every item of expenditure which may be effected without prior authorization;

(d) the frequency with which supporting documents must be produced and the procedure for producing them;

(e) the procedure to be followed if the imprest has to be replenished;

(f) the time within which imprest system transactions must be settled.

2. Payments may be made only on the basis and within the limits of prior commitments signed by the authorizing officer and approved by the financial controller.

Article 86

In accordance with the second paragraph of Article 54 of the Financial Regulation, only the accounting officer may replenish the imprest accounts.

However, miscellaneous local revenue such as that arising from:

— sales of equipment,

— publications,

— miscellaneous repayments,

— interest, etc.,

shall be entered directly into the appropriate imprest accounts and the situation shall be regularized in accordance with the applicable provisions of the Financial Regulation and this Regulation.

The amounts in question shall be deducted by the accounting officer when he subsequently replenishes these imprest accounts.

Article 87

Every imprest administrator shall be accountable to the authorizing officer for the settlement of sums due to third parties and to the accounting officer for the making of payments.

Article 88

The imprest administrator shall keep an account of the funds at his disposal and of the expenditure effected and amounts received, in accordance with the instructions of the accounting officer.

Article 89

The imprest administrator shall take all the necessary precautions to safeguard the funds placed at his disposal.

Article 90

Without prejudice to the audits performed by the financial controller, the accounting officer must himself, or through an assistant accounting officer, or through an official specially empowered for this purpose, carry out checks, which should normally be effected on the spot and without warning and, as far as possible, at frequent intervals, on the funds allocated to the imprest administrators and on their accounts.

Article 91

The accounting officer and the financial controller shall inform each other of the results of their checks and shall communicate them to the authorizing officer.

TITLE XIV

CONDITIONS FOR THE PAYMENT OF INTEREST WHEN UNDUE PAYMENTS ARE RECOVERED

(Article 49 of the Financial Regulation)

Article 92

The provisions of this Title shall apply to the recovery of undue payments by the Community without prejudice to any provisions laid down in the basic sectoral acts relating to Community policies.

Article 93

1. The recovery order referred to in Article 28 (2) of the Financial Regulation shall indicate, in respect of every debt established, the due date for the recovery of amounts wrongly paid.

2. The accounting officer, in collaboration with the authorizing officer concerned, may allow additional time for payment only at the written request of the debtor, with due indication of the reasons, provided that the debtor undertakes to pay interest at the rate specified in Article 94 for the entire additional period allowed, starting from the date on which the payment was originally due.

3. When additional time is allowed, the accounting officer may ask the debtor to lodge a security covering both the principal sum and the interest in order to safeguard the Community's rights more effectively.

Article 94

1. Any debt not repaid on the due date shall be subject to interest as follows:

— debts denominated in ECU: the rate of interest applied by the European Monetary Cooperation Fund to its operations in ECU [1], increased by one and a half percentage points,

— debts denominated in a national currency: the three-month interbank offer rate for the appropriate market, increased by one and a half percentage points.

2. The rate of interest applicable is that in force during the month in which the debt is due.

3. Interest shall be calculated from the due date laid down in the recovery order to the date on which the debt is repaid in full.

Article 95

The accounting officer, in agreement with the financial controller, may waive interest where, by reason of either the amount of the debt or the length of time by which it is overdue, the amount involved is negligible in relation to the administrative cost of the operation.

Article 96

Any partial repayments shall first cover the interest determined in accordance with Article 94 and then the principal.

[1] Rate published every month in the C series of the *Official Journal of the European Communities.*

TITLE XV

TENDERING PROCEDURES

(Article 57 of the Financial Regulation)

Article 97

The procedures provided for in this Title shall apply without prejudice to the provisions in Articles 126 to 129.

Article 98

Invitations to tender shall, as far as possible, be made on a standard form or using a standard text.

Article 99

Every invitation to tender shall in particular:

(a) specify the procedure for submitting tenders and stipulate how they are to be presented, including, in particular, any requirement as to the use of a standard reply form;

(b) state that the Protocol on Privileges and Immunities applies and make reference to the general conditions applicable to the contract concerned (supplies, works, services or publications) and to any document containing conditions specifically applicable to the particular contract concerned;

(c) include a clause stating that the submission of a tender implies acceptance of the relevant conditions;

(d) specify the terms under which an inspection may be made, to be set out in detail in the case of on-the-spot inspections;

(e) specify the period during which a tender will remain valid and may not be varied in any respect;

(f) specify the penalties for failure to comply with the provisions of the contract;

(g) specify the details which must be contained in the invoices (or in the relevant supporting documents) in accordance with the provisions of Articles 65 to 73;

(h) prohibit any contact between the institution and tenderers save, by way of special exception, under the following conditions:

before the closing date for the submission of tenders:

— at the instance of tenderers:

additional information solely for the purpose of clarifying the nature of the invitation to tender may be communicated to tenderers,

— at the instance of the institution:

if the departments of the institution notice an error, a lack of precision, an omission or any

other type of clerical defect in the text of the invitation to tender, they may, in a manner identical with that applicable in respect of the original invitation to tender, inform the persons concerned accordingly;

— after the tenders have been opened and at the instance of the departments of the institution, if some clarification is required in connection with a tender, or if obvious clerical errors contained in the tender must be corrected, the institution may contact the tenderer.

Article 100

In every case where contact has been made under the conditions provided for in Article 99 (h), a 'Note for the file' shall be drawn up and such contact shall be mentioned in the report to be submitted subsequently to the CCAM.

Article 101

The general conditions applicable to the proposed contract shall be attached to the invitation to tender. Any document containing conditions specifically applicable to the particular contract concerned shall also be attached.

Article 102

The deadline for the submission of tenders shall be fixed according to the nature of the contract and shall be dependent on the length of time necessary for the preparation of the reply to the invitation to tender.

Article 103

Tenderers may submit tenders:

— either by post:

in which case the invitation to tender must specify that the relevant date shall be that on which the tender is posted, as evidenced by the postmark. Tenders submitted by post must be registered,

— or by hand-delivery to the institution direct or by any agent of the tenderer, including private messenger services:

in which case the invitation to tender must state the date and time by which tenders must be submitted to the institution and specify the department to which they must be delivered against a signed and dated receipt.

The date must be the same in both cases.

In order to maintain secrecy and to avoid any difficulties, the invitation to tender must include a provision as follows:

'Tenders must be submitted in a sealed envelope itself enclosed within a second sealed envelope. The inner envelope shall bear, in addition to the name of the department to which it is addressed, as indicated in the invitation to tender, the words "Invitation to tender — Not to be opened by the mail service". If self-adhesive envelopes are used they must be sealed with adhesive tape and the sender must sign across this tape.'

Article 104

Every tender must be opened.

The tenders shall be opened by a committee appointed for this purpose. The financial controller must be informed of the opening of the tenders. The financial controller or his representative may be present as an observer if he considers it necessary.

Tenders which do not satisfy the conditions laid down in the invitation to tender shall be eliminated.

The members of the committee shall initial each page of each tender and shall make a written record of the tenders received, listing, in particular, those tenders which comply and those which do not and giving the reasons for the rejection of those tenders which do not comply.

Article 105

All the tenderers shall be informed of the decision taken with regard to their tenders.

TITLE XVI

DETERMINATION OF THE VARIOUS THRESHOLDS IN RESPECT OF CONTRACTS

(Article 128 of the Financial Regulation)

Article 106

The limit below which contracts may be made by private treaty under point (a) of Article 58 of the Financial Regulation shall be ECU 12 000.

Article 107

The limit above which the powers of the CCAM provided for in Article 60 of the Financial Regulation take effect shall be ECU 42 000.

Article 108

The threshold for compulsory security provided for in Article 62 of the Financial Regulation shall be ECU 300 000.

Article 109

The limits below which contracts may be made against an invoice or bill of costs under Article 63 of the Financial Regulation shall be:

— ECU 900 for expenditure at the provisional places of work of the institution,

— ECU 2 400 for expenditure away from the provisional places of work of the institution.

Articl 110

In accordance with Article 97 of the Financial Regulation, the following thresholds shall be fixed with regard to the award of contracts relating to research and technological development appropriations:

— the limit below which contracts may be made by private treaty shall be ECU 90 000 for scientific and technical equipment and for works contracts,

— the limit above which the powers of the CCAM take effect shall be:

  — ECU 420 000 for scientific and technical contracts,

  — ECU 90 000 for equipment and supply contracts not of a scientific or technical nature,

  — ECU 30 000 for equipment and supply contracts not of a scientific or technical nature, to which the provisions of points (c), (d), and (e) of Article 58 of the Financial Regulation apply.

TITLE XVII

FUNCTIONING OF THE ADVISORY COMMITTEES ON PROCUREMENT AND CONTRACTS

(Articles 60 and 97 of the Financial Regulation)

Section I

General provisions

Article 111

The CCAM shall be required to give its opinion, in an advisory capacity, in accordance with the provisions of Articles 60, 61 and 97 of the Financial Regulation, on:

(a) all proposed contracts for works, supplies or services, including studies, involving amounts exceeding those given in Articles 107 and 110 of this Regulation and on proposed purchases of immovable property, irrespective of the amount involved;

(b) any proposed agreement supplementary to any contract as referred to in (a) whenever there are significant changes, particularly when the effect of such supplementary agreement would be to alter the amount involved in the original contract;

(c) any proposed supplementary agreement the effect of which would be to raise the total amount involved in a contract already concluded to an amount above the limits referred to in (a);

(d) the standard forms and texts for invitations to tender and any proposed texts involving an appreciable departure from such standard texts;

(e) proposed invitations to tender which are particularly important or are of a special nature;

(f) questions arising at the time of conclusion or in the course of performance of contracts (e.g. cancellation of orders, requests for remission of penalties for delay, departures from the specifications and general conditions of contract), should the matter be sufficiently serious to justify a request for an opinion;

(g) at the request of the competent authorizing officer or of a member of the CCAM, proposed contracts involving an amount below the limits referred to in (a), where he considers that such contracts involve questions of principle or are of a special nature.

Article 112

The CCAM shall make:

(a) recommendations with regard to the general supply policy both within and outside the Community and shall carry out, or have carried out, such investigations and studies as may be necessary;

(b) recommendations with regard to general conditions for procurement and contracts.

Article 113

The files submitted to the CCAM for an opinion shall be accompanied by a report drawn up and presented by the competent official or by an alternate designated by the authorizing officer.

This report shall include:

(a) a technical and financial assessment of each tender, including a comparative table of unit prices;

(b) the grounds for the choice of tenderer recommended.

Article 114

Every case shall be the subject of an opinion, which shall be signed by the chairman of the CCAM. Such opinions shall be communicated to the departments concerned.

Article 115

Each CCAM shall draw up its own rules of procedure, which shall be communicated to the institution concerned, to the CCAM of the other institutions and to the Court of Auditors.

Each CCAM shall ensure proper application of the Council directives referred to in Article 126.

Section II

Specific provisions for the joint research centre

Article 116

The Commission may adopt appropriate internal provisions concerning the composition and functioning of the CCAM in relation to the activities of the Joint Research Centre in view of the specific requirements of this sector.

These internal provisions shall be drawn up after the financial controller has been consulted and shall be sent to the European Parliament and the Court of Auditors for information.

Section III

Advisory committee on procurement and contracts common to the institutions (CCAMI) [1]

Article 117

The heads of administration of the institutions of the Community may take the necessary measures to set up a CCAMI with the objective of stepping up cooperation between the institutions, in accordance with the requirements of sound financial management for the joint award of certain supply contracts and other contracts in connection with the management of appropriations for financing interinstitutional operations.

Article 118

The CCAMI shall exercise the following powers in particular:

(a) it shall be consulted when all or several institutions decide to award joint contracts in the areas specified in Article 117 in view of the financial advantages which this procedure might bring.

It shall give its opinion on the correctness of the procedure followed, the choice of tenderer and, in general, the conditions for the award of the contract with due regard for the interests of all the institutions.

In this case, CCAM of the individual institutions shall no longer need to be consulted on the matter but shall be informed of the opinion delivered;

(b) it may be called upon, in particular at the request of one or more heads of administration or one or more CCAM of the individual institutions, to examine and make recommendations on any matter likely to be of interest or to have repercussions from an interinstitutional angle in respect of the award of contracts in the areas specified in Article 117.

It shall examine the question raised and make whatever suggestions it considers appropriate.

Article 119

The CCAMI shall consist of two representatives from each institution, appointed, as far as possible, from the members of the CCAMI of each institution, and shall at all events, by agreement between the institutions, comprise the following representatives in addition to the representatives of the respective administrative departments:

— one representative of the departments responsible for legal questions,

— one representative of the departments responsible for finances,

— one representative of the financial controller as an observer.

A revolving system may be agreed by the institutions for the representatives of these three departments.

The CCAMI shall be chaired by each of the institutions in turn for a period of two years.

The Commission shall provide secretariat services.

Article 120

As regards procedures, Articles 113 and 114 shall apply.

Article 121

The CCAMI shall draw up its own rules of procedure, which shall be communicated to each institution.

TITLE XVIII

GUARANTEES AND PRELIMINARY DEPOSIT BY WAY OF GUARANTEE OF PERFORMANCE OF CONTRACTS

(Article 62 of the Financial Regulation)

Article 122

When, by way of guarantee of performance of contracts, the supplier, contractor or provider of services is required

[1] The term institution shall be construed in accordance with Article 22 (5) of the Financial Regulation.

to provide a preliminary deposit, such deposit must cover not only the entire period of the guarantee but also a period long enough to allow the guarantee to be invoked. The deposit must, in principle, consist of a payment made to the institution in the same currency as that prescribed for the payment to be made for the supplies or works.

Article 123

This deposit may be replaced by a joint and several personal guarantee given by a third party approved by the institution's accounting officer. The guarantee shall be denominated in the currency prescribed for payment in the contract and must comply with the same rules as the guarantee referred to in Article 122.

Article 124

The usual supporting documents accompanying the first order to pay drawn up pursuant to a contract requiring the provision of a deposit shall be supplemented by a copy, certified true by the accounting officer, of the receipt issued when the deposit was paid, or by a copy, certified true by the accounting officer, of a declaration from the establishment or third party providing the guarantee.

Article 125

Deposits shall be repaid, or the guarantees referred to in Article 123 given in place thereof released, in accordance with the provisions relating to the conclusion of contracts, except in cases of non-performance or late performance as referred to in the fourth paragraph of Article 62 of the Financial Regulation.

TITLE XIX

PROVISIONS CONCERNING THE APPLICATION BY THE COMMUNITY INSTITUTIONS OF COUNCIL DIRECTIVES ON PUBLIC WORKS, PUBLIC SUPPLIES AND PUBLIC SERVICES

(Article 64 of the Financial Regulation)

Article 126

The Council directives on public works, supplies and services shall be applicable to the award of contracts by the institutions whenever the amounts involved are equal to or greater than the amounts provided for in those directives.

Article 127

The terms 'works contracts', 'supply contracts' and 'service contracts' shall be construed in accordance with the definitions laid down in the directives referred to in Article 126.

Article 128

Where the contracts are financed from appropriations entered in their own section of the budget, the institutions of the Community shall be regarded as the 'contracting authorities' within the meaning of the directives referred to in Article 126.

Article 129

When awarding works, supply and service contracts, the institutions shall comply with the provisions of the Council directives, in particular as concerns:

— advertising rules,

— common rules on technical specifications,

— common rules on participation,

— criteria for qualitative selection,

— criteria for the award of contracts.

TITLE XX

VALUE ABOVE WHICH MOVABLE PROPERTY MUST BE ENTERED IN THE INVENTORY

(Article 65 of the Financial Regulation)

Article 130

Entries must be made in the inventory for all movable property:

— with a purchase price of at least ECU 350,

— with a normal useful life of more than one year (two years in the case of movable property of a scientific or technical nature) [1] and

— which is not consumable.

For each item acquired, the entries in the inventory, of which the receipts form an integral part, shall provide an appropriate description of the item acquired and specify its location, the date of acquisition and the unit cost.

Detailed receipts shall be regarded as an appropriate description.

Article 131

Inventory checks by the institutions should verify the physical existence of each item and its conformity with

[1] Defined for the joint research centre in the 'Recueil des instructions relatives aux inventaires' (Doc. 13.131/XV/68-F) and the 'Nomenclature des matériels — canevas général' (Doc. 2168/IX/1972-F and updatings).

the inventory entry. The checks should form part of a three-year audit programme.

TITLE XXI

ADVERTISEMENT OF SALES OF MOVABLE PROPERTY

(Article 66 of the Financial Regulation)

Article 132

1. The sale of movable property shall be:

(a) suitably advertised locally if the unit purchase price was at least ECU 7 000; at least 14 days must elapse between the date of publication of the last advertisement and the conclusion of the contract of sale;

(b) advertised by a notice of sale published in the *Official Journal of the European Communities* if the unit purchase price was at least ECU 340 000. Such sales may also be suitably advertised in the press of the Member States. At least one month must elapse between the date of publication of the notice in the *Official Journal of the European Communities* and the conclusion of the contract of sale.

2. Advertisements in the press shall not be necessary if, in view of the cost involved, no particular benefit would be gained.

3. The institutions shall always seek to obtain the best prices for the sale of movable property.

TITLE XXII

THE DRAWING-UP AND OPERATION OF THE CHART OF ACCOUNTS

(Article 70 of the Financial Regulation)

Article 133

Drawing-up of the chart of accounts

The chart of accounts shall be divided into two separate but coordinated parts to permit the keeping of:

— budget accounts,

— general accounts.

Article 134

Budget accounts

1. The budget accounts shall show, for every subdivision of the budget:

(a) in the case of expenditure:

— the appropriations authorized in the initial budget, the appropriations entered in supplementary and/or amending budgets, the appropriations available as a result of contributions by third parties, transfers of appropriations and the total appropriations thus available. Commitment appropriations and payment appropriations shall be entered separately,

— the commitments and payments in respect of the financial year in question;

(b) in the case of revenue:

— the estimates entered in the initial budget, the estimates entered in supplementary and/or amending budgets, revenue from contributions by third parties and the total amount of estimates thus determined,

— the entitlements established and the amounts received in respect of the financial year in question;

(c) a record of commitments still to be paid out and of revenue still to be recovered from previous financial years.

The global provisional commitments relating to the EAGGF Guarantee Section and the corresponding payments in the form of advances shall also be recorded in the budget accounts.

These commitments shall be presented in respect of total EAGGF Guarantee appropriations.

2. Separate accounts shall be opened so that

— the use of appropriations carried over,

— the use of appropriations made available again,

— the payments made against outstanding commitments,

can be recorded separately.

On the revenue side, separate accounts shall be opened so that amounts still to be recovered from previous financial years can be recorded separately.

3. The accounts may be itemized in order to provide a basis for analytical results.

4. The accounts shall be kept in books, or on file cards, or by means of any computerized system.

Article 135

General accounts

1. The general accounts shall enable the situation in respect of the institution's assets and liabilities to be ascertained.

2. The chart of accounts to be used for the general accounts shall be dawn up on the basis of a decimal classification system.

3. The list of accounts shall consist of the following classes:

Class 1: Fixed capital account,

Class 2: Fixed asset accounts,

Class 3: Stock accounts,

Class 4: Accounts with third parties,

Class 5: Financial accounts,

Class 6: Expenditure accounts,

Class 7: Income accounts,

Class 8: Special accounts.

4. Each of these classes of account shall comprise groups (with a two-digit code) divided into subgroups (with a three-digit code). Depending on the requirements of the institution, these subgroups shall be further divided into accounts (with a five or six-digit code).

5. Class 4 'Accounts with third parties' shall record all operations with third parties and adjustment accounts.

In particular, it shall contain suspense accounts for the entry of revenue deriving from the repayment of advances provided for in point 7 of Article 7 of the Financial Regulation and accounts recording the re-utilization operations provided for in Article 27 (2) of the Financial Regulation.

6. Class 5 'Financial accounts' shall indicate the transactions in securities, cash office, bank and post office giro transactions, and transactions carried out by the assistant accounting officers and the imprest administrators. A separate account shall be opened for each bank account, post office giro account, cash office and imprest.

7. Class 6 'Expenditure accounts' shall record the gross amounts of items of expenditure entered in the budget accounts.

Separate accounts shall be opened for expenditure relating to:

— appropriations for the current financial year,

— appropriations carried over pursuant to point 1 (b) of Article 7 of the Financial Regulation,

— appropriations carried over pursuant to point 1 (a) of Article 7 of the Financial Regulation,

— appropriations carried over pursuant to point 2 of Article 7 of the Financial Regulation,

— appropriations relating to contributions by third parties pursuant to Article 4 (2) of the Financial Regulation.

8. Class 7 'Income accounts' shall indicate the amounts of revenue entered in the budget accounts.

Separate accounts shall be opened for the recovery of:

— entitlements established in the course of the current financial year,

— established entitlements still outstanding from previous financial years.

9. Class 8 'Special accounts' shall record the operations to close the accounts at the end of the year.

10. Without prejudice to Article 21, the accounting officer of each institution shall draw up a detailed chart of accounts in line with the list of accounts referred to in paragraph 3. He shall create groups, subgroups and individual accounts depending on his particular management requirements, indicating in every case the purpose of these accounts and the conditions of operation.

Article 136

Operation of the general accounts

1. The general accounts shall be kept for each calendar year using the double entry method.

2. The accounts shall be kept in books, or on file cards, or by means of a computerized system.

3. The accounts shall enable the general balance of the accounts to be established, i. e. the statement of all the institution's assets and liabilities accounts, including the balanced accounts with, in each case:

— account number,

— description,

— total debits,

— total credits,

— balance.

4. The accounts shall be kept in such a way as to enable a detailed analysis of the transactions and balances to be made. The financial statements shall be drawn up so as to reflect properly, by means of appropriate headings, the assets and liabilities of the institution. The revenue to be recovered shall appear in the liabilities section under accruals and deferred income and the corresponding claims shall appear in the assets section under the heading 'receivable account' or other appropriate headings. Expenditure for the financial year not yet charged to the revenue and expenditure account shall appear in the assets section under the heading 'expenditure to be charged'. The revenue and expenditure account shall include all the information necessary for the purposes of the balance sheet.

The balance shown by each account shall be periodically compared with the supporting documents and other external evidence, and, in particular:

— fixed asset accounts — as provided for in Article 130,

— cash at bank and post office giro account — by monthly reconciliation of the statements of account from the financial institutions,

— cash in cash offices — by reconciliation with the cash book,

— imprest accounts and other advances under Article 74 — by verifying compliance with the conditions relating to imprest accounts and the granting of advances and with the rules for accounting,

— the expenditure accounts and income accounts of classes 6 and 7 — to be reconciled monthly with the corresponding totals in the budget accounts.

5. The interinstitutional liaison accounts shall be cross-checked monthly and cleared periodically.

6. The suspense accounts shall be reviewed periodically as follows:

— amounts outstanding — by the accounting officer informing the authorizing officer of revenue not covered and of the steps taken,

— payments outstanding — by the accounting officer communicating to the authorizing officer the grounds for non-implementation and the amounts involved,

— funds to be transferred — by reference to payroll summaries or other similar statements,

— other suspense accounts — by means of analysis of balances on the account and by notification to the authorizing officer of any item not cleared within the periods to be defined annually.

The suspense accounts shall be cleared without delay and in any case within the periods laid down in Article 71 of the Financial Regulation.

7. The suspense accounts for re-use shall make it possible to monitor the re-use of the types of income specified in Article 27 (2) of the Financial Regulation and to enable the statement provided for in Article 78 (1) and (3) of the Financial Regulation to be drawn up.

8. The financial (bank and post office giro) accounts shall be kept in national currencies and in ECU.

Amounts expressed in national currencies shall be converted into ECU at rates to be determined in accordance with Article 1. The ECU balances of accounts held in national currencies and in ECU shall be adjusted monthly.

9. The accounts of the Joint Research Centre shall be included in the Commission's general accounts.

10. Except where otherwise provided for by regulation, all the financial statements shall be presented in accordance with generally accepted accounting principles, including the principles provided for in Council directives. The practical rules for the application of these principles, which shall be periodically updated, shall be adopted in accordance with Article 21.

TITLE XXIII

PROVISIONS APPLICABLE TO RTD APPROPRIATIONS

(Article 94 and 96 of the Financial Regulation)

Article 137

For activities coming under the Joint Research Centre, a table shall be drawn up to accompany the budget showing the equivalence between the purpose of expenditure — research objectives and other activities — and the nature of the means of implementation employed:

— staff covered by the Staff Regulations and staff not covered by the Staff Regulations,

— administrative and technical infrastructure,

— scientific and technical support,

— direct operating costs.

For the management of each of the activities falling within its jurisdiction, including activities regarding services for third parties and support for Commission departments, the Joint Research Centre shall keep appropriate accounts which enable actual costs to be monitored on the basis of the information contained in the table of equivalence.

Article 138

For activities coming under indirect action, a table shall be drawn up to accompany the budget showing the equivalence between the purpose — research objectives and other activities — and nature of expenditure, in accorance with the following breakdown:

— operations,

— staff not covered by the Staff Regulations [1],

— administration,

— infrastructure,

— information and publications,

— staff covered by the Staff Regulations [1].

[1] 'Staff covered by the Staff Regulations' are officials in posts contained in the establishment plan and staff covered by the Conditions of employment. 'Staff not covered by the Staff Regulations' are all other staff (agency staff, seconded national officials, service contracts, work contracts, etc.) — see the Commission's rules of 22 May 1990 on mini-budgets.

Appropriate measures shall be taken for the keeping of accounts to ensure that budgetary implementation can be monitored for each research objective by reference to the various components contained in the table of equivalence.

Article 139

1. The Commission shall receive advances in respect of its activities for third parties. These advances shall be used to finance staff expenditure, general costs and means of implementation generated by these activities and the specific investments which these activities require. The advances shall be included in the corresponding budget appropriations.

2. Unused advances shall be repaid by cancelling the corresponding appropriations via the revenue and expenditure account. Used advances shall be repaid using a part of the revenue generated by charging the cost of the services to the third parties. The part of the revenue used to repay advances shall be that which corresponds to staff expenditure, to expenditure on the use of the general services and of the means of implementation of the Commission, and to the specific investments. The remainder of the revenue, i.e. the revenue corresponding to current expenditure resulting specifically from the contracts, shall be retained by the Commission by entering the additional appropriations under the headings for this specific expenditure.

3. The part of the revenue giving rise to repayment shall be determined, in accordance with internal rules, when each contract for services to third parties is drawn up.

Revenue for repaying advances and revenue resulting in additional appropriations being made available shall be booked to serparate headings in the Commission's statement of revenue.

TITLE XXIV

PROVISIONS APPLICABLE TO THE MANAGEMENT OF APPROPRIATIONS FOR ADMINISTRATIVE EXPENDITURE OUTSIDE THE COMMUNITY

(Articles 121, 122 and 123 of the Financial Regulation)

Section I

Imprests

Article 140

For the payment of certain categories of expenditure, an imprest account shall be set up for each local unit outside the Community in accordance with Article 54 of the Financial Regulation.

The decision establishing such imprest account shall lay down the terms for its operation on the basis of the specific needs of each local unit.

Section II

Commitments and Payments

Article 141

Proposals for global provisional commitments shall be drawn up for all local units.

Such proposals, accompanied by an estimate of expenditure for each local unit, shall be sent to the financial controller for approval and then recorded in the accounts: these global commitments may be reviewed in line with changing requirements.

Article 142

1. In delegations with only a limited number of officials or staff who may be empowered to sign cheques or post office or bank transfers, the authorities referred to in Article 22 of the Financial Regulation may, on a proposal from the authorizing officer and after receiving a favourable opinion from the accounting officer and financial controller, allow a single signature.

2. The Commission shall lay down the conditions under which the staff it designates and empowers to administer accounts under the delegation procedure are authorized to communicate the names and specimen signatures to local banks.

Section III

Specific conditions for referring contracts to the CCAM

Article 143

1. In accordance with Article 60 of the Financial Regulation and Article 111 of this Regulation, contracts involving the renting of a building outside the Community may, by way of exception, be concluded directly by the authorizing officer provided that the CCAM has been suitably informed in advance about the state of the market in the country or cities concerned and has accepted the basic criteria to be adopted concerning:

— the type of building to be rented, depending on proposed use (accommodation, offices, etc.),

— surface area and price parameters, with indication of range where appropriate,

— details of contracts.

2. Where the authorizing officer is faced with a situation which diverges from the criteria agreed upon pursuant to paragraph 1 and accepted in advance by the CCAM, the specific case or cases shall again be referred to the CCAM.

3. The authorizing officer shall report periodically to the CCAM on the application of paragraph 1.

Section IV

Inventories

Article 144

1. In the case of the delegations, the permanent inventories of movable property belonging to the Communities shall be kept locally. They shall be sent regularly to the central departments in accordance with the rules adopted by the Commission.

Movable property in transit to the delegations shall be entered on a provisional list before being recorded in the permanent inventories.

2. The advertising arrangements for sales of delegations' movable property shall be adapted to the local situation and local legal conditions.

TITLE XXV

FINAL PROVISIONS

Article 145

The fixed amounts specified in this Regulation shall be updated in proportion to changes in the Community consumer price index as follows:

— save in the event of an exceptional change in this index, every three years in the case of the amounts referred to in Articles 31 (amount of the imprest), 81, 130 and 132 and in Articles 106 to 110; these amounts shall be rounded as appropriate,

— every year in the case of the amounts referred to in Article 31 (amount of the allowance); these amounts shall be rounded up or down to the nearest ECU.

The Commission shall establish these new amounts in accordance with the above timetable and criteria and shall communicate them to the other institutions.

Article 146

The provisions of this Regulation shall not affect the application of the special provisions of the Financial Regulation relating to research and technological development appropriations (Title VII of the Financial Regulation), the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (Title VIII of the Financial Regulation), external aid (Title IX of the Financial Regulation), the management of appropriations relating to staff serving outside the Community and to their administration (Title X of the Financial Regulation) and the Office for Official Publications of the European Communities (Title XI of the Financial Regulation).

Article 147

Within six months of the date of entry into force of this Regulation, the institutions shall inform the Court of Auditors of the provisions that they have adopted in order to apply it.

Article 148

Regulation 86/610/EEC, Euratom, ECSC is hereby repealed.

Article 149

This Regulation shall enter into force on 1 January 1994.

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

Done at Brussels, 9 December 1993

For the Commission

Peter SCHMIDHUBER

Member of the Commission