

EUROPEAN PARLIAMENT

Secretariat

**MAIN PROVISIONS APPLICABLE
TO THE COMMUNITY BUDGET**

Selected texts with index

July 1979

INTRODUCTION

Following direct elections to the European Parliament, the Directorate-General for Research and Documentation felt that it would be useful to gather together in a single volume the most important documents applicable to the budgetary procedure and to financial matters.

This book - which was compiled in agreement with the Secretariat of the Committee on Budgets - is intended primarily as an accurate source of information which will provide newly elected members of the European Parliament with easy access to the legislation concerned. The texts were updated in April 1979.

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PART I

Financial provisions of the Treaties establishing:

- the European Economic Community (EEC)
- the European Atomic Energy Community (EURATOM)
- the European Coal and Steel Community (ECSC)

and of the following acts:

- the Treaty establishing a Single Council and a Single Commission of the European Communities
- the Act concerning the Conditions of Accession and the Adjustments to the Treaties
- the resolutions, declarations and statements annexed to the Treaties of 22 April 1970 and 22 July 1975

1. Articles 199 to 209 of the EEC Treaty

Article 199

All items of revenue and expenditure of the Community, including those relating to the European Social Fund, shall be included in estimates to be drawn up for each financial year and shall be shown in the budget.

The revenue and expenditure shown in the budget shall be in balance.

Article 200

1. The budget revenue shall include, irrespective of any other revenue, financial contributions of Member States on the following scale:

Netherlands	7.9
Germany	28
France	28
Italy	28
Luxembourg	0.2
Netherlands	7.9

2. The financial contributions of Member States to cover the expenditure of the European Social Fund, however shall be determined on the following scale:

Belgium	8.8
Germany	32
France	32
Italy	20
Luxembourg	0.2
Netherlands	7

3. The scales may be modified by the Council, acting unanimously.

Article 201

The Commission shall examine the conditions under which the financial contributions of Member States provided for in Article 200 could be replaced by the Community's own resources, in particular by revenue accruing from the common customs tariff when it has been finally introduced.

To this end, the Commission shall submit proposals to the Council.

After consulting the Assembly on these proposals the Council may, acting unanimously, lay down the appropriate provisions, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

Article 202

The expenditure shown in the budget shall be authorised for one financial year, unless the regulations made pursuant to Article 209 provide otherwise.

In accordance with conditions to be laid down pursuant to Article 209, any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only.

Appropriations shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided, as far as may be necessary, in accordance with the regulations made pursuant to Article 209.

The expenditure of the Assembly, the Council, the Commission and the Court of Justice shall be set out in separate parts of the budget, without prejudice to special arrangements for certain common items of expenditure.

Article 203

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

2 Each institution of the Community shall, before 1 July, draw up estimates of its expenditure. The Commission shall consolidate these estimates in a preliminary draft budget. It shall attach thereto an opinion which may contain different estimates.

The preliminary draft budget shall contain an estimate of revenue and an estimate of expenditure.

3 The Commission shall place the preliminary draft budget before the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

The Council shall consult the Commission and, where appropriate, the other institutions concerned whenever it intends to depart from the preliminary draft budget.

The Council, acting by a qualified majority, shall establish the draft budget and forward it to the Assembly.

4 The draft budget shall be placed before the Assembly not later than 5 October of the year preceding that in which the budget is to be implemented.

The Assembly shall have the right to amend the draft budget, acting by a majority of its members, and to propose to the Council, acting by an absolute majority of the votes cast, modifications to the draft budget relating to expenditure necessarily resulting from this Treaty or from acts adopted in accordance therewith.

If, within 45 days of the draft budget being placed before it, the Assembly has given its approval, the budget shall stand as finally adopted. If

within this period the Assembly has not amended the draft budget nor proposed any modifications thereto, the budget shall be deemed to be finally adopted.

If within this period the Assembly has adopted amendments or proposed modifications, the draft budget together with the amendments or proposed modifications shall be forwarded to the Council.

5. After discussing the draft budget with the Commission and, where appropriate, with the other institutions concerned, the Council shall act under the following conditions:

(a) The Council may, acting by a qualified majority, modify any of the amendments adopted by the Assembly;

(b) With regard to the proposed modifications:

— where a modification proposed by the Assembly does not have the effect of increasing the total amount of the expenditure of an institution, owing in particular to the fact that the increase in expenditure which it would involve would be expressly compensated by one or more proposed modifications correspondingly reducing expenditure, the Council may, acting by a qualified majority, reject the proposed modification. In the absence of a decision to reject it, the proposed modification shall stand as accepted;

— where a modification proposed by the Assembly has the effect of increasing the total amount of the expenditure of an institution, the Council may, acting by a qualified majority, accept this proposed modification. In the absence of a decision to accept it, the proposed modification shall stand as rejected;

— Where, in pursuance of one of the two preceding subparagraphs, the Council has rejected a proposed modification, it may, acting by a qualified majority, either retain the amount shown in the draft budget or fix another amount.

The draft budget shall be modified on the basis of the proposed modifications accepted by the Council.

If, within 15 days of the draft budget being placed before it, the Council has not modified any of the amendments adopted by the Assembly and if the modifications proposed by the latter have been accepted, the budget shall be deemed to be finally adopted. The Council shall inform the Assembly that it has not modified any of the amendments and that the proposed modifications have been accepted.

If within this period the Council has modified one or more of the amendments adopted by the Assembly or if the modifications proposed by the latter have been rejected or modified, the modified draft budget shall again be forwarded to the Assembly. The Council shall inform the Assembly of the results of its deliberations.

6. Within 15 days of the draft budget being placed before it, the Assembly, which shall have been notified of the action taken on its proposed modifications, may, acting by a majority of its members and three-fifths of the votes cast, amend or reject the modifications to its amendments made by the Council and shall adopt the budget accordingly. If within this period the Assembly has not acted, the budget shall be deemed to be finally adopted.

7. When the procedure provided for in this Article has been completed, the President of the Assembly shall declare that the budget has been finally adopted.

5. However, the Assembly, acting by a majority of its members and two-thirds of the votes cast, may, if there are important reasons, reject the draft budget and ask for a new draft to be submitted to it.

9. A maximum rate of increase in relation to the expenditure of the same type to be incurred during the current year shall be fixed annually for the total expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith.

The Commission shall, after consulting the Economic Policy Committee, declare what this maximum rate is as it results from:

- the trend, in terms of volume, of the gross national product within the Community;
- the average variation in the budgets of the Member States;

and

- the trend of the cost of living during the preceding financial year.

The maximum rate shall be communicated, before 1 May, to all the institutions of the Community. The latter shall be required to conform to this during the budgetary procedure, subject to the provisions of the fourth and fifth subparagraphs of this paragraph.

If, in respect of expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith, the actual rate of increase in the draft budget established by the Council is over half the maximum rate, the Assembly may, exercising its right of amendment, further increase the total amount of that expenditure to a limit not exceeding half the maximum rate.

Where the Assembly, the Council or the Commission consider that the activities of the Communities require that the rate determined according to the procedure laid down in this paragraph should be exceeded, another rate may be fixed by agreement between the Council, acting by a qualified majority, and the Assembly, acting by a majority of its members and three-fifths of the votes cast.

Each institution shall exercise the powers conferred upon it by this Article, with due regard for the provisions of the Treaty and for acts adopted in accordance therewith, in particular those relating to the Communities' own resources and to the balance between revenue and expenditure.

Article 204

If at the beginning of a financial year, the budget has not yet been voted, a sum equivalent to not more than one-twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter or other subdivision of the budget in accordance with the provisions of the Regulations made pursuant to Article 209; this arrangement shall not, however, have the effect of placing at the disposal of the Commission appropriations in excess of one-twelfth of those provided for in the draft budget in course of preparation.

The Council may, acting by a qualified majority, provided that the other conditions laid down in the first subparagraph are observed, authorise expenditure in excess of one-twelfth.

If the decision relates to expenditure which does not necessarily result from this Treaty or from acts adopted in accordance therewith, the Council shall forward it immediately to the Assembly: within 30 days the Assembly, acting by a majority of its members and three-fifths of the votes cast, may adopt a different decision on the expenditure in excess of the one-twelfth referred to in the first subparagraph. This part of the decision of the Council shall be suspended until the Assembly has taken its decision. If within the said period the Assembly has not taken a decision which differs from the decision of the Council, the latter shall be deemed to be finally adopted.

The decisions referred to in the second and third subparagraphs shall lay down the necessary measures relating to resources to ensure application of this Article.

Article 205

The Commission shall implement the budget, in accordance with the provisions of the regulations made pursuant to Article 209, on its own responsibility and within the limits of the appropriations.

The regulations shall lay down detailed rules for each institution concerning its part in effecting its own expenditure.

Within the budget, the Commission may, subject to the limits and conditions laid down in the regulations made pursuant to Article 209, transfer appropriations from one chapter to another or from one sub-division to another.

Article 205a

The Commission shall submit annually to the Council and to the Assembly the accounts of the preceding financial year relating to the implementation of the budget. The Commission shall also forward to them a financial statement of the assets and liabilities of the Community.

Article 206

1. A Court of Auditors is hereby established.
2. The Court of Auditors shall consist of nine members.

3. The members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.

4. The members of the Court of Auditors shall be appointed for a term of six years by the Council, acting unanimously after consulting the Assembly.

However, when the first appointments are made, four members of the Court of Auditors, chosen by lot, shall be appointed for a term of office of four years only.

The members of the Court of Auditors shall be eligible for reappointment.

They shall elect the President of the Court of Auditors from among their number for a term of three years. The President may be re-elected.

5. The members of the Court of Auditors shall, in the general interest of the Community, be completely independent in the performance of their duties.

In the performance of these duties, they shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties.

6. The members of the Court of Auditors may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

7. Apart from normal replacement, or death, the duties of a member of the Court of Auditors shall end when he resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 8.

The vacancy thus caused shall be filled for the remainder of the member's term of office.

Save in the case of compulsory retirement, members of the Court of Auditors shall remain in office until they have been replaced.

8. A member of the Court of Auditors may be deprived of his office or of his right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.

9. The Council, acting by a qualified majority, shall determine the conditions of employment of the President and the members of the Court of Auditors and in particular their salaries, allowances and pensions. It shall also, by the same majority, determine any payment to be made instead of remuneration.

10. The provisions of the Protocol on the Privileges and Immunities of the European Communities applicable to the Judges of the Court of Justice shall also apply to the members of the Court of Auditors.

Article 206a

1. The Court of Auditors shall examine the accounts of all revenue and expenditure of the Community. It shall also examine the accounts of all revenue and expenditure of all bodies set up by the Community in so far as the relevant constituent instrument does not preclude such examination.

2. The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound.

The audit of revenue shall be carried out on the basis both of the amounts established as due and the amounts actually paid to the Community.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

3. The audit shall be based on records and, if necessary, performed on the spot in the institutions of the Community and in the Member States. In the Member States the audit shall be carried out in liaison with the national audit bodies or, if these do not have the necessary powers, with the competent national departments. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The institutions of the Community and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the institutions of the Community and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Communities*.

The Court of Auditors may also, at any time, submit observations on specific questions and deliver opinions at the request of one of the institutions of the Community.

It shall adopt its annual reports or opinions by a majority of its members.

It shall assist the Assembly and the Council in exercising their powers of control over the implementation of the budget

Article 206b

The Assembly, acting on a recommendation from the Council which shall act by a qualified majority, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the Assembly in turn shall examine the accounts and the financial statement referred to in Article 205a and the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors.

Article 207

The budget shall be drawn up in the unit of account determined in accordance with the provisions of the regulations made pursuant to Article 209.

The financial contributions provided for in Article 200 (1) shall be placed at the disposal of the Community by the Member States in their national currencies.

The available balances of these contributions shall be deposited with the Treasuries of Member States or with bodies designated by them. While on deposit, such funds shall retain the value corresponding to the parity, at the date of deposit, in relation to the unit of account referred to in the first paragraph.

The balances may be invested on terms to be agreed between the Commission and the Member State concerned.

The regulations made pursuant to Article 209 shall lay down the technical conditions under which financial operations relating to the European Social Fund shall be carried out.

Article 208

The Commission may, provided it notifies the competent authorities of the Member States concerned, transfer into the currency of one of the

Member States its holdings in the currency of another Member State, to the extent necessary to enable them to be used for purposes which come within the scope of this Treaty. The Commission shall as far as possible avoid making such transfers if it possesses cash or liquid assets in the currencies which it needs.

The Commission shall deal with each Member State through the authority designated by the State concerned. In carrying out financial operations the Commission shall employ the services of the bank of issue of the Member State concerned or of any other financial institution approved by that State.

Article 209

The Council, acting unanimously on a proposal from the Commission and after consulting the Assembly and obtaining the opinion of the Court of Auditors, shall:

(a) make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;

(b) determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the Communities' own resources shall be made available to the Commission, and determine the measures to be applied, if need be, to meet cash requirements;

(c) lay down rules concerning the responsibility of authorising officers and accounting officers and concerning appropriate arrangements for inspection.

2. Articles 171 to 183 of the EURATOM Treaty

Article 171

1. Estimates shall be drawn up for each financial year of all revenue and expenditure of the Community, other than those of the Agency and the Joint Undertakings, and such revenue and expenditure shall be shown either in the operating budget or in the research and investment budget.

The revenue and expenditure shown in each budget shall be in balance.

2. The revenue and expenditure of the Agency, which shall operate in accordance with commercial principles, shall be budgeted for in a special account.

The manner of estimating, implementing and auditing such revenue and expenditure shall be laid down, with due regard to the statutes of the Agency, in financial regulations made pursuant to Article 183.

3. The estimates of revenue and expenditure, together with the operating accounts and the balance sheets of the Joint Undertakings for each financial year, shall be placed before the Commission, the Council and the Assembly in accordance with the statutes of those Undertakings.

1. The operating budget revenue shall include, irrespective of any other current revenue, financial contributions of Member States on the following scale:

Belgium	7.9
Germany	28
France	28
Italy	28
Luxembourg	0.2
Netherlands	7.9

2. The research and investment budget revenue shall include, irrespective of any other resources, financial contributions of Member States on the following scale:

Belgium	9.9
Germany	30
France	30
Italy	23
Luxembourg	0.2
Netherlands	6.9

3. The scales may be modified by the Council, acting unanimously.

4. Loans for the financing of research or investment shall be raised on terms fixed by the Council in the manner provided for in Article 177 (5).

The Community may borrow on the capital market of a Member State, either in accordance with the legal provisions applying to internal issues, or, if there are no such provisions in a Member State, after the Member State concerned and the Commission have conferred together and have reached agreement upon the proposed loan.

The competent authorities of the Member State concerned may refuse to give their assent only if there is reason to fear serious disturbances on the capital market of that State.

Article 173

The financial contributions of Member States provided for in Article 172 may be replaced in whole or in part by the proceeds of levies collected by the Community in Member States.

To this end, the Commission shall submit to the Council proposals concerning the assessment of such levies, the method of fixing their rate and the procedure for their collection.

After consulting the Assembly on these proposals the Council may, acting unanimously, lay down the appropriate provisions, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

Article 174

1. The expenditure shown in the operating budget shall include in particular:

- (a) administrative expenditure;
- (b) expenditure relating to safeguards and to health and safety.

2. The expenditure shown in the research and investment budget shall include in particular:

(a) expenditure relating to the implementation of the Community research programme;

(b) any participation in the capital of the Agency and in its investment expenditure;

(c) expenditure relating to the equipment of training establishments;

(d) any participation in Joint Undertakings or in certain joint operations.

Article 175

The expenditure shown in the operating budget shall be authorised for one financial year, unless the regulations made pursuant to Article 183 provide otherwise.

In accordance with conditions to be laid down pursuant to Article 183, any appropriations, other than those relating to staff expenditure,

that are unexpended at the end of the financial year may be carried forward to the next financial year only.

Appropriations to cover expenditure shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided, as far as may be necessary, in accordance with the regulations made pursuant to Article 183.

The expenditure of the Assembly, the Council, the Commission and the Court of Justice shall be set out in separate parts of the budget, without prejudice to special arrangements for certain common items of expenditure.

Article 176

1. Subject to the limits resulting from programmes or decisions involving expenditure which, in pursuance of this Treaty, require the unanimous approval of the Council, allocations for research and investment expenditure shall include:

(a) commitment appropriations, covering a series of items which constitute a separate unit and form a coherent whole;

(b) payment appropriations which represent the maximum amount payable each year in respect of the commitments entered into under subparagraph (a).

2. The schedule of due dates for commitments and payments shall be annexed to the corresponding draft budget proposed by the Commission.

3. Appropriations for research and investment shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided, as far as may be necessary, in accordance with the regulations made pursuant to Article 183.

4. Unused payment authorizations shall be carried forward to the next financial year by decision of the Commission, unless the Council decides otherwise.

Article 177

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

Within the meaning of this Article, "budget" shall include the operating budget and the research and investment budget.

2 Each institution of the Community shall, before 1 July, draw up estimates of its expenditure. The Commission shall consolidate these estimates in a preliminary draft budget. It shall attach thereto an opinion which may contain different estimates.

The preliminary draft budget shall include an estimate of revenue and an estimate of expenditure.

3 The Commission shall place the preliminary draft budget before the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

The Council shall consult the Commission and, where appropriate, the other institutions concerned whenever it intends to depart from the preliminary draft budget.

The Council shall, acting by a qualified majority, establish the draft budget and forward it to the Assembly.

4 The draft budget shall be placed before the Assembly not later than 5 October of the year preceding that in which the budget is to be implemented.

The Assembly shall have the right to amend the draft budget acting by a majority of its members, and to propose to the Council, acting by

an absolute majority of the votes cast, modifications to the draft budget relating to expenditure necessarily resulting from this Treaty or from acts adopted in accordance therewith.

If, within 45 days of the draft budget being placed before it, the Assembly has given its approval, the budget shall stand as finally adopted. If within this period the Assembly has not amended the draft budget or proposed any modifications thereto, the budget shall be deemed to be finally adopted.

If within this period the Assembly has adopted amendments or proposed modifications, the draft budget together with the amendments or proposed modifications shall be forwarded to the Council.

5 After discussing the draft budget with the Commission and, where appropriate, with the other institutions concerned, the Council shall act under the following conditions:

(a) the Council may, acting by a qualified majority, modify any of the amendments adopted by the Assembly;

(b) with regard to the proposed modifications:

— where a modification proposed by the Assembly does not have the effect of increasing the total amount of the expenditure of an institution, owing in particular to the fact that the increase in expenditure which it would involve would be expressly compensated by one or more proposed modifications correspondingly reducing expenditure, the Council may, acting by a qualified majority, reject the proposed modification. In the absence of a decision to reject it, the proposed modification shall stand as accepted.

— where a modification proposed by the Assembly has the effect of increasing the total amount of the expenditure of an institution, the Council may, acting by a qualified majority, accept this proposed modification. In

~~the absence of a decision to accept it. the proposed modification shall stand as rejected.~~

— where, in pursuance of one of the two preceding subparagraphs, the Council has rejected a proposed modification, it may, acting by a qualified majority, either retain the amount shown in the draft budget or fix another amount.

The draft shall be modified on the basis of the proposed modifications accepted by the Council.

If, within 15 days of the draft budget being placed before it, the Council has not modified any of the amendments adopted by the Assembly and if the modifications proposed by the latter have been accepted, the budget shall be deemed to be finally adopted. The Council shall inform the Assembly that it has not modified any of the amendments and that the proposed modifications have been accepted.

If within this period the Council has modified one or more of the amendments adopted by the Assembly or if the modifications proposed by the latter have been rejected or modified, the modified draft budget shall again be forwarded to the Assembly. The Council shall inform the Assembly of the results of its deliberations.

6. Within 15 days of the draft budget being placed before it, the Assembly, which shall have been notified of the action taken on its proposed modifications may, acting by a majority of its members and three-fifths of the votes cast, amend or reject the modifications to its amendments made by the Council and shall adopt the budget accordingly. If within this period the Assembly has not acted, the budget shall be deemed to be finally adopted.

7. When the procedure provided for in this Article has been completed, the President of the Assembly shall declare that the budget has been finally adopted.

8. However, the Assembly, acting by a majority of its members and two-thirds of the votes cast may, if there are important reasons, reject the draft budget and ask for a new draft to be submitted to it.

9. A maximum rate of increase in relation to the expenditure of the same type to be incurred during the current year shall be fixed annually for the total expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith.

The Commission shall, after consulting the Economic Policy Committee, declare what this maximum rate is, as it results from:

- the trend, in terms of volume, of the gross national product within the Community,
- the average variation in the budgets of the Member States,
- and
- the trend of the cost of living during the preceding financial year.

The maximum rate shall be communicated, before 1 May, to all the institutions of the Community. The latter shall be required to conform to this during the budgetary procedure, subject to the provisions of the fourth and fifth subparagraphs of this paragraph.

If, in respect of expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith, the actual rate of increase in the draft budget established by the Council is over half the maximum rate, the Assembly may, exercising its right of amendment, further increase the total amount of that expenditure to a limit not exceeding half the maximum rate.

Where the Assembly, the Council or the Commission considers that ~~the~~ activities of the Communities require that the rate determined according ~~to~~ the procedure laid down in this paragraph should be exceeded, another ~~rate~~

shall be fixed by agreement between the Council, acting by a qualified majority, and the Assembly, acting by a majority of its members and three-fifths of the votes cast.

Each institution shall exercise the powers conferred upon it by this Article, with due regard for the provisions of this Treaty and for acts adopted in accordance therewith, in particular those relating to the Communities' own resources and to the balance between revenue and expenditure.

Article 178

If, at the beginning of a financial year, the budget has not yet been voted, a sum equivalent to not more than one-twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter or other subdivision of the budget in accordance with the provisions of the Regulations made pursuant to Article 183; this arrangement shall not, however, have the effect of placing at the disposal of the Commission appropriations in excess of one-twelfth of those provided for in the draft budget in the course of preparation.

The Council may, acting by a qualified majority, provided that the other conditions laid down in the first subparagraph are observed, authorise expenditure in excess of one-twelfth.

If the decision relates to expenditure which does not necessarily result from this Treaty or from acts adopted in accordance therewith, the Council shall forward it immediately to the Assembly; within 30 days the Assembly, acting by a majority of its members and three-fifths of the votes cast,

may adopt a different decision on the expenditure in excess of the one-twelfth referred to in the first subparagraph. This part of the decision of the Council shall be suspended until the Assembly has taken its decision. If within this period, the Assembly has not taken a decision which differs from the decision of the Council, the latter shall be deemed to be finally adopted.

The decisions referred to in the second and third subparagraphs shall lay down the necessary measures relating to resources to ensure application of this Article.

Article 179

The Commission shall implement the budgets, in accordance with the provisions of the regulations made pursuant to Article 183, on its own responsibility and within the limits of the appropriations.

The regulations shall lay down detailed rules for each institution concerning its part in effecting its own expenditure.

Within the budgets, the Commission may, subject to the limits and conditions laid down in the regulations made pursuant to Article 183, transfer appropriations from one chapter to another or from one subdivision to another.

Article 179a

The Commission shall submit annually to the Council and to the Assembly the accounts of the preceding financial year relating to the implementation of the budget. The Commission shall also forward to them a financial statement of the assets and liabilities of the Community.

Article 180

1. A Court of Auditors is hereby established.
2. The Court of Auditors shall consist of nine members.
3. The members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.
4. The members of the Court of Auditors shall be appointed for a term of six years by the Council, acting unanimously after consulting the Assembly.

However, when the first appointments are made, four members of the Court of Auditors, chosen by lot, shall be appointed for a term of office of four years only.

The members of the Court of Auditors shall be eligible for reappointment.

They shall elect the President of the Court of Auditors from among their number for a term of three years. The President may be re-elected.

5. The members of the Court of Auditors shall, in the general interest of the Community, be completely independent in the performance of their duties.

In the performance of these duties, they shall neither seek nor take instructions from any government, or from any other body. They shall refrain from any action incompatible with their duties.

6. The members of the Court of Auditors may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

7. Apart from normal replacement, or death, the duties of a member of the Court of Auditors shall end when he resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 8.

The vacancy thus caused shall be filled for the remainder of the member's term of office.

Save in the case of compulsory retirement under the provisions of paragraph 8, members of the Court of Auditors shall remain in office until they have been replaced.

8. A member of the Court of Auditors may be deprived of his office or of his right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.

9. The Council, acting by a qualified majority, shall determine the conditions of employment of the President and the members of the Court of Auditors and in particular their salaries, allowances and pensions. It shall also, by the same majority, determine any payment to be made instead of remuneration.

10. The provisions of the Protocol on the Privileges and Immunities of the European Communities applicable to the Judges of the Court of Justice shall also apply to the members of the Court of Auditors.

Article 180a

1. The Court of Auditors shall examine the accounts of all revenue and expenditure of the Community. It shall also examine the accounts of all revenue and expenditure of all bodies set up by the Community in so far as the relevant constituent instrument does not preclude such examination.

2. The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound.

The audit of revenue shall be carried out on the basis both of the amounts established as due and the amounts actually paid to the Communities.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

3. The audit shall be based on records and, if necessary, performed on the spot in the institutions of the Community and in the Member States. In the Member States the audit shall be carried out in liaison with the national audit bodies or, if these do not have the necessary powers, with the competent national departments. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The institutions of the Community and the national audit bodies or, if the latter do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

4. The Court of Auditors shall draw up an annual report at the close of each financial year. It shall be forwarded to the institutions of the Community and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Communities*.

The Court of Auditors may also, at any time, submit observations on specific questions and deliver opinions at the request of one of the institutions of the Community.

It shall adopt its annual reports or opinions by a majority of its members.

It shall assist the Assembly and the Council in exercising their powers of control over the implementation of the budget.

*Article 180b**

The Assembly, acting on a recommendation from the Council which shall act by a qualified majority, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the Assembly in turn shall examine the accounts and the financial statement referred to in Article 179a, and the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors.

Article 181

The budgets and the account provided for in Article 171 (1) and (2) shall be drawn up in the unit of account determined in accordance with the provisions of the financial regulations made pursuant to Article 183.

The financial contributions provided for in Article 172 shall be placed at the disposal of the Community by the Member States in their national currencies

The available balances of these contributions shall be deposited with the Treasuries of Member States or with bodies designated by them. While on deposit, such funds shall retain the value corresponding to the parity, at the date of deposit, in relation to the unit of account referred to in the first paragraph.

The balances may be invested on terms to be agreed between the Commission and the Member State concerned.

Article 182

1. The Commission may, provided it notifies the competent authorities of the Member States concerned, transfer into the currency of one of the Member States its holdings of currency of another Member State, to the extent necessary to enable them to be used for purposes which come within the scope of this Treaty. The Commission shall as far as possible avoid making such transfers if it possesses cash or liquid assets in the currencies which it needs.

2. The Commission shall deal with each Member State through the authority designated by the State concerned. In carrying out financial operations the Commission shall employ the services of the bank of issue of the Member State concerned or of any other financial institutions approved by that State.

3. As regards expenditure which the Community has to incur in the currencies of third countries, the Commission shall, before the budgets are finally adopted, submit to the Council a programme indicating anticipated revenue and expenditure in the different currencies.

This programme shall be approved by the Council, acting by a qualified majority. It may be modified in the course of the financial year in accordance with the same procedure.

4. Member States shall provide the Commission with the currency of third countries needed for the expenditure shown in the programme provided for in paragraph 3 according to the scales laid down in Article 172. Amounts collected by the Commission in the currency of third countries shall be transferred to Member States in accordance with the same scales.

5. The Commission may freely make use of any amounts in the currency of third countries derived from loans it has raised in such countries.

6. The Council may, acting unanimously on a proposal from the Commission, apply, in whole or in part, to the Agency and to Joint Undertakings the exchange arrangements provided for in the preceding paragraphs, and, where appropriate, adapt these arrangements to their operational requirements.

Article 183

The Council, acting unanimously on a proposal from the Commission and after consulting the Assembly and obtaining the opinion of the Court of Auditors, shall:

(a) make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;

(b) determine the methods and procedure whereby the budget revenue provided for under the arrangements relating to the Communities' own re-

sources shall be made available to the Commission and determine the measures to be applied, if need be, to meet cash requirements.

(c) lay down rules concerning the responsibility of authorising officers and accounting officers and concerning appropriate arrangements for inspection.

3. Articles 49 to 53 and Article 78 of the ECSC Treaty

Article 49

The High Authority is empowered to procure the funds it requires to carry out its tasks:

- by imposing levies on the production of coal and steel;
- by contracting loans.

It may receive gifts.

Article 50

1. The levies are intended to cover:

- the administrative expenditure provided for in Article 78;
- the non-repayable aid towards readaptation provided for in Article 56;
- in the case of the financing arrangements provided for in Articles 54 and 56, and after recourse to the reserve fund, any portion of the amounts required for servicing loans raised by the High Authority which may not be covered by receipts from the servicing of loans granted by it, and any payments to be made under guarantees granted by the High Authority on loans contracted directly by undertakings;
- expenditure on the promotion of technical and economic research as provided for in Article 55 (2).

2. The levies shall be assessed annually on the various products according to their average value; the rate thereof shall not, however, exceed 1 per cent unless previously authorised by the Council, acting by a two-thirds majority. The mode of assessment and collection shall be determined by a general decision of the High Authority taken after consulting the Council; cumulative imposition shall be avoided as far as possible.

3. The High Authority may impose upon undertakings which do not comply with decisions taken by it under this Article surcharges of not more than 5 per cent for each quarter's delay.

Article 51

1. The High Authority may not use the funds obtained by borrowing except to grant loans.

The issue of loans by the High Authority on the markets of Member States shall be subject to the rules and regulations in force on these markets.

If the High Authority considers the guarantee of Member States necessary in order to contract certain loans, it shall approach the Government or Governments concerned after consulting the Council; no State shall be obliged to give its guarantee.

2. The High Authority may, as provided in Article 54, guarantee loans granted direct to undertakings by third parties.

3. The High Authority may so determine its conditions for loans or guarantees as to enable a reserve fund to be built up for the sole purpose of reducing whatever amounts may have to be paid out of the levies in accordance with the third subparagraph of Article 50 (1); the sums thus accumulated must not, however, be used for any form of lending to undertakings.

4. The High Authority shall not itself engage in the banking operations which its financial tasks entail.

Article 52

Member States shall make all appropriate arrangements to enable transfers of funds derived from the levies, from pecuniary sanctions and periodic penalty payments and from the reserve fund to be effected within the territories referred to in the first paragraph of Article 79 in accordance with the procedure for commercial payments, to the extent necessary to make it possible for them to be used for the purposes intended by this Treaty.

The procedure for effecting transfers, both between Member States and to third countries, arising out of other financial operations carried out or guaranteed by the High Authority, shall be determined by agreement between the High Authority and the Member States concerned or the appropriate agencies; there shall, however, be no obligation upon any Member State which applies exchange controls to permit transfers where it has not expressly undertaken to do so.

Article 53

Without prejudice to the provisions of Article 58 or of Chapter V of Title III, the High Authority may:

(a) after consulting the Consultative Committee and the Council, authorise the making, on conditions which it shall determine and under its supervision, of any financial arrangements common to several undertakings which it recognises to be necessary for the performance of the tasks set out in Article 3 and compatible with this Treaty, and in particular with Article 65;

(b) with the unanimous assent of the Council, itself make any financial arrangements serving the same purposes.

Similar arrangements made or maintained by Member States shall be notified to the High Authority, which, after consulting the Consultative Committee and the Council, shall make the necessary recommendations to the States concerned where such arrangements are inconsistent, in whole or in part, with the application of this Treaty.

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Article 78

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

The administrative expenditure of the Community shall comprise the expenditure of the High Authority, including that relating to the functioning of the Consultative Committee, and that of the Assembly, the Council, and of the Court of Justice.

2. Each institution of the Community shall, before 1 July, draw up estimates of its administrative expenditure. The High Authority shall consolidate these estimates in a preliminary draft administrative budget. It shall attach thereto an opinion which may contain different estimates.

The preliminary draft budget shall contain an estimate of revenue and an estimate of expenditure.

3. The High Authority shall place the preliminary draft administrative budget before the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

The Council shall consult the High Authority and, where appropriate, the other institutions concerned whenever it intends to depart from the preliminary draft budget.

The Council shall, acting by a qualified majority, establish the draft administrative budget and forward it to the Assembly.

4. The draft administrative budget shall be placed before the Assembly not later than 5 October of the year preceding that in which the budget is to be implemented.

The Assembly shall have the right to amend the draft administrative budget, acting by a majority of its members and to propose to the Council, acting by an absolute majority of the votes cast, modifications to the draft budget relating to expenditure necessarily resulting from this Treaty or from acts adopted in accordance therewith.

If, within 45 days of the draft administrative budget being placed before it, the Assembly has given its approval, the administrative budget shall stand as finally adopted. If within this period the Assembly has not amended the draft administrative budget nor proposed any modifications thereto, the administrative budget shall be deemed to be finally adopted.

If within this period the Assembly has adopted amendments or proposed modifications, the draft administrative budget together with the amendments or proposed modifications shall be forwarded to the Council.

5. After discussing the draft administrative budget with the High Authority and, where appropriate, with the other institutions concerned, the Council shall act under the following conditions:

(a) the Council may, acting by a qualified majority, modify any of the amendments adopted by the Assembly;

(b) with regard to the proposed modifications:

— where a modification proposed by the Assembly does not have the effect of increasing the total amount of the expenditure of an institution, owing in particular to the fact that the increase in expenditure which it would involve would be expressly compensated by one or more proposed modifications correspondingly reducing expenditure, the Council may, acting by a qualified majority, reject the proposed modification. In the absence of a decision to reject it, the proposed modification shall stand as accepted,

— where a modification proposed by the Assembly has the effect of increasing the total amount of the expenditure of an institution, the Council may, acting by a qualified majority, accept this proposed modification. In the absence of a decision to accept it, the proposed modification shall stand as rejected,

— where, in pursuance of one of the two preceding subparagraphs, the Council has rejected a proposed modification, it may, acting by a qualified majority, either retain the amount shown in the draft administrative budget or fix another amount.

The draft administrative budget shall be modified on the basis of the proposed modifications accepted by the Council.

If, within 15 days of the draft administrative budget being placed before it, the Council has not modified any of the amendments adopted by the Assembly and if the modifications proposed by the latter have been accepted, the administrative budget shall be deemed to be finally adopted. The Council shall inform the Assembly that it has not modified any of the amendments and that the proposed modifications have been accepted.

If within this period the Council has modified one or more of the amendments adopted by the Assembly or if the modifications proposed by the latter have been rejected or modified, the modified draft administrative budget shall again be forwarded to the Assembly. The Council shall inform the assembly of the results of its deliberations.

6. Within 15 days of the draft administrative budget being placed before it, the Assembly, which shall have been notified of the action taken on its proposed modification, may, acting by a majority of its members and three-fifths of the votes cast, amend or reject the modifications to its amendments made by the Council and shall adopt the administrative budget accordingly. If within this period the Assembly has not acted, the administrative budget shall be deemed to be finally adopted.

7. When the procedure provided for in this Article has been completed, the President of the Assembly shall declare that the administrative budget has been finally adopted.

8. However, the Assembly, acting by a majority of its members and two-thirds of the votes cast, may, if there are important reasons, reject the draft administrative budget and ask for a new draft to be submitted to it.

9. A maximum rate of increase in relation to the expenditure of the same type to be incurred during the current year shall be fixed annually for the total expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith.

The High Authority shall, after consulting the Economic Policy Committee, declare what this maximum is as it results from:

- the trend, in terms of volume, of the gross national product within the Community,
- the average variation in the budgets of the Member States, and
- the trend of the cost of living during the preceding financial year.

The maximum rate shall be communicated, before 1 May, to all the institutions of the Community. The latter shall be required to conform to this during the budgetary procedure, subject to the provisions of the fourth and fifth subparagraphs of this paragraph.

If, in respect of expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith, the actual rate of increase on the draft administrative budget established by the Council is over half the maximum rate, the Assembly may, exercising its right of amendment, further increase the total amount of that expenditure to a limit not exceeding half the maximum rate.

Where the Assembly, the Council or the High Authority considers that the activities of the Communities require that the rate determined according to the procedure laid down in this paragraph should be exceeded, another rate may be fixed by agreement between the Council, acting by a qualified majority, and the Assembly, acting by a majority of its members and three-fifths of the votes cast.

10. Each institution shall exercise the powers conferred upon it by this Article, with due regard for the provisions of this Treaty and for acts adopted in accordance therewith, in particular those relating to the Communities' own resources and to the balance between revenue and expenditure.

11. Final adoption of the administrative budget shall have the effect of authorising and requiring the High Authority to collect the corresponding revenue in accordance with the provisions of Article 49.

Article 78a

The administrative budget shall be drawn up in the unit of account determined in accordance with the provisions of the regulations made pursuant to Article 78h.

The expenditure shown on the budget shall be authorised for one financial year, unless the regulations made pursuant to Article 78h provide otherwise.

In accordance with conditions to be laid down pursuant to Article 78h any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only.

Appropriations shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided, as far as may be necessary, in accordance with the regulations made pursuant to Article 78h.

The expenditure of the Assembly, the Council, the High Authority and the Court shall be set out in separate parts of the administrative budget, without prejudice to special arrangements for certain common items of expenditure.

Article 78b

1. If, at the beginning of a financial year, the administrative budget has not yet been voted, a sum equivalent to not more than one-twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter or other subdivision of the administrative budget in accordance with the provisions of the Regulations made pursuant to Article 78h; this arrangement shall not, however, have the effect of placing at the disposal of the High Authority appropriations in excess of one-twelfth of those provided for in the draft administrative budget in course of preparation.

The High Authority is authorised and required to impose the levies up to the amount of the appropriations for the preceding financial year, but shall not thereby exceed the amount which would have resulted from the adoption of the draft administrative budget.

2. The Council may, acting by a qualified majority, provided that the other conditions laid down in paragraph 1 are observed, authorise expenditure in excess of one-twelfth. The authorisation and requirement to impose the levies may be adjusted accordingly.

If the decision relates to expenditure which does not necessarily result from this Treaty or from acts adopted in accordance therewith, the Council shall forward it immediately to the Assembly; within 30 days the Assembly, acting by a majority of its members and three-fifths of the votes cast, may adopt a different decision on the expenditure in excess of the one-twelfth referred to in paragraph 1. This part of the decision of the Council shall be suspended until the Assembly has taken its decision. If within the said period the Assembly has not taken a decision which differs from the decision of the Council, the latter shall be deemed to be finally adopted.

*Article 78c**

The High Authority shall implement the administrative budget, in accordance with the provisions of the regulations made pursuant to Article 78h on its own responsibility and within the limits of the appropriations.

The regulations shall lay down detailed rules for each institution concerning its part in effecting its own expenditure.

Within the administrative budget, the High Authority may, subject to the limits and conditions laid down in the regulations made pursuant to Article 78h, transfer appropriations from one chapter to another or from one subdivision to another.

*Article 78d***

The High Authority shall submit annually to the Council and to the Assembly the accounts of the preceding financial year relating to the implementation of the administrative budget. The High Authority shall also forward to them a financial statement of the assets and liabilities of the Community in the field covered by that budget.

Article 78e

1. A Court of Auditors is hereby established.
2. The Court of Auditors shall consist of nine members.
3. The members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.
4. The members of the Court of Auditors shall be appointed for a term of six years by the Council, acting unanimously after consulting the Assembly.

However, when the first appointments are made, four members of the Court of Auditors, chosen by lot, shall be appointed for a term of office of four years only.

The members of the Court of Auditors shall be eligible for reappointment.

They shall elect the President of the Court of Auditors from among their number for a term of three years. The President may be re-elected.

5. The members of the Court of Auditors shall, in the general interest of the Community, be completely independent in the performance of their duties.

In the performance of these duties, they shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties.

6. The members of the Court of Auditors may not, during their term of office, engage in any other occupation, whether gainful or not. When en-

tering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

7. Apart from normal replacement, or death, the duties of a member of the Court of Auditors shall end when he resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 8.

The vacancy thus caused shall be filled for the remainder of the member's term of office.

Save in the case of compulsory retirement, members of the Court of Auditors shall remain in office until they have been replaced.

8. A member of the Court of Auditors may be deprived of his office or of his right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.

9. The Council, acting by a qualified majority, shall determine the conditions of employment of the President and the members of the Court of Auditors and in particular their salaries, allowances and pensions. It shall also, by the same majority, determine any payment to be made instead of remuneration.

10. The provisions of the Protocol on the Privileges and Immunities of the European Communities applicable to the Judges of the Court of Justice shall also apply to the members of the Court of Auditors.

Article 78^f

1. The Court of Auditors shall examine the accounts of all administrative expenditure and administrative revenue of the Community, including the revenue from the tax for the benefit of the Community levied on the salaries, wages and emoluments of officials and other servants of the latter. It shall also examine the accounts of all revenue and expenditure of all bodies set up by the Community in so far as the relevant constituent instrument does not preclude such examination.

2. The Court of Auditors shall examine whether all revenue referred to in paragraph 1 has been received and all expenditure referred to in that paragraph has been incurred in a lawful and regular manner and whether the financial management has been sound.

The audit of revenue shall be carried out on the basis both of the amounts established as due and the amounts actually paid to the Community.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

3. The audit shall be based on records and, if necessary, performed on the spot in the institutions of the Community and in the Member States. In the Member States the audit shall be carried out in liaison with the national audit bodies or, if these do not have the necessary powers, with the competent national departments. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The institutions of the Community and the national audit bodies or, if these do not have the necessary powers, the competent national depart-

ments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the institutions of the Community and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Communities*.

The Court of Auditors may also, at any time, submit observations on specific questions and deliver opinions at the request of one of the institutions of the Community.

It shall adopt its annual reports or opinions by a majority of its members.

It shall assist the Assembly and the Council in exercising their powers of control over the implementation of the budget.

5. The Court of Auditors shall also draw up a separate annual report stating whether the accounting other than that for the expenditure and revenue referred to in paragraph 1 and the financial management by the High Authority relating thereto have been effected in a regular manner. It shall draw up this report within six months of the end of the financial year to which the accounts refer and shall submit it to the High Authority and the Council. The High Authority shall forward it to the Assembly.

Article 78g

The Assembly, acting on a recommendation from the Council which shall act by a qualified majority, shall give a discharge to the High Authority in respect of the implementation of the administrative budget. To this end, the Council and the Assembly in turn shall examine the accounts and the financial statement referred to in Article 78d, and the annual report by

the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors.

Article 78h

The Council, acting unanimously on a proposal from the High Authority and after consulting the Assembly and obtaining the opinion of the Court of Auditors, shall:

(a) make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the administrative budget and for presenting and auditing accounts;

(b) lay down rules concerning the responsibility of authorising officers and accounting officers and concerning appropriate arrangements for inspection.

4. Articles 20 to 22 of the Treaty establishing a Single Council and a Single Commission of the European Communities

Article 20

1. The administrative expenditure of the European Coal and Steel Community and the revenue relating thereto, the revenue and expenditure of the European Economic Community, and the revenue and expenditure of the European Atomic Energy Community, with the exception of that of the Supply Agency and the Joint Undertakings, shall be shown in the budget of the European Communities in accordance with the appropriate provisions of the Treaties establishing the three Communities. This budget, which shall be in balance as to revenue and expenditure, shall take the place of the administrative budget of the European Coal and Steel Community, the

budget of the European Economic Community and the operating budget and research and investment budget of the European Atomic Energy Community.*

2. The portion of the expenditure covered by the levies provided for in Article 49 of the Treaty establishing the European Coal and Steel Community shall be fixed at eighteen million units of account.

As from the financial year beginning 1 January 1967, the Commission shall submit annually to the Council a report on the basis of which the Council shall examine whether there is reason to adjust this figure to changes in the budget of the Communities. The Council shall act by the majority laid down in the first sentence of the fourth paragraph of Article 28 of the Treaty establishing the European Coal and Steel Community. The adjustment shall be made on the basis of an assessment of developments in expenditure arising from the application of the Treaty establishing the European Coal and Steel Community.

3. The portion of the levies assigned to cover expenditure under the budget of the Communities shall be allocated by the Commission for the implementation of that budget in accordance with the timetable provided for in the financial regulations adopted pursuant to Article 209 (b) of the Treaty establishing the European Economic Community and Article 183 (b) of the Treaty establishing the European Atomic Energy Community relating to the methods and procedure whereby the contributions of the Member States shall be made available.

Article 21

Article 78 of the Treaty establishing the European Coal and Steel Community is repealed and the following substituted therefore:

(The text of this article is reproduced on pages 24-30)

Article 22

1. The powers and jurisdiction conferred upon the Court of Auditors established by Article 78e of the Treaty establishing the European Coal and Steel Community, by Article 206 of the Treaty establishing the European Economic Community, and by Article 180 of the Treaty establishing the European Atomic Energy Community shall be exercised in accordance with those Treaties by a single Court of Auditors of the European Communities constituted as provided in these Articles.

2. Without prejudice to the powers and jurisdiction referred to in paragraph 1, the Court of Auditors of the European Communities shall exercise the powers and jurisdiction conferred, before the entry into force of this Treaty, upon the Audit Board of the European Communities and upon the Auditor of the European Coal and Steel Community under the conditions laid down in the various instruments referring to the Audit Board and to the Auditor. In all these instruments the words "Audit Board" and "Auditors" shall be replaced by the words "Court of Auditors".

5. Articles 127 to 132 of the Act concerning the Conditions of Accession and the Adjustments to the Treaties

Article 127

The Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources, hereinafter referred to as the "Decision of 21 April 1970", shall be applied, account being taken of the following provisions.

Article 128

The revenue referred to in Article 2 of the Decision of 21 April 1970 shall also include:

(a) among those designated as agricultural levies, the revenue from any compensatory amount levied on imports under articles 47 and 55, and from the fixed components applied in trade between the Community as originally constituted and the new Member States and between the new Member States themselves under Article 61;

(b) among those designated as customs duties, the customs duties levied by the new Member States in trade with non-member States, and also customs duties levied in trade between the Community as originally constituted and the new Member States and between the new Member States themselves.

Article 129

1. The financial contributions from Member States referred to in Article 3 (2) of the Decision of 21 April 1970 shall be apportioned as follows:

— for the new Member States:

Denmark	2.46 %,
Ireland	0.61 %,
United Kingdom	19.32 %.

— and for the original Member States, in accordance with the scale laid down in Article 3 (2) of the Decision of 21 April 1970, after the financial contributions of the new Member States specified above have been deducted.*

2. For 1973, the basis for calculating the variations referred to in Article 3 (3) of the Decision of 21 April 1970 shall be:

— for the new Member States, the percentage referred to in paragraph 1;

— for the original Member States, their relative share for the preceding year, account being taken of the percentages for the new Member States specified above.

Article 130

The Communities' own resources and also the financial contributions and, where appropriate, the contributions referred to in Article 4 (2), (3) and (4) of the Decision of 21 April 1970 shall be due from the new Member States to the following extent only:

- 45.0 % in 1973,
- 56.0 % in 1974,
- 67.5 % in 1975,
- 79.5 % in 1976,
- 92.0 % in 1977.

Article 131

1. From 1 January 1978, the Communities' own resources and, where appropriate, the financial contributions referred to in Article 4 (2) (3) and (4) of the Decision of 21 April 1970, shall be due from the new Member States, in full, subject to the following provisions:

(a) the increase in the relative share to be paid by each new Member State under the head of the Communities' own resources and of the financial contributions for 1978 in comparison with the relative share due for 1977, shall not exceed two fifths of the difference between the relative share due under the head of the Communities' own resources and of the financial contributions for 1977 and the relative share which each new Member State would have had to pay under the same head for the same year, if this relative share had been calculated in accordance with the arrangements laid down for the original Member States from 1978 by the Decision of 21 April 1970;

(b) for 1979, the increase in the relative share of each new Member State in comparison with 1978 shall not exceed that for 1978 in comparison with 1977.

2. The Commission shall carry out the calculations necessary for the application of this Article.

Article 132

Until 31 December 1979, that part of the Communities' budget which is not covered as a result of applying Articles 130 and 131 shall be incorporated into the amount apportioned for the original Member States in accordance with Article 129. The total amount thus determined shall be apportioned among the original Member States in accordance with the Decision of 21 April 1970.

**6. Resolutions, declarations and statements annexed to the
Treaties of 22 April 1970 and 22 July 1975**

- A. The Council recorded a number of resolutions and declarations in the minutes of its meeting on 22 April 1970, the date on which the Treaty amending Certain Budgetary Provisions of the Treaties establishing the European Communities was signed.

Resolutions

1. Resolution relating to the section of the budget concerning the European Parliament for the period referred to in Article 73 A of the ECSC Treaty, Article 203a of the EEC Treaty and Article 177a of the EAEC Treaty.

The Council undertakes to make no amendments to the estimate of expenditure of the European Parliament. This undertaking shall only be binding in so far as this estimate of expenditure does not conflict with Community provisions, in particular with regard to the Staff Regulations of Officials and Conditions of Employment of Other Servants, and to the seat of the institutions.

Editorial note: Article 203a has not been included in this selection of texts because it applied only to the transitional period, which ended in 1974. Since the financial year 1975 the definitive version of Article 203 - amended by the Treaty of 22 July 1975, which entered into force on 1 June 1977 - has been applicable to the general budget of the Communities. Expenditure under Section I of the budget, which relates to Parliament, is classified as non-compulsory.

2. Resolution relating to Community acts having financial implications and to cooperation between the Council and the European Parliament

In order to provide the European Parliament with such information as will enable it to give its opinion on Community acts having financial implications, the Council shall invite the Commission to append to the proposals which it forwards to the European Parliament estimates of the financial implications of those acts.

The Council undertakes to maintain the closest cooperation with the European Parliament in the examination of such acts and to explain to it such reasons as may have led it to depart from the European Parliament's opinion.

3. Resolution on cooperation between the Council and the European Parliament in matters of budgetary procedure.

In matters of budgetary procedure everything possible should be done by common agreement between the Council and the

European Parliament to ensure close cooperation at all levels between the two institutions; in particular the President in office or another member of the Council should be present at the deliberations of the European Parliament on the draft budget.

Editorial note: See Part VI for the agreement concluded in 1971 between the Council and Parliament

Declarations

1. Re the first subparagraph of Article 78 (8) of the ECSC Treaty, of Article 203 (8) of the EEC Treaty and of Article 177 (8) of the EAEC Treaty:

In adopting these provisions, the Council has taken as its basis the classification of budget expenditure as set out in the list prepared by the President on 3 February 1970, while at the same time recognising that this classification may change in the light of the operational requirements of the Communities

Editorial note: At present Parliament and the Council use the list annexed by the Commission to its preliminary draft budget as a basis for calculating the rate of increase of non-compulsory expenditure

2. Re the second subparagraph of paragraph 8 of the same Articles:

The Council assumes that the method of calculation to be established by the Commission of the European Communities in order to determine the reference values will remain unchanged.

3. Re Article 78 A (7) of the ECSC Treaty, Article 203 a (7) of the EEC Treaty and Article 177 a (7) of the EAEC Treaty:

These provisions must be interpreted in the sense that the European Parliament may not, by proposed modifications entailing a reduction in expenditure, call into question acts adopted pursuant to the Treaties.

4. Declaration of the Council

(a) On the occasion of the signature of the Treaty Amending Certain Budgetary Provisions of the Treaties Establishing the European Communities and of the Treaty Establishing a Single Council and a Single Commission of the European Communities, the Council took careful note of the points of view expressed by the European Parliament and communicated to it in the Resolutions of 10 December 1969, 3 February and 11 March 1970, and in an aide mémoire dated 19 April 1970.

(b) Accordingly, the Commission notified to the Council its intention to submit proposals on this subject subsequent to the ratification by all Member States of the Treaty signed on 22 April and at the latest within two years.

(c) The Council, in accordance with the procedure laid down in Article 236 of the Treaty, will examine these proposals in the light of the discussions which will take place in the Parliaments of the Member States, of the development of the European situation and of the institutional problems which will be posed by the enlargement of the Community.

- B. On 22 July 1975 the Council appended a number of statements to the Treaty amending certain Financial Provisions of the Treaties establishing the European Communities, which was signed on that date.

STATEMENTS

1. *Re first subparagraph of Article 206a (1) of the EEC Treaty:*

"It is agreed that the Court of Auditors shall have jurisdiction to audit the operations of the European Development Fund."

2. *Re second subparagraph of Articles 78f (2) of the ECSC Treaty, 206a (2) of the EEC Treaty and 180a (2) of the Euratom Treaty:*

"With regard to entitlements established by the Member States in accordance with Article 2 of Regulation (EEC, Euratom, ECSC) No 2/71 of the Council of 2 January 1971 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources, the provisions of the second subparagraph of paragraph 2 of the abovementioned Articles must be interpreted to mean that the audit shall not cover substantive transactions properly so called shown in the supporting documents which relate to such establishment; accordingly, the audit on the spot shall not be carried out by recourse to the debtor."

3. *Re first subparagraph of Article 78f (3) of the ECSC Treaty, re Article 206a (3) of the EEC Treaty and re Article 180a (3) of the Euratom Treaty:*

"Member States shall notify the Court of Auditors of the institutions and departments concerned and of their respective powers."

PART II

Texts and implementing provisions concerning
the creation of the Communities' own resources

1. DECISION

of 21 April 1970

on the Replacement of Financial Contributions from Member States by the Communities' own Resources

(70/243 ECSC, EEC, Euratom)

(OJ' No. L 94, 28 April 1970)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 201 thereof;

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 173 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas complete replacement of the financial contributions from Member States by the Communities' own resources can only be achieved progressively;

Whereas Article 2 (1) of Regulation No 25 on financing the common agricultural policy stipulates that at the single market stage revenue from agricultural levies shall be allocated to the Community and appropriated to Community expenditure;

Whereas Article 201 of the Treaty establishing the European Economic Community refers explicitly, among the Community's own resources which could replace financial contributions from Member States, to revenue accruing from the Common Customs Tariff when the latter has been finally introduced;

Whereas the effects on the budgets of the Member States of the transfer to the Communities of revenue accruing from the Common Customs Tariff should be mitigated; whereas a system should be provided which will make it possible to achieve total transfer progressively and within a definite period of time;

Whereas revenue accruing from agricultural levies and customs duties is not sufficient to ensure that the

budget of the Communities is in balance; whereas, therefore, it is advisable to allocate to the Communities, in addition, tax revenue, the most appropriate being that accruing from the application of a single rate to the basis for assessing the value added tax, determined in a uniform manner for the Member States;

HAS LAID DOWN THESE PROVISIONS, WHICH IT RECOMMENDS TO THE MEMBER STATES FOR ADOPTION:

Article 1

The Communities shall be allocated resources of their own in accordance with the following Articles in order to ensure that their budget is in balance.

Article 2

From 1 January 1971 revenue from:

- (a) levies, premiums, additional or compensatory amounts, additional amounts or factors and other duties established or to be established by the institutions of the Communities in respect of trade with non-member countries within the framework of the common agricultural policy, and also contributions and other duties provided for within the framework of the organisation of the markets in sugar (hereinafter called 'agricultural levies');
- (b) Common Customs Tariff duties and other duties established or to be established by the institutions of the Communities in respect of trade with non-member countries (hereinafter called 'customs duties');

Shall, in accordance with Article 3, constitute own resources to be entered in the budget of the Communities.

In addition, revenue accruing from other charges introduced within the framework of a common policy in accordance with the provisions of the Treaty establishing the European Economic Community or the Treaty establishing the European Atomic Energy Community shall constitute own resources to be entered in the budget of the Communities, subject to the procedure laid down in Article 201 of the Treaty establishing the European Economic Community or in Article 173 of the Treaty establishing the European Atomic Energy Community having been followed.

Article 3

1. From 1 January 1971 the total revenue from agricultural levies shall be entered in the budget of the Communities.

From the same date, revenue from customs duties shall progressively be entered in the budget of the Communities.

The amount of the customs duties appropriated to the Communities each year by each Member State shall be equal to the difference between a reference amount and the amount of the agricultural levies appropriated to the Communities pursuant to the first subparagraph. Where this difference is negative, there shall be no payment of customs duties by the Member State concerned nor repayment of agricultural levies by the Communities.

The reference amount referred to in the third subparagraph shall be:

- 50% in 1971
- 62.5% in 1972
- 75% in 1973
- 87.5% in 1974
- 100% from 1 January 1975 onwards

of the total amount of the agricultural levies and customs duties collected by each Member State.

The Communities shall refund to each Member State 10% of the amounts paid in accordance with the preceding subparagraphs in order to cover expense incurred in collection.

2. During the period 1 January 1971 to 31 December 1974, the financial contributions from Member States required in order to ensure that the budget of the Communities is in balance shall be apportioned on the following scale:

— Belgium	6.8
— Germany	32.9
— France	32.6
— Italy	20.2
— Luxembourg	0.2
— Netherlands	7.3

3. During the same period, however, the variation from year to year in the share of each Member State in the aggregate of the amounts paid in accordance with paragraphs 1 and 2 may not exceed 1% upwards or 1.5% downwards, where these amounts are taken into consideration within the framework of the second subparagraph. For 1971, the financial contributions of each Member State to the combined budgets for 1970 shall be taken as reference for the application of this rule, to the extent that these budgets are taken into consideration within the framework of the second subparagraph.

In the application of the first subparagraph, the following factors shall be taken into consideration for each financial year:

- (a) Expenditure relating to payment appropriations decided on for the financial year in question for the research and investment budget of the European Atomic Energy Community, with the exception of expenditure relating to supplementary programmes;
- (b) Expenditure relating to appropriations to the European Social Fund;
- (c) For the European Agricultural Guidance and Guarantee Fund, expenditure relating to appropriations to the Guarantee Section and to the Guidance Section, with the exception of appropriations entered or re-entered for accounting periods preceding the financial year concerned. For the reference year 1970 such expenditure shall be:
 - for the Guarantee Section, that referred to in Article 8 of Council Regulation (EEC) No 728/70 of 21 April 1970 laying down additional provisions for financing the common agricultural policy;
 - for the Guidance Section, an amount of 285 million units of account apportioned on the basis of the scale laid down in Article 7 of that Regulation;it being understood that, for calculating the share of Germany, a percentage of 31.5 shall be taken as the reference scale;
- (d) Other expenditure relating to the appropriations entered in the Community budget.

Should the application of this paragraph to one or more Member States result in a deficit in the budget of the Communities, the amount of that deficit shall be shared for the year in question between the other Member States within the limits laid down in the first subparagraph and according to the contribution scale fixed in paragraph 2. If necessary, the operation shall be repeated.

4. Financing from the Communities' own resources of the expenditure connected with research programmes of the European Atomic Energy Community shall not exclude entry in the budget of the Communities of expenditure relating to supplementary programmes or the financing of such expenditure by means of financial contributions from Member States determined according to a special scale fixed pursuant to a Decision of the Council acting unanimously.

5. By way of derogation from this Article, appropriations entered in a budget preceding that for the financial year 1971 and carried over or re-entered in a later budget shall be financed by financial contributions from Member States according to scales applicable at the time of their first entry.

Appropriations to the Guidance Section which, while being entered for the first time in the 1971 budget, refer to accounting periods of the European Agricultural Guidance and Guarantee Fund preceding 1 January 1971 shall be covered by the scale relating to those periods.

Article 4

1. From 1 January 1975 the budget of the Communities shall, irrespective of other revenue, be financed entirely from the Communities' own resources.

Such resources shall include those referred to in Article 2 and also those accruing from the value added tax and obtained by applying a rate not exceeding 1% to an assessment basis which is determined in a uniform manner for Member States according to Community rules. The rate shall be fixed within the framework of the budgetary procedure. If at the beginning of a financial year the budget has not yet been adopted, the rate previously fixed shall remain applicable until the entry into force of a new rate.

During the period 1 January 1975 to 31 December 1977, however, the variation from year to year in the share of each Member State in relation to the preceding year may not exceed 2%. Should this percentage be exceeded, the necessary adjustment shall be made, within that variation limit, by financial compensation between the Member States concerned proportionate to the share borne by each of them in respect of revenue accruing from value added tax or from the financial contributions referred to in paragraphs 2 and 3.

2. By way of derogation from the second subparagraph of paragraph 1, if on 1 January 1975 the rules determining the uniform basis for assessing

the value added tax have not yet been applied in all Member States but have been applied in at least three of them, the financial contribution to the budget of the Communities to be made by each Member State not yet applying the uniform basis for assessing the value added tax shall be determined according to the proportion of its gross national product to the sum total of the gross national products of the Member States. The balance of the budget shall be covered by revenue accruing from the value added tax in accordance with the second subparagraph of paragraph 1, collected by the other Member States. This derogation shall cease to be effective as soon as the conditions laid down in paragraph 1 are fulfilled.

3. By way of derogation from the second subparagraph of paragraph 1, if on 1 January 1975 the rules determining the uniform basis for assessing the value added tax have not yet been applied in three or more Member States, the financial contribution of each Member State to the budget of the Communities shall be determined according to the proportion of its gross national product to the sum total of the gross national products of the Member States. This derogation shall cease to be effective as soon as the conditions laid down in paragraphs 1 or 2 are fulfilled.

4. For the purpose of paragraphs 2 and 3, 'gross national product' means the gross national product at market prices.

5. From the complete application of the second subparagraph of paragraph 1, any surplus of the Communities' own resources over and above the actual expenditure during a financial year shall be carried over to the following financial year.

6. Financing expenditure connected with research programmes of the European Atomic Energy Community from the Communities' own resources shall not exclude entry in the budget of the Communities of expenditure relating to supplementary programmes nor the financing of such expenditure by means of financial contributions from Member States determined according to a special scale fixed pursuant to a Decision of the Council acting unanimously.

Article 5

The revenue referred to in Article 2, Article 3 (1) and (2) and Article 4 (1) to (5) shall be used without distinction to finance all expenditure entered in the budget of the Communities in accordance with Article 20 of the Treaty establishing a Single Council and a Single Commission of the European Communities.

Article 6

1. The Community resources referred to in Articles 2, 3 and 4 shall be collected by the Member States in accordance with national provisions imposed by law, regulation or administrative action, which shall, where necessary, be amended for that purpose. Member States shall make these resources available to the Commission.

2. Without prejudice to the auditing of accounts provided for in Article 206 of the Treaty establishing the European Economic Community, or to the inspection arrangements made pursuant to Article 209 (c) of that Treaty, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, adopt provisions relating to the supervision of collection, the making available to the Commission, and the payment of the revenue referred to in Articles 2, 3 and 4, and also the procedure for application of Article 3 (3) and Article 4.

Article 7

Member States shall be notified of this Decision by the Secretary-General of the Council of the European Communities; it shall be published in the *Official Journal of the European Communities*.

Member States shall notify the Secretary-General of the Council of the European Communities without delay of the completion of the procedures for the adoption of this Decision in accordance with their respective constitutional requirements.

This Decision shall enter into force on the first day of the month following receipt of the last of the notifications referred to in the second subparagraph. If, however, the instruments of ratification provided for in Article 12 of the Treaty amending Certain Budgetary Provisions of the Treaties establishing the European Communities and the Treaty establishing a Single Council and a Single Commission of the European Communities, have not been deposited before that date by all the Member States, this Decision shall enter into force on the first day of the month following the deposit of the last of those instruments of ratification.

Done at Luxembourg, 21 April 1970.

For the Council
The President
P. HARMEL

2. COUNCIL REGULATION (EEC, EURATOM, ECSC) No 2691/77

of 19 December 1977

implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

(OJ No. L 336, 27 December 1977)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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

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

Having regard to the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources ⁽¹⁾, hereinafter referred to as 'the Decision of 21 April 1970', and in particular Article 6 (2) thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the Court of Auditors,

Whereas the Treaty of 22 July 1975 amending certain financial provisions of the Treaties establishing the European Communities and of the Treaty establishing a single Council and a single Commission of the European Communities entered into force on 1 June 1977;

Whereas the own resources system established by the Decision of 21 April 1970 will be fully applied as from 1978;

Whereas the Communities are to have disposal over the own resources referred to in Article 4 of the Decision of 21 April 1970 which must necessarily be allocated to them within the limits of the establishments recorded;

Whereas, however, as regards own resources accruing from value added tax, hereinafter called 'VAT resources', the application of Article 22 of sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment ⁽³⁾ may create inequalities between the Member States in the making available of the said resources; whereas this source of inequality should be eliminated by laying down that all Member States must make available to the Communities the budget estimate of these resources in the form of fixed monthly twelfths subject to subsequent adjustment of the amounts made available in accordance with the actual VAT assessment basis as soon as it is fully known;

Whereas the own resources may be made available in the form of an entry of the amounts due in an account opened for this purpose in the name of the Commission with the Treasury or with the body appointed by each Member State; whereas in order to restrict the movements of funds to that which is necessary for the implementation of the budget, the Communities may confine themselves to applying levies on the abovementioned accounts intended to cover solely the Commission's cash requirements;

Whereas it is appropriate to specify the balance to be carried over to the following financial year and the conditions under which the revenue and the balance to be carried forward will be allocated to the budget;

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 19.

⁽²⁾ OJ No C 266, 7. 11. 1977, p. 50.

⁽³⁾ OJ No L 145, 13. 6. 1977, p. 1.

Whereas, in order to guarantee, in every instance, the financing of the Communities' budget, the procedure for making available the contributions based on the gross national product, specified in Article 4 (2) and (3) of the Decision of 21 April 1970, should be laid down;

Whereas the Member States must keep at the disposal of the Commission and where necessary forward to it the documents and information needed to exercise the powers conferred upon it as regards the Communities' own resources and the budgetary procedure;

Whereas the Member States should arrange for verifications and inquiries relating to the establishment and the making available of own resources; whereas the Commission should exercise its powers in accordance with this Regulation;

Whereas a new unit of account, called the 'European unit of account', will be introduced in the budget as from 1978;

Whereas close cooperation between Member States and the Commission will facilitate the application of this Regulation, which aims at enabling the Communities to dispose of their own resources under the best possible conditions;

Whereas the full application of the own resources system involves a general amendment of Council Regulation (EEC, Euratom, ECSC) No 2/71 of 2 January 1971 implementing the Decision of 21 April 1970 on the replacement of financial contributions from the Member States by the Communities' own resources (1); whereas it consequently appears necessary to replace this Regulation,

HAS ADOPTED THIS REGULATION:

TITLE I

General provisions

Article 1

The Communities' own resources within the meaning of the Decision of 21 April 1970, hereinafter called 'own resources', shall be established by Member States in accordance with their own provisions laid down by law, regulation or administrative action and shall be made available to the Commission and inspected as specified in this Regulation, without preju-

dice to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2).

Article 2

For the purpose of applying this Regulation, an entitlement shall be deemed to be established as soon as the corresponding claim has been duly determined by the appropriate department or agency of the Member State.

Where it becomes necessary to rectify an establishment recorded in accordance with the first paragraph, the competent department or agency of the Member State shall make a new establishment.

Article 3

Member States shall take all appropriate measures to ensure that the supporting documents concerning the establishment and the making available of own resources are kept for at least three calendar years, as from the end of the year to which these supporting documents refer.

Article 4

1. Each Member State shall inform the Commission, at the latter's request:
 - (a) of the names of the departments or agencies responsible for establishing own resources and, where appropriate, their status;
 - (b) of the general provisions laid down by law, regulation or administrative action and those relating to accounting procedure concerning the establishment of own resources and their being made available to the Commission.
2. The Commission shall, at the request of the other Member States, pass to them the information referred to in paragraph 1.

Article 5

Each Member State shall draw up yearly a summary account together with a report on the establishment and inspection of own resources and shall forward this to the Commission before 1 July of the year following the financial year in question.

(1) OJ No L 3, 5, 1, 1971, p. 1.

(2) See page 8 of this Official Journal.

Article 6

The rate referred to in the second subparagraph of Article 4 (1) of the Decision of 21 April 1970 shall be laid down in the budget of the Communities. It shall be expressed as a figure to four decimal places and calculated as a percentage of the estimated assessment basis for the value added tax (VAT) in such a manner that it fully covers that part of the budget not financed from customs duties, agricultural levies, miscellaneous revenue and, where appropriate, financial contributions based on gross national product (GNP).

TITLE II

Accounts for own resources

Article 7

1. Accounts for own resources shall be kept by the Treasury of each Member State or by the body appointed by each Member State and broken down by type of resources.

2. The established entitlements shall be entered in the accounts at the latest on the 20th day of the second month following the month during which the entitlements were established.

VAT resources shall however be included in the accounts as follows:

- on the first working day of each month, the twelfth referred to in Article 10 (3),
- annually, as regards the balance referred to in Article 10 (4).

3. Each Member State shall forward to the Commission a monthly statement of its accounts.

Article 8

The new establishments recorded under the second paragraph of Article 2 shall be entered in the monthly return corresponding to the date of these establishments and shall be added to or subtracted from the total amount of established entitlements.

TITLE III

Making available own resources

Article 9

1. The amount of own resources established shall be credited by each Member State to the account

opened for this purpose in the name of the Commission with its Treasury or with the body it has appointed.

However, the VAT resources and, where appropriate, the financial contributions based on GNP shall be entered in accordance with the procedure laid down in Article 10 (3) and (4).

This account shall be kept free of charge.

2. Each amount shall be entered gross. In the 30 days following notification of any entry, the Commission shall issue a transfer order in favour of the Member State for the amounts corresponding to the standard refund for the expenses incurred in collection as referred to in the fifth subparagraph of Article 3 (1) of the Decision of 21 April 1970.

3. The amounts entered shall be converted by the Commission into, and entered in its accounts in European units of account (EUA) on the basis of the quotations obtaining on the last day corresponding to the time limit for entry or on the first preceding day for which such quotations are available.

Article 10

1. The entry referred to in Article 9 (1) shall be made at the latest by the 20th day of the second month following the month during which the entitlement was established.

2. If necessary, Member States may be invited by the Commission to bring forward by one month the entering of resources other than VAT resources on the basis of the information available to them on the 15th of the same month.

Each entry brought forward shall be adjusted the following month when the entry mentioned in paragraph 1 is made. This adjustment shall entail the negative entry of an amount equal to that given in the entry brought forward.

3. Nevertheless, the VAT resources or, where appropriate, the financial contributions based on GNP, shall be entered on the first working day of each month, the amount being one-twelfth of the total resulting from the budget in this connection.

Any change in the rate of VAT or, if appropriate, in the financial contributions based on GNP shall be occasioned by the final adoption of a supplementary or amending budget and shall give rise to a readjustment of the twelfths which have been entered since the beginning of the financial year.

This readjustment shall be carried out when the first entry is made following the final adoption of the supplementary or amending budget.

Calculation of the one-twelfth for the month of January of each financial year shall be based on the amounts provided for in the draft budget; this amount shall be adjusted when the next month's entry is made. If the budget has not been finally adopted before the beginning of the financial year, the twelfths shall similarly be calculated from the amounts entered in the draft budget; the adjustment shall be made on the first due date following the final adoption of the budget.

4. Each Member State shall, on the basis of the annual statement of VAT resources provided for in Article 10 (1) of Regulation (EEC, Euratom, ECSC) No 2892/77, be debited with an amount calculated from the information contained in the said statement by applying the rate adopted for the previous financial year and credited with the 12 payments made during that previous financial year. The Commission shall work out the balance and shall inform the Member States in good time in order that the latter may enter it in the account referred to in Article 9 (1) of this Regulation on the first working day of August of the same year.

5. With effect from 1 January 1979, those Member States having entered financial contributions based on GNP during the previous financial year shall, on the due dates given in paragraph 3 and by the same method, adjust the said contributions so as to restore, in the light of the actual yield from VAT resources, the original distribution in the budget between the latter and the financial contributions based on GNP.

6. The operations referred to in paragraphs 4 and 5 constitute modifications to revenue in respect of the financial year in which they occur.

Article 11

Any delay in making the entry in the account referred to in Article 9 (1) shall give rise to the payment of interest by the Member State concerned at a rate equal to the highest rate of discount ruling in the Member States on the due date. That rate shall be increased by 0.25 of a percentage point for each month of delay. The increased rate shall be applied to the entire period of delay.

TITLE IV

Management of cash resources

Article 12

1. The Commission shall draw on the sums credited to the accounts referred to in Article 9 (1) to the

extent necessary to cover its cash resource requirements arising out of the implementation of the budget.

2. If the cash resource requirements are in excess of the assets of the accounts, the Commission may draw in excess of the total of these assets. In this event, it shall inform the Member States in advance of any foreseeable excess requirements.

3. The difference between the overall assets and the cash resource requirements shall be divided among the Member States, as far as possible, in proportion to the estimated budget revenue from each of them.

4. The orders and instructions which the Commission sends to the Treasury or to the appropriate department of each Member State shall be carried out as soon as possible.

TITLE V

Procedure for the application of Article 4 (2) and (3) of the Decision of 21 April 1970

Article 13

1. This Article shall apply where it may be necessary to implement the provisional derogations provided for in Article 4 (2) and (3) of the Decision of 21 April 1970.

2. The gross national product at market prices shall be calculated on the basis of statistics compiled by the Statistical Office of the European Communities and corresponding, for each Member State, to the arithmetical average of the first three years of the five-year period preceding the financial year in respect of which the provisions of Article 4 (2) and (3) of the Decision of 21 April 1970 have been applied.

3. The gross national product for each reference year shall be calculated in terms of the EUA on the basis of the average rate of the EUA for the year in question.

4. As long as the derogation provided for in Article 4 (2) of the Decision of 21 April 1970 applies to one or more Member States, the Commission shall, in its preliminary draft budget, fix the estimated percentage of the budget corresponding to the financial contribution(s) of those Member States on the basis of the proportion of their GNP to the sum total of the gross national products of the Member States, and shall fix the VAT rate corresponding to the remainder of the budget to be provided by the other Member States. These figures shall be approved in accordance with budgetary procedure.

Article 14

For the purpose of this Regulation:

- (a) the gross national product at market prices is equivalent to the gross domestic product at market prices plus compensation of employees, property and entrepreneurial income from the rest of the world less the corresponding flows towards the rest of the world;
- (b) the gross domestic product at market prices, which represents the final result of the production activity at resident producer units, is equivalent to the total production of goods and services by the economy, less total intermediate consumption, plus taxes linked to imports.

TITLE VI

Procedure for the application of Article 4 (5) of the Decision of 21 April 1970

Article 15

For the purpose of applying Article 4 (5) of the Decision of 21 April 1970, the balance of a given financial year shall consist of the difference between:

- all the revenue collected in respect of that financial year, and
- the amount of payments made against appropriations for that financial year increased by the amount of the appropriations for the same financial year carried over pursuant to Articles 6 and 95 of the Financial Regulation.

This difference shall be increased or decreased by the net amount resulting from cancellations of appropriations carried forward from previous financial years, and of sums paid in excess of these appropriations as a result of the exchange rate adjustments which occurred between the time when the amount of carryover was determined and the time it was used.

Furthermore, the balance of the 1978 financial year shall be increased by the surplus or reduced by the deficit appearing when, on 1 January 1978, the balance sheet drawn up in units of account on 31 December 1977 is revalued in European units of account.

Article 16

- 1. The Commission shall, before the end of October in each financial year, make an estimate of the own resources collected for the entire year, on the basis of the data at its disposal at that time.

If appreciable differences from the original estimates appear, the former shall give rise to a letter of amendment relating to the draft budget for the following financial year.

- 2. At the time of the transactions referred to in Article 10 (4) and (5), the estimate of revenue given in the budget of the current financial year shall be increased or reduced in a ratifying budget by the differences resulting from those operations.

TITLE VII

Provisions concerning inspection measures

Article 17

- 1. Member States shall take all requisite measures to ensure that the amount corresponding to the entitlements established under Articles 1 and 2 are made available to the Commission as specified in this Regulation.

- 2. Member States shall be free from the obligation to place at the disposal of the Commission the amounts corresponding to established entitlements solely if, for reasons of *force majeure* these amounts have not been collected.

- 3. Every six months, Member States shall report to the Commission, where appropriate within the framework of existing procedures, comprehensive information and questions of principle concerning the most important problems arising out of the application of this Regulation and in particular matters in dispute.

Article 18

- 1. Member States shall carry out the verifications and inquiries concerning the establishment and the making available of own resources. The Commission shall make use of its powers as specified in this Article.

- 2. Accordingly, Member States shall:

- carry out any additional inspection measures the Commission may ask for in a reasoned request,
- associate the Commission, at its request, with the inspection measures which they carry out.

Member States shall take all steps required to facilitate these inspection measures. Where the Commission is associated with these measures, Member States shall place at its disposal the supporting documents referred to in Article 3. In order to restrict additional

inspection measures to the minimum the Commission may, in specific cases, request that certain documents be forwarded to it.

3. The inspection measures referred to in paragraphs 1 and 2 shall not prejudice:

- (a) the inspection measures undertaken by Member States in accordance with their own provisions laid down by law, regulation or administrative action;
- (b) the measures provided for in Articles 206, 206a and 206b of the Treaty establishing the European Economic Community and Articles 180, 180a and 180b of the Treaty establishing the European Atomic Energy Community;
- (c) the inspection arrangements made pursuant to Article 209 (c) of the Treaty establishing the European Economic Community and Article 183 (c) of the Treaty establishing the European Atomic Energy Community.

4. The Commission shall from time to time report to the European Parliament and to the Council on the functioning of the inspection arrangements.

Article 19

The provisions of Community law applicable to the sectors referred to in the first paragraph of Article 2 of the Decision of 21 April 1970, in particular regarding nomenclature, origin, value for customs purposes, Community transit and inward processing, shall be applied by the appropriate authorities of Member States when establishing own resources.

TITLE VIII

Provisions relating to the Advisory Committee on the Communities' Own Resources

Article 20

1. An Advisory Committee on the Communities' Own Resources, hereinafter called 'the Committee', is hereby set up.

2. The Committee shall consist of representatives of the Member States and of the Commission. Each Member State shall be represented on the Committee by not more than five officials.

The chairman of the Committee shall be a representative of the Commission.

The secretariat services for the Committee shall be provided by the Commission.

3. The Committee shall adopt its own rules of procedure.

Article 21

The Committee shall examine the question raised by its chairman on his own initiative or at the request of the representative of a Member State, which concern the application of this Regulation, in particular as regards:

- (a) the information provided for in Articles 4 (1) (b), 5 and 18 (3);
- (b) cases of *force majeure* referred to in Article 18 (2);
- (c) inspection measures and examinations provided for in Article 19 (2).

TITLE IX

Final provisions

Article 22

The Commission shall, by 30 September 1979, submit a report on the implementation of this Regulation together with, where appropriate, any proposals for amendments thereto.

Article 23

The Council, acting unanimously on a proposal from the Commission, shall adopt the procedures for implementing this Regulation as and when necessary.

Article 24

Regulation (EEC, Euratom, ECSC) No 2/71 shall be repealed with effect from 1 January 1978. References to that Regulation should be understood as referring to the present Regulation.

Article 25

For the financial year 1978, the deadlines laid down in Articles 5 and 10 (4) shall be extended until 1 September 1979 and the first working day of October 1979 respectively.

Article 26

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

It shall have effect from the financial year 1978.

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

Done at Brussels, 19 December 1977.

For the Council
The President
G. GEENS

3. COUNCIL REGULATION (EEC, EURATOM, ECSC) No 2892/77

of 19 December 1977

implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

(OJ No. L 336, 27 December 1977)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources⁽¹⁾, and in particular Article 6 (2) thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the Court of Auditors,

Whereas the Decision of 21 April 1970 provides that the Council must adopt provisions relating to the control, the making available to the Commission and the payment of own resources, together with the detailed rules for the application of Article 4 of that Decision;

Whereas Article 4 of the Decision of 21 April 1970 provides that the own resources accruing from value added tax hereinafter called 'VAT own resources' shall be obtained by applying a rate not exceeding 1 % to an assessment basis to be determined in a uniform manner for Member States according to Community rules; whereas these Community rules have been adopted in sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment⁽³⁾; whereas under the terms of the said Directive VAT own resources are to be levied on all the taxable transactions covered by Article 2 of that Directive with the exception of transactions exempted under Articles 13 to 16 of the same Directive;

Whereas the basis for VAT own resources must be determined in the light of these taxable transactions; whereas it is necessary to adopt detailed rules for determining this basis;

Whereas it is necessary to arrive at a uniform system for the levying of VAT own resources; whereas, it is

desirable to prepare the introduction of this system; whereas to this end it is desirable to limit the time during which this Regulation shall have effect to a transitional period of five years; whereas in the course of this transitional period Member States should be allowed to choose between two methods of determining the assessment basis of these resources; whereas it is desirable to lay down the content and rules for the application of the definitive uniform system at the end of this transitional period;

Whereas it is necessary, in specific cases, to authorize the Member States to derogate from the general rules laid down for this purpose;

Whereas there should be a check on the way in which the Member States are applying certain provisions of this Regulation which allow for an appreciable margin of discretion; whereas a Community procedure should be laid down for this purpose;

Whereas in view of complexity of the problems which may arise in the implementation of this Regulation it appears necessary to arrange for close collaboration between the Member States and the Commission and to this end to arrange that such problems are discussed in the Advisory Committee on the Communities' Own Resources referred to in Article 20 of Council Regulation (EEC, Euratom, ECSC) No 2891/77 of 19 December 1977⁽⁴⁾;

Whereas Council Regulation (EEC, Euratom, ECSC) No 2891/77 lays down detailed rules for the accounting, payment, and control of own resources; whereas the present Regulation should lay down specific provisions for VAT own resources,

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

The amount accruing to the Communities' VAT own resources shall be determined by applying the Com-

(1) OJ No L 94, 28. 4. 1970, p. 19.

(2) OJ No C 163, 11. 7. 1977, p. 62 and OJ No C 266, 7. 11. 1977, p. 50.

(3) OJ No L 145, 13. 6. 1977, p. 1.

(4) See page 1 of this Official Journal.

munty rate fixed under the budgetary procedure to the basis determined in accordance with the provisions of this Regulation.

Should this rate be changed in the course of a financial year as a result of a supplementary and/or amending budget, the new rate shall apply to the whole of the VAT resources basis for that financial year.

TITLE II

SCOPE

Article 2

1. The VAT own resources basis shall be determined from the taxable transactions referred to in Article 2 of Directive 77/388/EEC, with the exception of transactions exempted under Articles 13 to 16 of the said Directive.

2. For the purposes of applying paragraph 1 hereof, the following shall be taken into account for determining VAT own resources:

- transactions which, in accordance with Article 28 (2) of Directive 77/388/EEC are subject to exemptions with refund of the tax paid at the preceding stage,
- transactions which Member States continue to subject to tax pursuant to Article 28 (3) (a) of Directive 77/388/EEC,
- transactions which Member States continue to exempt pursuant to Article 28 (3) (b) of Directive 77/388/EEC,
- transactions which are taxed under the right of option granted to taxable persons by Member States pursuant to Article 28 (3) (c) of Directive 77/388/EEC.

3. By way of derogation from paragraph 1, transactions performed by taxable persons whose annual turnover, determined according to the rules laid down in Article 24 (4) of Directive 77/388/EEC does not exceed 10 000 EUA, this amount being determined in accordance with the conversion rates set out in Article 31 (2) of that Directive, shall not be taken into account for determining VAT own resources.

TITLE III

METHODS OF CALCULATION

Article 3

Rules for determining the assessment basis

To determine the assessment basis of VAT own resources with regard to a financial year, Member

States shall apply either the method defined in Section A or that defined in Section B.

Member States shall inform the Commission before 31 December 1977 of the method they propose to apply.

Where a Member State intends changing the method it applies, it shall inform the Commission of its decision and of the underlying reasons before 1 October of the year preceding the financial year in which the other method would be applied.

The Commission shall communicate the information referred to in the second and third paragraphs to the Member States.

Section A

RULES FOR DETERMINING THE BASIS ACCORDING TO THE RETURNS METHOD

Article 4

1. The VAT own resources basis shall be the difference between:

- the total taxable amounts, as defined in Article 11 of Directive 77/388/EEC of the transactions to be taken into account pursuant to Article 2,
- and the total taxable amounts corresponding to the tax which may be deducted in accordance with Article 17 of the said Directive by taxable persons other than those referred to in Article 2 (3).

2. For the purposes of applying the first indent of Article 2 (2) hereof, the VAT own resources basis relating to the transactions referred to in Article 28 (2) of Directive 77/388/EEC shall be determined from the amounts which would have been taxed but for this provision.

3. Without prejudice to Article 9, the data relating to the above taxable amounts shall be established from the returns made by the taxable persons, drawn up in accordance with Article 22 (4) of Directive 77/388/EEC or by the persons liable for payment of the tax on importation, drawn up in accordance with Article 23 of the said Directive, or, in the absence of any such returns, owing to failure of the taxable person to fulfil his obligations, from the estimated assessment made by the competent authority of the Member State.

Article 5

1. The VAT own resources basis for taxable transactions by farmers using the common flat-rate scheme provided for by Article 25 of Directive

77/388/EEC shall be the added value calculated by the Member States in accordance with Annex C to that Directive.

The VAT own resources basis must be reduced by the amount of the transactions carried out by farmers in respect of which:

- (a) they obtain flat-rate compensation in accordance with Article 25 (6) (b) of Directive 77/388/EEC, or
- (b) they obtain no flat-rate compensation by reason of the option granted to the Member States by the first subparagraph of Article 25 (3) of the said Directive to reduce the flat-rate compensation percentages to zero.

Subparagraph 2 shall not apply to transactions which do not give rise to deduction of VAT in the hands of the purchaser or customer.

2. With regard to the transactions referred to in Article 24 (1) of Directive 77/388/EEC, the VAT own resources basis shall be determined from the returns to be furnished by taxable persons in accordance with Article 22 of the said Directive and, when there is no return, or the return does not contain the necessary information, from appropriate data such as: other tax returns, professional accounts, complete statistical series.

3. Without prejudice to the cases referred to in paragraph 2 hereof, where the information contained in the returns of taxable persons does not enable the VAT own resources basis to be determined with precision, Member States may be authorized under the procedure laid down in Article 13 either:

- (a) to accept without amendment the information contained in the returns where the margin of error resulting from their use to determine the VAT own resources basis is negligible; or
- (b) if the margin of error is not negligible, to apply to the information obtained from the returns a correcting factor calculated from appropriate data in order to determine the VAT own resources basis in a way which will only permit a negligible margin of error.

Section B

RULES FOR DETERMINING THE BASIS ACCORDING TO THE REVENUE METHOD

Article 6

For a given year, and without prejudice to Article 9, the VAT own resources basis shall be calculated by

dividing the total net VAT revenue collected by a Member State by the rate, expressed as a fraction, at which VAT is levied during the same year.

If several VAT rates are applied in a Member State, the total net VAT revenue collected shall be divided by the average weighted rate of VAT expressed as a fraction. In this case, the Member State shall determine the weighted average rate, calculated to four decimal places, by applying the common method of calculation defined in Article 7.

Article 7

1. In order to calculate the weighting of the various rates as referred to in Article 6, the Member State shall break down, by rate of VAT applied, all transactions which are taxable under its national legislation and which do not give rise to deduction of VAT in the hands of a purchaser or customer taking into account Article 17 of Directive 77/388/EEC.

When this breakdown by rate is performed, a distinction shall be made between the following categories:

- final consumption of households on the territory referred to in Article 3 of Directive 77/388/EEC for the Member State in question and collective consumption by private non-profit institutions,
- current purchases of general government,
- gross fixed-capital formation of general government,
- gross fixed-capital formation of other sectors (where they are liable to non-deductible VAT),
- intermediate consumption (where liable to non-deductible VAT).

Transactions which are subject, pursuant to Article 28 (2) of Directive 77/388/EEC, to an exemption with reimbursement of the taxes paid at the previous stage shall be regarded as zero-rated transactions.

2. This breakdown by rate applied and by category shall be effected by means of data taken from national accounts, in accordance with 'the European system of integrated economic accounts', and broken down, if necessary, with the aid of appropriate data. In order to calculate the VAT own resources basis for any given financial year reference shall be made to the national accounts relating to the penultimate year preceding that financial year.

3. The weighting of each rate applied is thus equal to the ratio between, on the one hand, the value of the transactions relating to that rate and, on the other, the total value of these transactions as a whole.

4. A Member State which, during a financial year, amends the VAT rate applicable to all or some transactions or the tax treatment for certain transactions shall calculate the new average rate in good time. This new average rate shall be applied to the revenue derived from application of the amended rate or tax treatment.

Article 8

1. For the purposes of applying Article 6 Member States shall, if appropriate, add to the revenues actually collected an amount corresponding to the total revenue which would have been collected but for the application of a scheme of graduated tax relief granted pursuant to Article 24 (2) of Directive 77/388/EEC.

2. The revenue actually collected by a Member State shall be reduced by an amount corresponding to the total input tax, with the exception of that relating to consumption on the farm and direct sales to final consumers, which flat-rate farmers have not recouped by virtue of the application by that Member State of the option to reduce the flat-rate compensation percentages applicable to transactions carried out by flat-rate farmers in accordance with Article 25 (3) of Directive 77/388/EEC.

Section C

COMMON PROVISIONS

Article 9

1. For the purposes of applying Article 2 (1) to the transactions carried out by taxable persons whose annual turnover exceeds 10 000 ECU but who are exempted under Article 24 (2) of Directive 77/388/EEC and to the cases referred to in paragraph 2 hereof, Member States shall determine the VAT own resources basis, from returns to be furnished by taxable persons in accordance with Article 22 of the said Directive and, when there is no return, or the return does not contain the necessary information, from appropriate data such as: other tax returns, professional accounts, complete statistical series.

2. For the purposes of applying the second, third and fourth indents of Article 2 (2):

— with regard to the transactions listed in Annex E to Directive 77/388/EEC which Member States

continue to tax pursuant to Article 28 (3) (a) of the said Directive, Member States shall calculate the VAT own-resources basis as if these transactions were exempted,

— with regard to the transactions listed in Annex F to Directive 77/388/EEC which Member States continue to exempt pursuant to Article 28 (3) (b) of the said Directive, Member States shall calculate the VAT own resources basis as if these transactions were taxed,

— with regard to the transactions referred to in paragraphs (1) (a) and (2) of Annex G to Directive 77/388/EEC, which are taxed under the option granted to taxable persons by Member States, pursuant to Article 28 (3) (c) of the said Directive, Member States shall calculate the VAT own resources basis as if these transactions were exempted.

3. Under the procedure provided for in Article 13, a Member State may be authorized:

— either not to take into account in calculating the VAT resources basis:

(a) one or more of the categories of transactions listed in Annexes E, F and G to Directive 77/388/EEC to which paragraph 2 hereof applies;

(b) the amount corresponding to the tax which would have been collected but for the application of a scheme of graduated tax relief granted pursuant to Article 24 (2) of Directive 77/388/EEC,

— or to calculate the VAT own resources basis in the cases referred to in (a) and (b) by using approximate estimates,

where precise calculation of the VAT own resources basis in these cases would be likely to involve administrative burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT own resources basis of that Member State.

Without prejudice to subparagraph 1 the Council acting by a qualified majority on a proposal from the Commission shall lay down the detailed rules for the implementation of this paragraph.

4. Where a Member State makes use of the second subparagraph of Article 17 (6), and of Article 17 (7) of Directive 77/388/EEC to restrict the exercise of the right to deduct, the VAT own resources basis may be determined as if the exercise of the right to deduct had not been restricted.

5. In the case of tax refunds granted by Member States pursuant to Article 6 of Council Directive 69/169/EEC of 28 May 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel ⁽¹⁾, as amended by Directive 72/230/EEC ⁽²⁾, the taxable amount of the transactions which gave rise to these refunds shall if necessary be subtracted from the VAT own resources basis.

TITLE IV

PROVISIONS RELATING TO THE ACCOUNTING AND MAKING AVAILABLE OF OWN RESOURCES

Article 10

1. The Member States shall, before 1 July, forward to the Commission a summary account indicating the total final amount of the basis relating to transactions for which tax has become chargeable in accordance with Article 10 of Directive 77/388/EEC during the previous calendar year and to which the rate referred to in Article 4 (1) of the Decision of 21 April 1970 shall apply.

This summary account shall indicate separately VAT resources resulting from the transactions referred to in Article 5 (1), (2) and (3), and Articles 8 and 9 (1) to (4) of this Regulation.

The time limit provided for above shall be extended to 1 September 1979 for the financial year 1978.

2. By way of derogation from the first subparagraph of paragraph 1:

— Member States which apply the method laid down in Section A of Title III may calculate the VAT own resources basis relating to transactions for which tax has become chargeable in accordance with Article 10 of Directive 77/388/EEC during a given calendar year from returns made by taxable persons or persons liable for the tax in accordance with Articles 22 (4) and 23 of the said Directive during the calendar year under consideration or any other continuous 12-month period to be determined by the Member States,

— Member States which apply the method laid down in Section B of Title III may calculate the

VAT resources basis relating to transactions for which tax has become chargeable in accordance with Article 10 of Directive 77/388/EEC during a given calendar year from the total net VAT revenue collected during the calendar year under consideration or any other continuous 12-month period to be determined by the Member States.

A Member State which intends to avail itself of the option referred to in the first subparagraph shall notify its decision to the Commission which shall inform the Committee referred to in Article 13.

It is understood that this option may in no way call into question the time limit laid down in paragraph 1.

3. Any corrections to the basis shall be allocated to the financial year during which they are made.

4. Member States shall forward to the Commission by 30 April each year an estimate of the VAT own resources basis for the following financial year.

TITLE V

PROVISIONS CONCERNING MEASURES OF CONTROL

Article 11

1. In the case of the financial year 1978, Member States shall inform the Commission as soon as possible, and not later than 30 April 1978, of the solutions they propose to adopt to determine the VAT own resources basis for each of the categories of transactions referred to in Article 5 (2) and (3), and Articles 8 and 9 (1) to (4), indicating, where applicable, the nature of the data which they consider appropriate, and an estimate of the value of the assessment basis for each of these categories of transactions.

In the case of subsequent financial years, Member States shall, by 30 April, inform the Commission of the modifications they intend to make to the solutions referred to in the preceding subparagraph and shall give it an estimate of the value of the assessment basis for each of the categories of transactions referred to in Article 5 (2) and (3), and Articles 8 and 9 (1) to (4).

The Commission shall forward to the other Member States within a period of 30 days the information referred to above which it has received from each Member State.

2. The Commission shall examine in liaison with the competent national authorities any proposed solutions concerning the implementation of the

⁽¹⁾ OJ No L 133, 4. 6. 1969, p. 6.

⁽²⁾ OJ No L 139, 17. 6. 1972, p. 28.

provisions of Article 5 (2), and Articles 8 and 9 (1), (2) and (4).

Article 12

1. As regards VAT own resources, the Commission's checks shall be carried out with the competent authorities in the Member States. During these checks, the Commission shall ensure, in particular, that the operations to centralize the assessment basis and to determine the weighted average rate referred to in Articles 6 and 7 and also the total net VAT revenue collected have been carried out correctly, and shall ascertain that the data used were appropriate and that the calculations made to determine the amount of VAT resources resulting from the transactions referred to in Article 5 (2) and (3), and Articles 8 and 9 (1) to (4) comply with this Regulation.

2. Council Regulation (EEC, Euratom, ECSC) No 165/74 of 21 January 1974 determining the powers and obligations of officials appointed by the Commission pursuant to Article 14 (5) of Regulation (EEC, Euratom, ECSC) No 2/71 (1) shall apply to checks relating to VAT own resources. For the purposes of applying Article 5 of that Regulation, it shall be understood that the information referred to therein may be communicated only to those persons who, by virtue of their duties in making available and checking VAT resources, must have knowledge of such information.

Article 13

1. The Advisory Committee on the Communities' Own Resources referred to in Article 20 of Regulation (EEC, Euratom, ECSC) No 2891/77, hereinafter called 'the Committee', shall regularly examine, on the initiative of the Commission or at the request of a Member State, problems arising out of application of this Regulation.

2. Member States applying for the authorization provided for in Article 5 (3) or 9 (3), shall refer their application to the Commission as soon as possible and not later than 30 April of the financial year from which the authorization is to apply.

The Commission representative shall submit to the Committee as soon as possible and not later than 60 days after receipt of the application a draft of the decision to be taken. The Committee shall discuss the matter within a period to be fixed by the chairman depending on the urgency of the matter. The opinions of the Committee members shall be recorded in a report which shall be approved by the Committee within a period of 60 days, which period shall start

to run from the notification to the Committee of the draft decision.

No later than 30 days following the approval of this report, the Commission shall adopt a decision which it shall communicate to the Member States and which shall apply after a period of 30 days if during this period no Member State has referred the matter to the Council.

The Council may, at the request of a Member State and acting by a qualified majority revise the Commission's decision.

The Commission's decision shall apply after a period of 60 days if the Council has not given a ruling within this period, calculated from the day on which the matter was referred to the Council.

3. On the initiative of the Commission or at the request of a Member State, the Committee shall examine the solutions referred to in Article 11 (2).

If the Committee has not been convened within 120 days of the communication of the information referred to in the third subparagraph of Article 11 (1), or if the Committee's examination reveals no differences of opinion, the solution proposed by the Member State shall apply.

If the examination provided for in the first subparagraph should reveal differences of opinion as to the solutions selected, the Committee shall discuss these within a period to be fixed by the chairman depending on the urgency of the matter and in any case within 60 days of this examination. The opinions of the Committee members shall be recorded in a report which shall be approved by the Committee within 120 days of this examination.

No later than 30 days following the approval of this report, the Commission shall adopt a decision which it shall communicate to the Member States and which shall apply after a period of 30 days if during this period no Member State has referred the matter to the Council.

The Council may, at the request of a Member State and acting by qualified majority, revise the Commission's decision.

The Commission's decision shall take effect after a period of 60 days if the Council has not given a ruling within this period, calculated from the day on which the matter was referred to the Council.

TITLE VI

FINAL PROVISIONS

Article 14

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

(1) OJ No L 20, 24. 1. 1974, p. 1.

It shall apply from 1 January 1978 for a transitional period expiring on 31 December 1982.

The Council, acting unanimously on a proposal from

the Commission, shall adopt, before 30 June 1982, the provisions relating to the definitive uniform system for levying VAT resources and the detailed rules for implementing this system.

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

Done at Brussels, 19 December 1977.

For the Council

The President

G. GEENS

4. COUNCIL DECISION
of 21 November 1977

adjusting the portion of administrative expenditure of the European Coal and Steel Community to be covered by levies on the production of coal and steel

(77/729/ECSC)

(OJ No. L 306, 30 November 1977)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing a single Council and a single Commission of the European Communities, and in particular Article 20 thereof,

Having regard to the report submitted by the Commission,

Whereas one portion of the administrative expenditure of the European Coal and Steel Community is at present covered by the levies provided for in Article 49 of the Treaty establishing that Community; whereas this portion has been fixed at 18 million units of account by Article 20 of the Treaty establishing a Single Council and a Single Commission of the European Communities;

Whereas under the terms of this Article the Council is obliged to examine, on the basis of a report submitted annually by the Commission, whether the figure in question should be adjusted to the changes in the budget of the Communities;

Whereas, following an assessment of the changes in expenditure arising from the application, in the present economic situation, of the Treaty establishing the European Coal and Steel Community, there is

justification for reducing the portion of the administrative expenditure of that Community which is covered by levies on the production of coal and steel,

HAS DECIDED AS FOLLOWS:

Article 1

The portion of the administrative expenditure of the European Coal and Steel Community to be covered by the levies provided for in Article 49 of the Treaty establishing that Community shall be fixed at five million European units of account.

Article 2

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

Done at Brussels, 21 November 1977.

For the Council

The President

H. SIMONET

5. COUNCIL REGULATION (EEC) No 1172/76

of 17 May 1976

setting up a financial mechanism

(OJ No. L 131, 20 May 1976)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas conditions incompatible with the proper functioning of the Community could arise when a Member State's economy, whilst in a special situation, is forced to bear a disproportionate burden in the financing of the Community budget;

Whereas, in accordance with the guidelines laid down by the Heads of Government at Paris on 10 December 1974 and elaborated by them in Dublin on 10 and 11 March 1975, such conditions should be prevented from arising during the process of convergence of the economies of the Member States by providing that a payment should be made from the budget of the Communities to the Member State in question;

Whereas the Treaty makes no provision for specific powers to create such a financial mechanism; whereas, therefore, Article 235 must be used for this purpose,

HAS ADOPTED THIS REGULATION:

Article 1

A financial mechanism is hereby set up, under the conditions set out in the following Articles, consisting of payments from the budget of the Communities to Member States in a special economic situation whose economies bear a disproportionate burden in the financing of that budget.

Article 2

On a reasoned application from a Member State, submitted not later than 30 June, the Commission shall assess the facts of the situation having established, on the basis of provisional data, that the following conditions are met simultaneously:

- (a) the per capita gross national product (GNP) of the Member State is less than 85 % of the average per capita GNP for the Community;

- (b) the growth rate of the per capita GNP in real terms of the Member State is less than 120 % of the average rate for the Community;

- (c) the payments made by the Member State to the budget of the Communities for the financial year in progress pursuant to Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources ⁽²⁾, exceed by more than 10 % the amount it would have to pay if the part of the budget covered by the aforementioned Decision were financed by the Member States on the basis of the proportion of their GNP to the total GNP of the Member States for the same financial year.

The figures referred to in (a) and (b) shall be calculated, as moving averages, from the results for the previous three years.

The calculations provided for in this Article shall be made using current market exchange rates.

Article 3

On assessing the facts of the situation, the Commission shall if necessary enter in an appropriate subdivision of the preliminary draft budget for the year following the year in which the Member State's application was made an appropriation equal to the provisional amount of the payment, calculated as follows:

- (a) the excess amount determined in accordance with Article 2 (c) shall be divided into tranches equal to 5 % of the amount referred to in Article 2 (c) in fine; for the tranches thus obtained, the payment shall be as follows:

<i>Tranches</i>	<i>Payment</i>
— from 0 to 5 %	nil
— from 5-0001 % to 10 %	50 %
— from 10-0001 % to 15 %	60 %
— from 15-0001 % to 20 %	70 %
— from 20-0001 % to 25 %	80 %
— from 25-0001 % to 30 %	90 %
— above 30 %	100 %

- (b) the payment may in no case exceed the smaller of the following two amounts:

— the net transfers from the Member State during the financial year in progress under Article 38 of

⁽¹⁾ OJ No C 7, 12. 1. 1976, p. 17.

⁽²⁾ OJ No L 94, 28. 4. 1970, p. 19.

Financial Regulation 73/91/ECSC, EEC, Euratom⁽¹⁾, regardless of net payments made to that State under this Regulation; payments received by the Member States during the financial year in progress shall include payments made on its behalf by other Member States as monetary compensatory amounts paid pursuant to Article 2a of Council Regulation (EEC) No 974/71 of 12 May 1971 on certain measures of conjunctural policy to be taken in agriculture following the temporary widening of the margins of fluctuation for the currencies of certain Member States⁽²⁾;

- the payments by the Member State to the budget of the Communities for the financial year in progress in respect of value added tax or pursuant to Article 4 (2) and (3) of Decision 70/243/ECSC, EEC, Euratom.

Article 4

Where the balance of current payments of the Member State, as calculated at current market exchange rates, from a moving average of the three years preceding the financial year in progress, shows a surplus, the amounts to be taken into consideration in respect of the financial year in progress, in the calculation of the excess amount referred to in Article 2 (c) for the purpose of applying Article 3 shall respectively be replaced by:

- the payments by the Member State to the budget of the Communities in respect of value added tax or pursuant to Article 4 (2) and (3) of Decision 70/243/ECSC, EEC, Euratom;
- the amount which that State would have had to pay on the basis of the proportion of its GNP to the total GNP of the Member States to finance the part of the budget not covered by the own resources referred to in Article 2 of Decision 70/243/ECSC, EEC, Euratom.

Article 5

The payments, which shall be calculated at current market exchange rates, shall be converted into the budgetary unit of account in force.

Article 6

The total amount of the payments which may be granted for a given financial year shall not exceed the greater of the following two amounts:

- 250 million units of account;
- 3 % of the total expenditure chargeable to that financial year under Article 17 of Council Regula-

⁽¹⁾ OJ No L 116, 1. 5. 1973, p. 1.

⁽²⁾ OJ No L 106, 12. 5. 1971, p. 1.

tion (EEC, Euratom, ECSC) No 2/71 of 2 January 1971 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources⁽²⁾.

Should the total amount of the payments calculated in accordance with this Regulation exceed the above ceiling, the payments shall be reduced proportionately.

Article 7

At the request of the Member State concerned, an advance equal to 75 % of the provisional amount of the payment shall be paid at the beginning of the year following the year of the application.

After the revenue and expenditure account has been drawn up, and as soon as it has at its disposal the final data referred to in this Regulation, the Commission shall, on the basis of this data, calculate the final amount of the payment and determine such adjustments as may be necessary.

Article 8

Where a Member State has received payments under this Regulation for three consecutive years, the Commission shall undertake a special examination of the situation of that State and take all suitable steps reflecting Community solidarity on the basis of the assessment of the convergence of economic situations and policies.

Article 9

For the purpose of Article 4, the balance of current payments shall cover goods, services and unrequited transfers as defined by the Statistical Office of the European Communities.

Article 10

This Regulation shall enter into force on 1 January 1976.

It shall be applicable for a trial period of seven years. Not later than the end of the sixth year, the Commission shall report to the Council on the application of the financial mechanism and make suitable proposals, if necessary.

⁽²⁾ OJ No L 3, 5. 1. 1971, p. 1.

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

Done at Brussels, 17 May 1976.

For the Council

The President

R. VOUEL

PART III

Financial Regulation of 21 December 1977

FINANCIAL REGULATION

of 21 December 1977

applicable to the general budget of the European Communities

(OJ No L356, 31 December 1977)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas the conciliation provided for in the Joint Declaration of 4 March 1975 of the European Parliament, the Council and the Commission ⁽²⁾ took place in a Conciliation Committee;

Whereas the Court of Auditors delivered an opinion on certain provisions of this Financial Regulation concerning the presenting and auditing of accounts; whereas it also stated that it had no objection to the Financial Regulation being implemented from 1 January 1978, taking into account the formal undertaking by the Council and the Commission to review the whole of this Regulation, if necessary, as soon as the supplementary opinion of the Court of Auditors is available;

Whereas the Treaty of 22 July 1975 amending certain financial provisions of the Treaties establishing the European Communities and of the Treaty establishing a single Council and a single Commission of the European Communities entered into force on 1 June 1977; whereas, as a result of the amendments introduced, new provisions need to be adopted regarding the adoption of the budget, the measures to be taken if, at the beginning of the financial year the budget has not yet been adopted, and the transfer of appropriations; whereas in particular, with regard to the latter, the European

Parliament, the Council and the Commission should be empowered to make certain transfers within their respective budget sections themselves;

Whereas the Treaty of 22 July 1975 established a Court of Auditors which exercises the powers and jurisdiction previously vested in the Audit Board and the ECSC Auditor; whereas the Court of Auditors should have the same status as an Institution as regards the establishment and implementation of its budget; whereas the provisions relating to the presenting and auditing of accounts should be adapted to this new situation; whereas it is essential, however, to stress here and now that these provisions will be re-examined in the light of a supplementary opinion to be delivered by the Court of Auditors;

Whereas a distinction should be made between appropriations for commitment and appropriations for payment in the case of projects lasting several years and that the projects to which such a distinction applies should be determined under the budgetary procedure;

Whereas the definition of the unit of account and the methods applicable for making conversions between the unit of account and the currencies of the Member States, embodied in the text of Article 10 of the Financial Regulation of 25 April 1973 applicable to the general budget of the European Communities, are no longer appropriate to the current international monetary situation; whereas in its report of 4 March 1975 the Monetary Committee took the view that a unit of account based on a basket of Community currencies would be best suited to the requirements of the Community in general;

Whereas, by Decision 75/250/EEC ⁽³⁾, the Council has already adopted such a unit of account to express the amounts of aid mentioned in Article 42 of the ACP-EEC Convention of Lomé; whereas, by Decision No 3289/75/ECSC, the Commission adopted the same unit of account for the implementation of the ECSC Treaty; whereas the same definition should be adopted for the purposes of implementing the EEC and Euratom Treaties;

⁽¹⁾ OJ No C 6, 10. 1. 1977, p. 20.

⁽²⁾ OJ No C 89, 22. 4. 1975, p. 1.

⁽³⁾ OJ No L 104, 24. 4. 1975, p. 35.

Whereas, to take account of developments in Community activities, it is advisable that the budgetary nomenclature be decided under the budgetary procedure;

Whereas the full application of the own resources system from 1 January 1978 necessitates the amendment of certain provisions concerning the payment of the resources in question;

Whereas account should be taken of the trends in prices since the Financial Regulation of 25 April 1973 was drawn up, and certain amounts adjusted accordingly;

Whereas the various budgetary procedures currently used for the Social Fund, the Regional Fund and the European Agricultural Guidance and Guarantee Fund, Guidance Section, should be harmonized; whereas it is essential that these procedures be brought into line with the general system; whereas, nevertheless, transitional provisions must be introduced to enable the arrangements used for these funds to be gradually adapted to the general system;

Whereas, for reasons of budgetary clarity, a breakdown of research and investment appropriations should be given in a special chapter of the section of the budget relating to the Commission; whereas, moreover, the system used for the functional presentation of these appropriations should be simplified in the light of the experience already acquired in this area;

Whereas the Office for Official Publications of the European Communities carries out work for all the Institutions, thus constituting a joint service, and the presentation and conditions of implementation of the budget for this Office should consequently be improved; whereas the appropriations for the Office should consequently be entered in an Annex to the Commission section in which all these appropriations will be entered under a specific budget heading; whereas, in order to avoid unnecessary inflation of the budget, the Institutions should no longer be required to make payments to the Office,

HAS ADOPTED THIS FINANCIAL REGULATION:

TITLE I GENERAL PRINCIPLES

Article 1

1. The budget of the European Communities (hereinafter called 'the budget') is the instrument which sets out forecasts of, and authorizes in advance, the expected revenue and expenditure of the Communities for each year.

For the purposes of this Financial Regulation, the revenue and expenditure of the Communities shall comprise:

- the administrative expenditure of the European Coal and Steel Community and the corresponding revenue,
- the revenue and expenditure of the European Economic Community,
- the revenue and expenditure of the European Atomic Energy Community likely to be charged against the budget pursuant to the Euratom Treaty and to the measures taken in implementation thereof, in particular loans approved and charges relating thereto as well as loan repayments and charges relating thereto.

The abovementioned expenditure shall comprise that arising from the activities of the Institutions.

2. The appropriations entered in the budget shall be authorized for the duration of one financial year.

No expenditure may be entered into or authorized in excess of the authorized appropriations.

3. Appropriations intended for the implementation of multiannual activities may give rise to commitment appropriations and payment appropriations.

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

Payment appropriations shall cover, up to the limit of the amount entered in the budget, expenditure arising from commitments entered into in the current financial year and/or preceding financial years.

The entries intended for multiannual activities and consisting of commitment and payment appropriations shall be shown in the budget as follows:

(a) as regards commitment appropriations, by entry in the remarks column:

- of the commitment appropriation authorized for the financial year concerned,

— of the annual amounts of payment appropriations needed on the basis of estimates of an indicative timetable.

The amounts entered as commitment appropriations in the remarks column for the budget of the current year shall be binding for the year concerned;

(b) as regards payments to be made in the current financial year, by entry of the amount under the appropriate heading in the budget.

Multiannual activities in respect of which a distinction is to be made between commitment appropriations and payment appropriations shall be decided on during the budgetary procedure. This principle shall not apply to research and investment appropriations covered by special provisions.

4. Without prejudice to paragraph 3, expenditure may be authorized for a period going beyond the financial year only in accordance with the detailed rules provided for in the budget.

Operating expenditure arising from contracts which have been concluded in accordance with local usage for periods going beyond the financial year is not subject to the provisions of the preceding subparagraph. Such expenditure shall be charged to the budget for the financial year in which it is effected.

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

Also, particularly to enable policies to be adapted, the Commission may submit preliminary draft amending budgets which do not alter the total amount of the annual budget and to which the corresponding necessary draft Regulations would be attached.

Requests for supplementary or amending budgets from the European Parliament, the Council, the Court of Justice or the Court of Auditors shall be forwarded by the Commission to the budgetary authority. The Commission may attach a dissenting opinion. These budgets shall be submitted, examined, prepared and finally adopted in the same form and according to the same procedure as the budget whose estimates they are amending. They must be substantiated by reference to the latter. The competent authorities shall discuss them in the light of their urgency. All preliminary draft supplementary budgets must, as a general rule, be forwarded to the Council by the date laid down for the submission of the preliminary draft budget for the following financial year.

Article 2

The budget appropriations shall be used in accordance with the principles of economy and sound financial management.

Article 3

1. Subject to Article 22, all estimated revenue and all estimated expenditure shall be entered in full in the budget and in the accounts without any adjustment against each other.

All revenue shall be used to cover all expenditure, without prejudice to the application of Articles 3 (4) and 4 (6) of the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources ⁽¹⁾.

In the case of budget headings under which commitment appropriations and payment appropriations have been entered, the amount entered as payment appropriations shall be used for the purposes of the preceding subparagraph.

2. Notwithstanding paragraph 1, revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests, shall not be used for any other purpose.

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

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

Article 4

No revenue shall be collected and no expenditure effected unless credited to or charged against an article in the budget.

Article 5

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

The revenue of a financial year shall be entered in the accounts for the financial year on the basis of the amounts collected during the financial year, with the exception of the own resources for the month of January of the next financial year, in respect of which advance payment may be made pursuant to Article 10 (2) of Council Regulation (EEC, Euratom, ECSC) No 2891/77 of 19 December 1977 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources ⁽²⁾.

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 19.

⁽²⁾ OJ No L 336, 27. 12. 1977, p. 1.

The allotted appropriations shall be used solely to cover expenditure properly entered into and paid in the financial year for which they were granted, save as otherwise provided in Articles 6, 88 and 100, and to cover the debts relating to preceding financial years for which no appropriation was carried forward.

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

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

Article 6 ^{3E}

The following rules shall govern the utilization of appropriations:

1. In the case of budget headings where there is no distinction between commitment appropriations and payment appropriations:

(a) appropriations relating to remunerations and allowances of members and staff of the Institutions may not be carried over;

(b) appropriations in respect of payments still outstanding as at 31 December by virtue of commitments entered into after 15 December for purchases of stores or equipment, performance of work or provision of supplies, and the portion of the appropriation still uncommitted as at 31 December, may be carried over to the next financial year only;

(c) appropriations in respect of payments still outstanding by virtue of commitments duly entered into between 1 January and 31 December, with the exception of commitments entered into after 15 December for purchases of stores or equipment, performance of work or provision of supplies, shall be carried over automatically to the next financial year only.

2. In the case of budget headings where a distinction is made between commitment appropriations and payment appropriations:

(a) commitment appropriations not committed at the end of the financial year for which they

were entered in the budget shall remain available for the following financial year,

(b) payment appropriations which have not been used at the end of the financial year for which they were entered shall be carried over automatically to the next financial year only.

3. In the case of the appropriations referred to in paragraph 1 (b), the Commission shall submit to the Council and shall forward to the European Parliament, before 1 May, the requests to carry over appropriations, duly substantiated, made by the European Parliament, the Council, the Court of Justice, the Court of Auditors and the Commission itself.

Unless the Council, acting by a qualified majority after consulting the European Parliament, decides otherwise within one month, the carry-over of these appropriations shall be deemed to have been approved.

4. Unused revenue and appropriations available as at 31 December arising out of the donations referred to in Article 3 (2) shall be carried over automatically.

5. The appropriations referred to in paragraph 1 (b) which have not been committed by 31 December and in respect of which authorization has been given to carry them over to the next financial year shall lapse if they are not committed and paid by the end of the said financial year.

6. The appropriations for the Guidance Section of the European Agricultural Guidance and Guarantee Fund may be used by way of exception to finance projects for which they were not initially committed, under the conditions laid down in Regulation (EEC) No 3171/75 (1).

7. The European Parliament and the Council shall be provided, for their information, before 1 April, with a list of the automatic carry-overs.

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

Article 7

The appropriations entered in the budget may be committed with effect from 1 January, once the budget has been finally adopted.

(1) OJ No L 315, 5. 12. 1975, p. 1.

This provision shall not apply to current administrative expenditure which, as from 15 November of each year, may be charged as an expected commitment against the appropriations provided for in respect of the next financial year. Such commitments shall not, however, exceed one quarter of the total corresponding appropriations for the current financial year. Such commitments shall not apply to new expenditure of a kind not yet approved in principle in the last budget duly adopted.

The advances intended, within the meaning of Articles 96 and 102, to finance the expenditure of the Guarantee Section of the European Agricultural Guidance and Guarantee Fund, and expenditure on food aid, may be paid from 10 December onwards.

Article 8

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

Commitments may be entered into up to one quarter of the total appropriations in respect of the relevant chapter for the preceding financial year increased by one-twelfth for each completed month; these commitments may not, however, exceed the limit of the appropriations provided for in the draft budget or, in the absence thereof, in the preliminary draft budget.

Payments may be made monthly in respect of any chapter up to one-twelfth of the appropriations in respect of the relevant chapter for the preceding financial year; this may not, however, have the effect of placing at the disposal of the Commission monthly appropriations in excess of one-twelfth of the sum provided for in the draft budget or, in the absence thereof, in the preliminary draft budget.

At the request of the Commission, and without prejudice to the preceding paragraph, the Council, acting by a qualified majority, may, as dictated by administrative requirements and after consulting the European Parliament, authorize the simultaneous expenditure of two or more provisional twelfths.

Decisions concerning several provisional twelfths and relating to expenditure other than that necessarily

resulting from the Treaties or from acts adopted in accordance therewith, shall be taken in accordance with the procedure laid down in Article 78b (2) of the ECSC Treaty, Article 204 of the EEC Treaty and the third paragraph of Article 178 of the Euratom Treaty.

The decisions referred to in the preceding paragraphs shall include the requisite measures in respect of resources for the purposes of this Article.

Article 92 shall apply in respect of research and investment appropriations.

Article 9

The budget and the supplementary or amending budgets, as finally adopted, shall be published in the *Official Journal of the European Communities*, at the instance of the President of the European Parliament.

Article 10

1. The budget shall be drawn up in European units of account (EUA).

The European unit of account shall be expressed as the sum of the following amounts of the currencies of the Member States of the European Communities:

DM	0.828
£ stg	0.0885
FF	1.15
Lit	109
Fl	0.286
Bfrs	3.66
Lfrs	0.14
Dkr	0.217
£ Irl	0.00759

2. The value of the European unit of account in a national currency shall be equal to the sum of the equivalents in that currency of the amounts of the currencies set out in paragraph 1. It shall be determined by the Commission on the basis of the exchange rates recorded each day on the exchange markets ⁽¹⁾.

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

3. Any operations involving conversion of the European unit of account into a national currency shall, where appropriate, be effected on the basis of the exchange rate applicable on that day, without prejudice to the special provisions of Article 108 (7).

⁽¹⁾ OJ No C 21, 30. 1. 1976, p. 4.

TITLE II

PRESENTATION AND STRUCTURE OF THE BUDGET

SECTION I

PRESENTATION OF THE BUDGET

Article 11

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

The Economic and Social Committee shall, before 15 June, forward to the Council an estimate of its revenue and expenditure for the following year.

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

Article 12

1. The Commission shall, in the preliminary draft budget which it shall place before the Council not later than 1 September of each year:

- draw up a general statement of revenue of the Communities, and
- consolidate the estimates referred to in Article 11.

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

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

- (a) financial tables covering the entire budget; and
- (b) as regards the Commission section:
 - a definition of the policies justifying the requests for appropriations,
 - an explanation of the changes in appropriations from one financial year to the next,
 - a detailed statement on borrowing and lending policy.

3. Each of the sections of the preliminary draft budget shall be preceded by an introduction prepared by the Institution concerned.

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

- (a) in respect of staff:
 - for each category of staff, a detailed list of budgetary posts and numbers of persons in

post on the date of the submission of the preliminary draft budget, indicating their distribution by grade and administrative unit (or principal operational unit for the establishments of the Joint Research Centre),

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

(b) in respect of expenditure including commitment appropriations and payment appropriations:

- a table showing all the commitment appropriations and the corresponding payment appropriations for the financial year under consideration, and for subsequent financial years;

(c) in respect of subsidies to the bodies set up pursuant to the Treaties or acts adopted in accordance therewith, to the Supply Agency and to the European Schools:

- an estimate of revenue and expenditure prefaced by an explanatory statement drawn up by the bodies concerned.

5. Furthermore, the Commission shall attach to the preliminary draft budget:

- an analysis of the financial management for the preceding financial year, as provided for in Article 75, and a balance sheet of assets and liabilities of the Communities as at 31 December of the preceding financial year, as provided for in Article 76, and
- an opinion on the estimates of the other Institutions; this opinion may contain different estimates, accompanied by the reasons therefor.

6. The Commission may, on its own initiative and, if appropriate, at the request of the European Parliament, the Council, the Court of Justice or the Court of Auditors, present -- by means of a letter of amendment -- proposals for changes to the preliminary draft budget necessitated by the receipt of new information which was not available at the time the budget was drawn up.

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

Article 13

1. The Council shall establish the draft budget in accordance with the procedure laid down in Article 78 of the ECSC Treaty, Article 203 of the EEC Treaty and Article 177 of the Euratom Treaty.

The draft budget shall be forwarded by the Council to the European Parliament and placed before it not later than 5 October. The Council shall attach to that draft budget an explanatory memorandum defining in particular its reasons for departing from the preliminary draft budget, if it has done so.

2. Paragraph 1 shall apply *mutatis mutandis* to draft supplementary or amending budgets.

Article 14

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

Once the budget has been finally adopted, each Member State shall be bound to place at the Commission's disposal the payments due under the conditions laid down by this Financial Regulation.

SECTION II

STRUCTURE OF THE BUDGET

Article 15

1. The budget shall consist of:

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

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

3. The budgetary nomenclature shall be decided, in respect of the apportionment of the revenue and expenditure under separate titles, chapters and articles, during the budgetary procedure.

4. Each section of the budget may include a chapter in respect of provisional appropriations and a 'contingency reserve' chapter. The appropriations entered in these chapters may be used only by means of transfer in accordance with the procedure laid down in Article 21.

5. The statement of revenue and expenditure in respect of the Office for Official Publications of the European Communities, drawn up in accordance with Article 103 (2), shall be attached to the Commission section.

In addition, the document showing all the borrowing and lending operations referred to in point 3 of Article 16 shall be annexed to the budget.

Article 16

The budget shall show:

1. in the general statement of revenue:

- the estimated revenue of the Communities for the financial year in question, divided into titles, chapters, articles and items,
- the revenue for the preceding financial year, divided into titles, chapters, articles and items,
- appropriate remarks on each subdivision;

2. in the section for each Institution:

(a) as regards the statement of revenue:

- the estimated revenue for each Institution for the financial year in question, divided into titles, chapters, articles and items, following a decimal classification system,
- the revenue entered in the budget for the preceding financial year and the revenue established for the last financial year for which accounts have been closed, using the same decimal classification,
- appropriate remarks on each revenue heading;

(b) as regards the statement of expenditure:

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

- the appropriations made available for the financial year in question, these appropriations being the payment appropriations for the budget headings for which the distinction between commitment appropriations and payment appropriations has been agreed,
- the appropriations made available for the preceding financial year,
- the actual expenditure in the last financial year for which the accounts have been closed;

(bb) in the case of the appropriations intended for the implementation of multiannual activities and consisting of commitment appropriations and payment appropriations; in the remarks column, an indicative

schedule of the payments relating to the financial year concerned and subsequent financial years;

(bc) appropriate remarks on each subdivision;

(c) as regards total staff:

- in an annex to the budget, a list of posts fixing the number of posts for each grade in each category and in each service,
- annexed to the Commission section, a list of posts in respect of officials, establishment staff of the Joint Research Centre and temporary staff occupying permanent posts, classified by categories and grades, whose employment is authorized within the limits of the budget appropriations.

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

The list of posts shall constitute an absolute limit for each Institution; no appointment may be made in excess of the limit set;

3. as regards borrowing and lending operations:

(a) in the Commission section:

- the budget headings relating to the categories of operation accorded a token entry, so long as no effective charge which has to be covered by specific resources has appeared thereunder,
- remarks giving a reference to the legal basis, where appropriate the volume of the operations envisaged, and the financial guarantee given by the Communities in respect of these operations;

(b) in a document annexed to the Commission section, as an indication:

- current capital operations and current debt management,
- the capital operations and debt management for the financial year in question.

TITLE III

IMPLEMENTATION OF THE BUDGET

SECTION I

GENERAL PROVISIONS

Article 17

The budget shall be implemented in accordance with the principle that the authorizing officers and accounting officers are different individuals.

The appropriations shall be administered by the authorizing officer who alone is empowered to enter into commitments regarding expenditure, establish entitlements to be collected and issue recovery orders and payment orders.

The operations of collection or payment shall be carried out by the accounting officer.

The duties of authorizing officer, financial controller and accounting officer shall be mutually incompatible.

Article 18

1. The Commission shall implement the budget on its own responsibility in accordance with this

Financial Regulation and within the limits of the appropriations allotted.

2. The requisite powers for the implementation of the sections of the budget relating to the European Parliament, the Council, the Court of Justice and the Court of Auditors shall be conferred upon these Institutions by the Commission.

3. With the exception of the cases provided for in Articles 35, 44 and 47, the Commission and each of the other Institutions may delegate their powers in accordance with the conditions laid down by their internal rules of procedure and within the limits which they themselves lay down in the act of delegation.

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

The acts of delegation shall be communicated to all the parties concerned in accordance with the measures of implementation provided for in Article 106.

4. Save as otherwise provided, the Court of Auditors and the Economic and Social Committee

shall, for the purposes of this Financial Regulation, be treated as Institutions of the Communities.

Article 19

Each Institution shall appoint a financial controller who shall be responsible for monitoring the commitment and authorization of all expenditure, and also for monitoring all revenue.

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

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

The special rules applicable to such officials, which shall be laid down within the framework of the implementing measures provided for in Article 106, shall be determined in such a way as to guarantee the independence of their duties. The measures taken in respect of their appointment and promotion, disciplinary action or transfers, and various procedures of interruption or termination of appointment, shall be subject to reasoned decisions to be forwarded, for information, to the European Parliament, the Council and the Commission.

The persons concerned, and the Institutions employing them, may institute proceedings before the Court of Justice.

Article 20

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

This accounting officer shall be appointed by the Institution.

Without prejudice to the system provided for in Articles 4 and 5 of Regulation (EEC) No 729/70 and subject to the second paragraph of Article 48 and to Article 49 of this Financial Regulation, the accounting officer alone is empowered to manage funds and assets. He shall be responsible for their care.

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

Article 21

1. Appropriations shall be classified by chapter and by article.
2. The Commission may make proposals to the budgetary authority for transfers from one chapter to another within each budget section. Proposals

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

In the case of proposals for transfers relating to expenditure which is compulsory under the terms of the Treaties or of acts adopted pursuant thereto, the Council shall, after consulting the European Parliament, act by a qualified majority within six weeks, except in urgent cases. The European Parliament shall deliver its opinion within such time as will permit the Council to be apprised of it and to act within the time limit indicated. Where the Council does not act within this time limit, the proposals for transfers shall be deemed to be approved.

In the case of proposals for transfers relating to expenditure other than that which is compulsory under the terms of the Treaties or of acts adopted pursuant thereto, the European Parliament shall, after consulting the Council, act within six weeks, except in urgent cases. The Council shall deliver its opinion within such a time as will permit the European Parliament to be apprised of it and to act within the time limit indicated. Where the European Parliament does not act within this time limit, the proposals for transfers shall be deemed to be approved.

Proposals for transfers relating to expenditure which is compulsory under the terms of the Treaties or of acts adopted pursuant thereto, and other expenditure, shall be deemed to be approved if neither the Council nor the European Parliament has taken a decision to the contrary within six weeks of the date on which the two Institutions received the proposals.

If, in the case of the proposals for transfers referred to in the preceding subparagraph, the European Parliament and the Council reduce the proposal for a transfer by different amounts, whichever is the lower of the amounts accepted by one of the two Institutions shall be deemed to be approved. Where one of the Institutions rejects the principle of the transfer, such transfer shall not be made.

3. In each section, transfers from one article to another within each chapter shall be made by the Commission, deciding according to the urgency of the matter. As regards sections which do not relate to the Commission, such transfers shall be deemed effective if, except in urgent cases, the Commission does not take a decision within six weeks from the date when the proposal was lodged.

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

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

6. This Article shall apply to the appropriations corresponding to revenue allotted to a purpose under Article 3 (2) only as long as the allotment of such revenue to that specific purpose is maintained.

7. The European Parliament and the Council may transfer appropriations from one chapter to another and from one article to another within their own sections of the budget. The Commission shall be informed of such transfers.

8. The Commission may transfer appropriations from one chapter to another within the titles relating to staff expenditure and administrative expenditure in its own section. It shall inform the budgetary authority two weeks before making such transfers.

Article 22

1. By way of derogation from Article 3, the following deductions may be made from all bills, invoices or statements, which shall then be passed for payment of the net amount:

- (a) fines imposed on a party to a contract;
- (b) adjustments of amounts paid in error, which may be achieved by means of deduction beforehand when another validation of the same type is being effected under the chapter, article and financial year in respect of which the excess payment was made;
- (c) the value of apparatus and equipment for scientific and technical purposes, and the value of vehicles, equipment and installations taken in part exchange in accordance with commercial usage upon purchase of new apparatus, vehicles, equipment and installations of the same kind.

Discounts, refunds and rebates on invoices and bills shall not be recorded as separate revenue.

2. By way of derogation from Article 3, the following sums may be re-used:

- (a) revenue arising from the refund of amounts paid in error against budget appropriations;
- (b) proceeds from the supply of goods and services to other Institutions or bodies, including refunds by such Institutions or bodies of mission allowances paid on their behalf;

(c) insurance payments received;

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

(e) refunds of taxes — incorporated in the price of the products or services provided to the Communities — effected by Member States pursuant to the provisions of the Protocol on the privileges and immunities of the European Communities;

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

(g) proceeds from the sale of vehicles, equipment and installations and also apparatus and equipment for technical and scientific purposes, disposed of when replaced.

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

The accounting plan shall include suspense accounts in order to record the re-use of sums in respect of revenue and of expenditure.

3. Notwithstanding Article 3, repayments made by third parties may be deducted from expenditure in cases where the Institution has effected a payment for which it is legally liable to its creditors but where all or part thereof has been paid on behalf of those third parties.

4. Notwithstanding Article 3, adjustments may be made in respect of losses and gains made on exchange rates when transferring funds and also on debtor and creditor interest rates relating to cash operations, only the balance being shown as revenue or expenditure.

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

SECTION II

BUDGETARY REVENUE, MANAGEMENT OF AVAILABLE FUNDS

Article 23

1. All measures which may give rise to or modify a debt due to the Communities must be preceded by a proposal from the competent authorizing officer. Such proposals shall be forwarded to the financial controller of the Institution for his approval. They shall mention, in particular, the type of

revenue, the estimated amount thereof and the budget item to which it is to be booked and also the name and description of the debtor. The purpose of the approval of the financial controller shall be to establish that:

- (a) the revenue is booked to the correct budget item;
- (b) the proposal is in order and conforms to the relevant provisions, in particular of the budget and of the regulations and also of all acts made in implementation of the Treaties and of the Regulations, and to the principles of sound financial management.

Forward proposals may be made in respect of certain items of current revenue in accordance with the implementing measures provided for in Article 106.

The financial controller may withhold his approval if he considers that the conditions laid down in paragraph 1 (a) and (b) above are not met.

The superior authority of the Institution may, by a decision stating the full reasons therefor, and on its sole responsibility, overrule this refusal. This decision shall be final and binding; it shall be communicated for information to the financial controller. The superior authority of each Institution shall inform the Court of Auditors of all such decisions every three months.

2. The competent authorizing officer shall draw up, in respect of every debt established, a recovery order which shall be sent with supporting documents to the financial controller for his prior approval. Such recovery orders shall, after they have received the approval of the financial controller, be registered by the accounting officer in accordance with the measures of implementation provided for in Article 106.

The purpose of the approval shall be to establish that:

- (a) the revenue is booked to the correct budget item;
- (b) the order is in order and conforms to the relevant provisions;
- (c) the supporting documents are in order;
- (d) the debtor is correctly described;
- (e) the due date is indicated;
- (f) the order conforms to sound financial management;
- (g) the amount and currency of the sum to be recovered are correct.

If approval is withheld, the fourth subparagraph of paragraph 1 shall apply.

Article 24

1. The accounting officer shall assume responsibility for the recovery orders duly drawn up.

He shall exercise all due diligence to ensure that the resources due to the Communities are recovered at the due dates indicated in the recovery orders, and shall ensure that the rights of the Communities are safeguarded.

The accounting officer shall inform the authorizing officer and the financial controller of any revenue not recovered within the time limits laid down.

2. If the authorizing officer waives the right to recover an established debt, he shall send beforehand a proposal for cancellation to the financial controller for his approval and to the accounting officer for information.

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

If approval is withheld, the superior authority of the Institution may, by a decision stating the full reasons therefor, and on its sole responsibility, overrule this refusal. This decision shall be final and binding; it shall be communicated for information to the financial controller. The superior authority of each Institution shall inform the Court of Auditors of all such decisions every three months.

3. When the financial controller finds that a document establishing a debt has not been drawn up, or that a sum due has not been recovered, he shall inform the Institution thereof.

4. The implementing conditions in respect of this Article shall be determined by the implementing measures provided for in Article 106.

Article 25

A receipt shall be issued in respect of all cash payments made to the accounting officer.

Article 26

Estimates of the own resources and, if appropriate, of the contributions referred to in Article 4 (2) and (3) of the Decision of 21 April 1970 to be paid by the Member States shall be entered in the budget, expressed in European units of account. They shall be made available in accordance with Council Regulation (EEC, Euratom, ECSC) No 2891/77.

Article 27

The balance from each financial year, calculated in accordance with Council Regulation (EEC, Euratom, ECSC) No 2891/77, shall be entered as revenue in the case of a surplus or expenditure in the case of a deficit in the budget of the subsequent financial year upon adoption of the amending budget referred to in Article 16 (2) of the abovementioned Regulation.

Article 28

1. The contributions provided for in Article 4 (6) of the Decision of 21 April 1970 shall be paid over as follows:

- seven-twelfths of the amount shown in the budget not later than 31 January,
- the remaining five-twelfths not later than 15 July.

2. Any contribution or any additional payment due to the budget from the Member States must be entered in the account(s) of the Commission within 30 days from the date on which funds are called for.

3. The payments made shall be entered in the account provided for in Article 9 (1) of Regulation (EEC, Euratom, ECSC) No 2891/77, and shall be subject to the conditions set out in Article 11 of that Regulation.

Article 29

The Commission shall, four times a year, present the European Parliament and the Council with a report on the Communities' financial situation, including both revenue and expenditure. There shall be attached to these reports a comprehensive statement on the sums maintained from previous financial years, as well as on any changes brought about as a result of the adoption of supplementary or amending budgets.

Article 30

The contributions provided for in Article 4 (2), (3) and (6) of the Decision of 21 April 1970 shall be expressed in European units of account. They shall be converted into the respective national currencies on the basis of the rate for the European unit of account applying on the first working day following the 15th day of the month preceding the payment.

Article 31

The Commission shall, every three months, send each Member State a statement indicating the transfers effected in that Member State's national currency into another currency and vice versa.

SECTION III

COMMITMENT, VALIDATION, AUTHORIZATION AND PAYMENT OF EXPENDITURE

1. Commitment of expenditure

Article 32

1. All measures which may give rise to expenditure chargeable to the budget must be preceded by a

proposal for commitment of expenditure from the relevant authorizing officer. A provisional commitment may be entered into in respect of current expenditure.

2. Without prejudice to Article 96, the decisions taken by the Commission in accordance with the provisions authorizing it to grant financial aid from the various funds or similar operations shall constitute commitments of expenditure.

3. The procedure for implementing paragraphs 1 and 2 above shall be determined by the implementing measures provided for in Article 106. This procedure shall ensure that an exact account is kept of commitments and authorizations in terms of actual needs.

Article 33

In each Institution, proposals for commitments, accompanied by the supporting documents, shall be transmitted to the financial controller and to the accounting officer: they shall show, in particular, the purpose of the expenditure, the estimated amount involved, indicating the currency where possible, the budget item to which it is to be charged and also the name and description of the creditor; they shall be registered, after approval by the financial controller, in accordance with the implementing measures provided for in Article 106.

Article 34

The purpose of the approval of proposals for commitments of expenditure given by the financial controller shall be to establish that:

- (a) the expenditure has been charged to the correct item in the budget;
- (b) the appropriations are available;
- (c) the expenditure is in order and conforms to the relevant provisions, in particular of the budget and the Regulations, and of all Acts made in implementation of the Treaties and of the Regulations;
- (d) the principles of sound financial management have been applied.

The procedures for implementing this Article shall be determined by the implementing measures provided for in Article 106.

Article 35

The financial controller may withhold his approval if he considers that the conditions laid down in Article 34 are not met. If he withholds his approval he shall make a written statement, stating the full reasons therefor. The authorizing officer shall be notified accordingly.

If approval is withheld and the authorizing officer maintains his proposal, this refusal shall be referred for a decision to the superior authority of the competent Institution among those listed in the first two paragraphs of Article 18.

Except where the availability of the appropriations is in doubt, the said superior authority may, by a decision stating the full reasons therefor, taken on its sole responsibility, overrule such a refusal. This decision shall be final and binding; it shall be communicated for information to the financial controller. The superior authority of each Institution shall inform the Court of Auditors of all such decisions every three months.

2. Validation of expenditure

Article 36

Validation of expenditure is the act whereby the authorizing officer shall:

- verify the existence of the creditor's claim,
- determine or verify the existence and the amount of the sum due,
- verify the conditions under which payment falls due.

Article 37

1. Validation of any expenditure shall be subject to the submission of supporting documents showing the creditor's claim and the service rendered or the existence of a document justifying payment. The implementing measures provided for in Article 106 shall lay down the nature and the contents of the supporting documents to be enclosed with the payment order.

2. Supporting documents pertaining to the accounts and the drawing up of the revenue and expenditure account and the balance sheet shall be kept for a period of five years following the date of the decision giving discharge in respect of the implementation of the budget, referred to in Article 85.

However, the documents relating to transactions not finally closed shall be kept for longer than the said period.

3. The authorizing officer empowered to validate expenditure shall personally check the supporting documents or shall, on his own responsibility, ascertain that this has been done.

Article 38

Remuneration and allowances shall be validated in accordance with collective statements drawn up by the department in charge of personnel, except where individual validation is necessary.

3. Authorization of expenditure

Article 39

Authorization is the act whereby the authorizing officer, by the issue of a payment order, instructs the accounting officer to pay an item of expenditure which he has validated.

Article 40

The payment order shall state:

- the financial year against which the payment shall be charged,
- the budget article and any other subdivision that may apply,
- the amount to be paid (in figures and words), showing the currency,
- the name and address of the payee,
- the purpose of the expenditure,
- the method of payment, wherever possible.

The payment order shall be dated and signed by the authorizing officer.

Article 41

The payment order shall be accompanied by the original supporting documents, as determined by the implementing measures provided for in Article 106. Those documents shall be certified in respect of — or accompanied by a certificate confirming — the correctness of the amounts to be paid, the receipt of the supplies and the performance of the service together with, if appropriate, the entry of the goods in the inventories referred to in Article 59.

The payment order shall show the numbers of the relevant approvals of commitment. Copies of supporting documents, certified as true copies by the authorizing officer, may, in some cases, be accepted in place of the originals.

Article 42

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

The authorizing officer may grant advances to personnel if the Staff Regulations or a provision laid down by Regulation specifically provide therefor.

The authorizing officer may grant advances to cover disbursements to be effected by an official or other member of staff on behalf of his Institution. The implementing conditions for this subparagraph shall be determined by the implementing measures provided for in Article 106.

Apart from the imprest accounts referred to in Article 49, no advance may be paid unless it has been approved beforehand by the financial controller.

Article 43

Payment orders shall be sent for prior approval to the financial controller.

The purpose of this prior approval shall be to establish that:

- (a) the payment order was properly issued;
- (b) the payment order agrees with the commitment of expenditure and that the amount thereof is correct;
- (c) the expenditure is charged to the correct item in the budget;
- (d) the appropriations are available;
- (e) the supporting documents are in order;
- (f) the payee is correctly named and described.

Article 44

Should approval be refused, Article 35 shall apply.

Article 45

After approval, the original of the payment order, together with all supporting documents, shall be forwarded to the accounting officer.

4. Payment of expenditure

Article 46

Payment is the final action whereby the Institution concerned is discharged of its obligations towards its creditors.

Payments shall be made by the accounting officer within the limits of the funds available.

In the event of a substantive error or of the validity of the discharge being contested or of failure to

observe the formalities prescribed by this Financial Regulation, the accounting officer shall suspend payment.

Article 47

If payment is suspended, the accounting officer shall give the reasons for his decision in a written statement which he shall send forthwith to the authorizing officer and, for information, to the financial controller.

Except where the validity of the discharge is contested, the authorizing officer may place the matter before the authority appointed by the Institution in the manner laid down in the rules of procedure of that Institution. The said authority may require, in writing, and on its own responsibility, that payment be effected.

Article 48

Payments shall be effected as a general rule through a bank or post office giro account.

The procedure for opening, administering and using such accounts shall be determined by the implementing measures provided for in Article 106. These measures shall, in particular, indicate expenditure the payment of which must necessarily be effected either by cheque or by post office or bank transfer order, and shall require the joint signature on cheques and on post office or bank transfer orders of two duly authorized officials, one signature necessarily being that of the accounting officer, an assistant accounting officer, or an administrator of an imprest account.

5. Imprests

Article 49

For the payment of certain categories of expenditure, imprest accounts may be set up in accordance with the implementing measures provided for in Article 106.

These measures shall contain specific provisions concerning in particular:

- the appointment of administrators of imprest accounts,
- the nature and maximum amount of each item of expenditure to be incurred,
- the maximum amount of the imprest which may be advanced,
- the time within which supporting documents must be produced,
- the responsibility of the administrators of imprest accounts.

TITLE IV

CONCLUSION OF CONTRACTS, INVENTORIES, ACCOUNTANCY

SECTION I

CONTRACTS FOR THE SUPPLY OF GOODS AND SERVICES, AND HIRE CONTRACTS

Article 50

1. Contracts for the purchase or hiring of goods, for the provision of services or for construction works shall be in writing. They shall be concluded following adjudication or request for tenders.

However, contracts may be entered into by direct agreement in the circumstances referred to in Article 52.

Purchases may be made by way of a simple memorandum or invoice in the case provided for in Article 57.

2. Invitations to tender shall, as a general rule, be published throughout all the Member States, and, where appropriate, in third countries, to the extent to which this is compatible with development of industries in the Communities. However, their publication may be restricted where the goods or services, because of their size or nature, are not fit subjects for a general invitation to tender.

Article 51

1. Adjudication is an administrative procedure to be performed before the conclusion of a contract and after an invitation to tender. Its effect shall be to confer publicly, on the holder of that proposal which, among the offers which are regular, complying with the conditions laid down and comparable, is the lowest, the right to the final award of the contract, after the approval of the competent authorizing officer. Adjudication is said to be public or open, where tendering is open to all; it is said to be restricted where only those whom it has been decided to consult because of their special qualifications may put in tenders.

2. A contract following a request for tenders is a contract entered into by the contracting parties following an invitation to tender. In this case, the offer thought to be most attractive may be freely chosen, taking into account the cost of performance, running costs involved, technical merit, the time for performance, together with the financial guarantees and the guarantees of professional competence put forward by each of the tenderers.

A request for tenders is said to be public or open where a general invitation to tender is involved; it is said to be restricted where it is addressed only to

those whom it has been decided to consult because of their special qualifications.

3. The invitation to tender procedure, both as regards adjudication and request for tenders, shall be specified in the implementing measures provided for in Article 106.

Article 52

Contracts may be made by private treaty:

- (a) where the contract for the purchase or hiring of goods, for the provision of services or for building works involves an amount not exceeding 6 500 European units of account, the Institution concerned being bound, however, as far as possible and by all appropriate means, to enable suppliers who are likely to be able to supply the goods and services in question to compete;
- (b) where the purchase or hiring of goods, the provision of services or the construction works are so urgently needed that it is not possible to wait for one of the tendering procedures specified in Article 51 to be carried out;
- (c) where the automatic public tendering or discretionary tendering procedures do not give any result or where the prices quoted are not acceptable;
- (d) where for technical, practical or legal reasons the supply of goods or services can only be carried out by a particular contractor or supplier;
- (e) for contracts for the supply of goods and services or for ancillary works which, technically, cannot be separated from the main contract.

Article 53

In respect of contracts entered into by the Communities, there shall be no discrimination between nationals of Member States on grounds of nationality.

Article 54

In each Institution, before the authorizing officer takes a decision, contracts involving amounts exceeding 18 000 European units of account shall be submitted for the opinion of an Advisory Committee

on procurements and contracts whose rules of procedure shall be determined by the implementing measures provided for in Article 106.

Article 55

The Advisory Committee referred to in Article 54 shall include at least one representative of the department responsible for overall administration, one representative of the department responsible for finance and one representative of the department responsible for legal matters; a representative of the financial controller shall be present as observer.

The Committee shall deliver an opinion as to whether the procedure followed is in order, on the choice of supplier and, in general, on the proposed terms of the contract.

Any other problem concerning the matter forming the subject of this Title may be referred to the said Committee for an opinion.

Article 56

By way of guarantee of the performance of the contracts, suppliers or contractors may be required by a warranty clause to make a preliminary deposit in accordance with the implementing measures provided for in Article 106.

The amount of the deposit shall be fixed:

- according to the usual trade terms of contracts for supplies,
- according to the special conditions governing building contracts.

For building works involving an amount exceeding 200 000 European units of account, a deposit shall be obligatory. A security may be retained until final acceptance.

Where a contract has not been carried out or completion has been late, the Institution shall ensure that it is adequately compensated in respect of all damages, interest and costs by the deduction of the amount from the deposit, whether this has been lodged directly by the supplier or contractor, or by a third party.

Article 57

Contracts may be made against invoice or bill of costs only where the expected value of the goods and services supplied does not exceed 300 European units of account. This limit shall be increased to 750 European units of account for expenditure to be entered into outside the provisional places of work of the Institution.

Article 58

When concluding contracts referred to in this Financial Regulation, each Institution shall comply with the measures taken in respect of public works

by the Council in implementation of the Treaty establishing the European Economic Community.

SECTION II

INVENTORIES OF MOVABLE AND IMMOVABLE PROPERTY

Article 59

Permanent quantitative inventories of all movable and immovable property belonging to the Communities shall be kept in accordance with a model drawn up by the Commission. Only movable property exceeding a specific value laid down in the implementing measures provided for in Article 106 shall be entered in those inventories.

Each Institution shall carry out its own inspection to ascertain that entries in the inventory correspond to the facts.

Article 60

The sale of movable property shall be suitably advertised in accordance with the implementing measures provided for in Article 106.

Apart from sales by public auction, officials and other servants of the Institutions may not acquire any movable property resold by the said Institutions.

Article 61

A statement or record shall be drawn up by the authorizing officer and authenticated by the financial controller whenever any property in the inventory is disposed of, scrapped, hired out, or missing on account of loss, theft or any other reason.

The statement or record shall refer in particular to any obligation that may devolve on an official or other servant of the Communities or any other person to replace the item in question.

Immovable property or large installations, which are made available without charge, shall give rise to the conclusion of contracts submitted to the financial controller for approval and shall be the subject of an annual communication to the European Parliament and the Council when the preliminary draft budget is submitted.

Article 62

All acquisitions of movable or immovable property as defined in Article 59 shall, before payment, be entered in the permanent inventories.

That entry shall be recorded in the corresponding invoice or annexed document drawn up with a view to payment of the expenditure.

SECTION III

ACCOUNTS

Article 63

The accounts shall be kept in European units of account by the double entry method, on the basis of the calendar year. They shall show all revenue and expenditure for the financial year. They shall be authenticated by supporting documents. The revenue and expenditure account and the balance sheet shall be drawn up in European units of account.

Article 64

Entries relating to the budget accounts and to commitments and recovery order accounts shall be made on the basis of an accounting plan comprising a nomenclature of budgetary items which makes a clear distinction between the balance sheet accounts and the accounts of budgetary expenditure and revenue.

These entries shall make it possible to draw up a general monthly balance, and a statement by chapter and article, of budgetary revenue and expenditure, which shall be forwarded to the financial controller.

Article 65

Except for the advances referred to in Articles 96 and 102, any advance, other than regular advances which are periodically re-examined, shall be entered in a suspense account and settled at the latest during the financial year which follows the payment of this advance.

However, the advances referred to in the third paragraph of Article 42 shall be settled as a general rule within six weeks following completion of the project for which they were granted.

Article 66

The detailed conditions for drawing up and operating the accounting plan shall be determined by the implementing measures provided for in Article 106.

Article 67

The accounts shall be closed at the end of the financial year to enable a balance sheet of the Communities and the revenue and expenditure account referred to in Title VI to be drawn up. The revenue and expenditure account shall be submitted to the financial controller.

TITLE V

RESPONSIBILITIES OF AUTHORIZING OFFICERS, FINANCIAL CONTROLLERS, ACCOUNTING OFFICERS AND ADMINISTRATORS OF ADVANCE FUNDS

Article 68

Authorizing officers who, when establishing entitlements to be recovered or issuing recovery orders, entering into a commitment of expenditure or signing a payment order do so without complying with this Financial Regulation and the rules for its implementation, shall render themselves liable to disciplinary action and, where appropriate, to payment of compensation. The same shall apply if they omit to draw up a document establishing a debt or if they neglect to issue recovery orders or are, without justification, late in issuing them.

Article 69

Financial controllers shall render themselves liable to disciplinary action and, where appropriate, to payment of compensation for any action taken during their term of office; in particular, by granting their approval in excess of the budgetary appropriations.

Article 70

1. Accounting officers and assistant accounting officers shall render themselves liable to disciplinary

action and, where appropriate, to payment of compensation as regards payments made by them in disregard of the third paragraph of Article 46.

They shall render themselves liable to disciplinary action and to payment of compensation as regards any loss or deterioration of the monies, assets and documents in their charge where such loss or deterioration result from an intentional mistake or serious negligence on their part.

Under the same conditions, they shall be responsible for the correct execution of orders received by them in respect of the use and the administration of bank and post office giro accounts, and in particular:

- (a) where the recoveries or payments made by them do not agree with the amounts on the corresponding recovery or payment orders;
- (b) where they effect payment to a party other than the payee entitled.

2. Administrators of advance funds shall render themselves liable to disciplinary action and, where appropriate, to payment of compensation in the following cases:

- (a) where they cannot show due warrant with proper documents for payments made by them;

(b) where they effect payments to parties other than entitled payees.

They shall be liable to disciplinary action and to payment of compensation in respect of any loss or deterioration of the monies, assets and documents in their charge where such loss or deterioration results from an intentional mistake or serious negligence on their part.

3. The accounting officer, assistant accounting officers and administrators of advance funds shall insure themselves against the risks arising under this Article.

The Institution shall cover the insurance costs relating thereto in accordance with the implementing measures provided for in Article 106.

A special allowance is granted in each of the Institutions to the accounting officer, assistant accounting officers and administrators of advance funds. The sums corresponding to this allowance shall be credited each month to an account opened by the Institution on behalf of each official in order to establish a guarantee fund for the purpose of covering any cash or bank shortage for which the person concerned might render himself liable, in so far as such shortages have not been covered by refunds from insurance companies.

The credit balance in these guarantee accounts shall be paid over to the persons concerned when they terminate their appointment as accounting officer, assistant accounting officer or administrator of advance funds.

4. The implementing measures provided for in Article 106 shall specify the categories of officials or other servants qualified to be appointed accounting officers or administrators of advance funds.

Article 71

The liability to payment of compensation and disciplinary action of authorizing officers, financial controllers, accounting officers, assistant accounting officers and administrators of advance funds may be determined in accordance with the provisions of Articles 22 and 86 to 89 of the Staff Regulations of officials of the European Communities.

Article 72

Each Institution shall be allowed a period of two years from the date when the account for revenue and expenditure is submitted to take a decision on the final discharge to be given to accounting officers for the transactions relating thereto.

TITLE VI

PRESENTING AND AUDITING ACCOUNTS

Article 73

The Commission shall draw up, not later than 1 June of the following year, a revenue and expenditure account for the Communities, which shall include the following documents classified in accordance with the budget nomenclature:

(1) a table of revenue including:

- estimated revenue for the financial year,
- amendments to the revenue estimates as a result of supplementary or amending budgets,
- revenue collected during the financial year,
- entitlements still to be collected from the preceding financial year,
- entitlements established in the course of the financial year,
- amounts still to be collected at the end of the financial year.

Where appropriate, a statement shall be attached to this table showing the balances and the gross payments arising from the transactions referred to in Article 22 (2);

(2) tables showing the movement in appropriations for the financial year and, by distinguishing between commitment appropriations, payment appropriations and non-differentiated appropriations, indicating:

- the initial appropriations,
- any amendments introduced by means of supplementary or amending budgets,
- any amendments to appropriations introduced by means of transfer,
- the final appropriations for the financial year,
- the appropriations maintained or carried over under Article 6;

(3) tables showing the use of the appropriations allocated for the financial year and, by distinguishing between appropriation commitments, payment commitments and non-differentiated appropriations, indicating:

- the commitments entered into and chargeable to the financial year,
- the payments made and chargeable to the financial year,

- the settlement of the commitments of the financial year and the calculation of the sums still to be paid at the close of that financial year;
- the commitment appropriations maintained both under Article 88 and by a decision of the budgetary authority taken pursuant to Article 6,
- the payment appropriations carried over in accordance with Article 6,
- the non-dissociated appropriations carried over in accordance with Article 6,
- cancelled appropriations.

Where appropriate, a statement shall be attached to this table showing the balances and gross payments arising from the transactions referred to in Article 22 (2);

(4) tables showing the use of the appropriations available from previous financial years and indicating:

- the amount of appropriations maintained or carried over, a distinction being made between commitment appropriations, payment appropriations and non-differentiated appropriations,
- the commitments entered into and chargeable to available commitment appropriations,
- the payments made from payment appropriations and non-differentiated appropriations which have been carried over,
- the settlement of sums still to be paid at the close of the previous financial year and the calculation of the sums still to be paid at the end of the current financial year,
- the amount unused and maintained for the following financial year,
- the amount cancelled, making a distinction between commitment appropriations, payment appropriations and non-differentiated appropriations;

(5) annexed shall be a document showing capital operations and debt management, indicating:

- the total amount of loans approved,
- the total amount of the repayments made on borrowings contracted and of the charges on such borrowings,
- the amount of borrowings contracted,
- the total amount of repayments of capital and payments of interest made on loans granted.

Article 74

Each Institution shall, not later than 1 April, forward to the Commission the information required for

drawing up the revenue and expenditure account and the balance sheet, together with a contribution to the analysis of the financial management referred to in Article 75.

Article 75

The revenue and expenditure account shall be preceded by an analysis of the financial management in respect of the year in question. It shall cover all revenue and expenditure transactions relating to the preceding financial year for each Institution. It shall be submitted in the same form and following the same subdivision as the budget.

Article 76

The Commission shall draw up, within the time limit provided for in Article 73, a balance sheet of assets and liabilities of the Communities: as at 31 December of the preceding financial year. A statement, showing the movements and balances of the accounts, drawn up on the same date, shall be attached thereto.

Article 77

The Commission shall forward the revenue and expenditure account, the financial analysis and the balance sheet to the European Parliament, the Council and the Court of Auditors by 1 June at the latest.

Article 78

The Court of Auditors and its members may, in carrying out the task of the Court, seek assistance from officers of the Court.

Tasks delegated to officials in this connection must be specified and limited to the time necessary for their completion. The Court itself or one of its members must notify these tasks to the authorities with which the person delegated is to do his work.

Article 79

Each Institution shall forward to the Court of Auditors every three months and at the latest within the month which follows the end of the quarter, and, in the case of the fourth quarter, at the latest within the month which follows the close of the financial year, the documents supporting the accounts, in particular the documents and certificates in respect of the correct application of the provisions which govern the implementation of the budget and relating to commitments and payments, to the establishment and collection of revenue, subject to Article 19 of Council Regulation (EEC, Euratom, ECSC) No 2891/77 and to Article 80 of this Financial Regulation. The Court of Auditors may question each Institution on the subject of the said supporting documents.

Article 80

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

For the performance of its task, the Court of Auditors shall be entitled to consult, in the manner provided for in Article 82, all documents and information relating to the financial management of the departments or bodies subject to its inspection; it has the power to make enquiries of any official responsible for a revenue or expenditure operation, and to use any of the auditing procedures appropriate to those departments or bodies.

The Court of Auditors, in order to obtain all the necessary information for the performance of the task entrusted to it by the Treaties and the Acts taken to implement them, may be present, at its request, during the operations carried out by the Commission in implementation of Articles 8 and 9 of Regulation (EEC) No 729/70 and Articles 18 and 19 of Regulation (EEC, Euratom, ECSC) No 2891/77. This measure shall also apply to the inspection of any fund set up by the Communities.

Article 81

The Court of Auditors shall ensure that all securities and cash on deposit or in hand are checked against vouchers signed by the depositaries or against official memoranda of cash and securities held. The Court may carry out such checks itself.

Article 82

The Commission and the other Institutions shall afford the Court of Auditors all the facilities and give it all the information which the Court may consider necessary for the performance of its task, and shall in particular provide all the information obtained as a result of the checks which they have carried out, as required by the rules laid down by the Community, within the departments responsible for the management of the Communities' finances and for effecting expenditure on their behalf. In particular they shall place at the disposal of the Court of Auditors all documents concerning the conclusion and implementation of contracts and all accounts of cash or materials, all accounting records or supporting documents, and also administrative documents pertaining thereto, all documents relating to revenue and expenditure, all inventories, all lists of posts in the departments, which the Court of Auditors may consider necessary for auditing the revenue and expenditure account on the basis of records or on the spot.

To this end, the officials whose operations are checked by the Court of Auditors shall in particular:

- (a) show their records of cash in hand, any other cash, securities and materials of all kinds, and also the supporting documents in respect of their stewardship of the funds with which they are entrusted, and also any books, registers and other documents relating thereto;
- (b) present the correspondence and any other document required for the full implementation of the audit referred to in the first paragraph of Article 80.

The information supplied under (b) may be requested only by the Court of Auditors.

The Court of Auditors shall be empowered to audit the documents in respect of the revenue and expenditure of the Communities which are held by the departments of the Institutions and, in particular, by the departments responsible for decisions in respect of such revenue and expenditure.

The task of establishing that the revenue has been received and the expenditure incurred in a lawful and proper manner and that the financial management has been sound, includes the utilization by bodies outside the Institutions of Community funds received by way of aid.

The granting of aid to bodies outside the Institutions shall be subject to the agreement by the recipients to an audit being carried out by the Court of Auditors on the utilization of the amounts granted as aid.

Article 83

1. The Court of Auditors shall transmit to the Commission and the Institutions concerned, by 15 July at the latest, any comments which are, in its opinion, of such a nature that they should appear in the report provided for in Article 78f of the ECSC Treaty, Article 206a of the EEC Treaty and Article 180a of the Euratom Treaty. Each Institution shall address its reply to the Court of Auditors by 31 October at the latest. The replies of the Institutions other than the Commission shall be forwarded simultaneously to the Commission.

2. The Court of Auditors shall attach to the annual report an assessment of the soundness of the financial management.

3. The Court of Auditors may also, at any time, submit observations on specific questions and deliver opinions at the request of one of the Institutions of the Communities.

Article 84

The Court of Auditors shall transmit to the authorities responsible for giving discharge and to the

other Institutions, by 30 November at the latest, its annual report accompanied by the replies, and it shall ensure publication thereof in the *Official Journal of the European Communities*.

Article 85

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

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

The Institutions shall take all appropriate steps to take action on the comments appearing in the decisions giving discharge. At the request of the European Parliament or the Council, the Institutions shall report on the measures taken in the light of these comments and, in particular, on the instructions given to those of their departments which are responsible for the implementation of the budget. Such reports shall also be forwarded to the Court of Auditors.

Subject to the second sentence of the third paragraph, the Institutions must give an account, in an annex to the revenue and expenditure account for the next financial year, of the measures taken in the light of the comments appearing in the decisions giving discharge.

TITLE VII

SPECIAL PROVISIONS APPLICABLE TO RESEARCH AND INVESTMENT APPROPRIATIONS

Article 86

Titles I to VI and XI shall apply to the research and investment appropriations set out in the special chapter provided for in Article 87, and to the financial plans referred to in Article 90, save as otherwise provided in this Title or where they are incompatible with the special provisions of this Title.

Article 87

The appropriations relating to research and investment shall be entered in a special chapter in the Commission section of the budget.

This chapter shall contain the appropriations intended for the realization of research and investment objectives through the implementation of the following projects:

- (a) direct action projects, consisting of research programmes carried out by the four Joint Research Centres and in principle entirely financed from the general budget of the European Communities;
- (b) indirect action projects, consisting of programmes carried out under contracts to be concluded with third parties and in principle partially financed from the general budget of the European Communities;
- (c) coordinated action projects, consisting of work undertaken by the Community to coordinate the

individual research projects carried out in the Member States, in respect of which the administrative expenditure alone is financed from the general budget of the European Communities.

It shall also contain the appropriations for other activities, in particular for work carried out on behalf of outside bodies and individuals.

Article 88

1. An overall allocation covering several years (hereinafter called 'tranche') shall be made for each type of action project referred to in Article 87 corresponding to a research and investment objective defined by the Council in the programme decisions or corresponding decisions.

In budgetary terms, the tranche shall be the total allocation provided in the budget for each research and investment objective, taking into account any financial reserves, except where the objective as defined by the Council in the programme decisions or corresponding decisions comprises several specific stages, each forming a self-contained whole.

2. Amounts authorized annually in the budget to cover research and investment expenditure shall comprise commitment appropriations and payment appropriations.

3. The commitment appropriations within each tranche are intended to enable the Commission to meet all the legal obligations which it may contract.

They constitute the upper limit of expenditure to which the Commission may commit itself during the financial year in question for the implementation of the operations to which the expenditure relates.

Notwithstanding Article 6 (2) (a), the commitment appropriations shall remain valid until cancelled under the budgetary procedure.

4. The payment appropriations represent the upper limit of expenditure which may be paid or authorized for payment during each financial year to cover commitments entered into during the current year or earlier financial years.

Payment appropriations not used by the end of the financial year for which they were entered shall be carried over automatically, for the next financial year only.

Article 89^{3E}

The nomenclature of the special chapter provided for in Article 87 shall be based, as regards the description of Articles and items, on the purpose of the expenditure resulting from the realization of research and investment objectives or from the other activities referred to in the said Article.

Moreover, within the items, the expenditure shall be classified into sub-items according to its type.

An outline of the nomenclature referred to in the first paragraph is given in the Annex to this Financial Regulation. This outline is binding in its principles, particularly its subdivision into Articles, and intended as a guideline in its subdivision into items and sub-items.

Article 90^{3E}

1. In addition to the documents referred to in Article 12, financial plans shall be drawn up to support the preliminary draft budget. These plans, amended if necessary in accordance with the budget, shall be used for management of the appropriations entered in the special chapter provided for in Article 87.

2. The financial plans shall comprise:

(a) Part I, containing the appropriations for the realization of each research and investment objective or for each other activity, including work on behalf of outside bodies and individuals, as made available in the Articles and items in the special chapter provided for in Article 87. The nomenclature of Part I shall be drawn up in accordance with Article 89;

(b) Part II, containing, in the form of appropriation accounts, the appropriations corresponding to the instruments for the realization of the research and investment objectives and for carrying out other activities. Such instruments may be:

- the scientific divisions,
- the general services,
- the scientific and technical services.

(c) Part III, containing the accounts showing staff expenditure.

For management purposes, the sub-items may be subdivided into categories and headings in the three parts of the financial plans.

3. An appropriation account shall be provided for each instrument of implementation. Each appropriation account shall show the appropriations made available in the different Articles and items in Part I specifically for the use of the corresponding instrument of implementation. Within the appropriation accounts and the accounts referred to in paragraph 2 (c), the appropriations shall be classified according to their type.

4. The charges to the accounts showing staff expenditure shall not exceed the amounts earmarked for this purpose in Part I of the financial plan.

The charges to the appropriation accounts shall not exceed the amount of the appropriations entered in the Articles and items in Part I of the financial plans. However, in the case of transfers or of additional amounts made available as a result of supplementary receipts from outside bodies and individuals, expenditure may be increased accordingly:

- for commitments, up to the amount of the repayments provided for in the contracts concluded with requesting outside bodies and individuals,
- for payments, up to the amount of the entitlements for such repayments.

5. The charges to the staff expenditure accounts shall be allocated monthly to Parts I and II of each financial plan.

The charges to the appropriation accounts shall be allocated monthly to the research and investment objectives and other activities in Part I of the financial scheme according to the relevant share of the work done by the instruments.

Such bookings shall be transmitted to the financial controller for approval, and then to the accounting officer.

The charges booked to research and investment objectives and other activities in Part I of the financial plan shall be allocated monthly in the

budget to the articles and items in the special chapter provided for in Article 87, by the issue of proposals for commitment and of payment orders, which shall be transmitted to the financial controller for approval, and then to the accounting officer.

6. A document shall be attached to the revenue and expenditure account showing the results of operations charged to each appropriation account and of those charged to the staff expenditure account.

This document shall show the statement of the balances of the appropriation accounts.

Article 91 *

The special chapter provided for in Article 87 shall include a provisional timetable of commitments and payments, drawn up for each Article and item showing for each tranche the chronological breakdown for the utilization of the corresponding commitment and payment appropriations. The timetable shall be reviewed annually.

Article 92

1. If, at the beginning of a financial year, the budget has not yet been finally adopted, expenditure shall be effected as follows:

— commitments may be effected up to an amount not exceeding one-fourth of each appropriation shown in the timetable of due dates for the estimated commitments for the financial year concerned, increased by one-twelfth for each month elapsed, provided that they do not exceed the amount provided for in the draft budget, or in the absence thereof, in the preliminary draft budget,

— payments may be effected monthly in respect of any Article or item in the special chapter provided for in Article 87, up to an amount not exceeding one-twelfth of the annual estimates shown for that financial year in the timetable of amounts and due dates for payment in respect of the estimated commitment appropriations.

2. However, in the absence of timetables of commitments and payments for the financial year in question, the operations referred to in paragraph 1 may be effected to an amount not exceeding the appropriations entered in the draft budget, or in the absence thereof, of the preliminary draft budget for the financial year in question, provided that such measure does not each month make available to the Commission:

— in respect of commitments, total appropriations exceeding one-quarter of the total appropriations entered in the budget for the preceding financial year, increased by one-twelfth for each month elapsed,

— in respect of payments, total appropriations exceeding one-twelfth of the total of those entered in the budget for the preceding financial year.

Article 93

1. Every decision relating to transfers shall be subject to prior approval by the financial controller, who shall certify that the funds are available and that the operations are in order and in accordance with the provisions in force.

2. However, if the financial controller considers that he cannot ascertain in advance the effects of such transfers on the financial balance of the appropriation accounts of the financial plans, he shall confine himself to delivering an opinion.

In that case, and in so far as he is empowered, the authorizing officer may, on his sole responsibility, effect the transfer, provided that he makes available each month to the financial controller all appropriate information enabling an assessment to be made of the financial effects of such transfers.

If as a result of such information the financial controller finds that a financial imbalance has occurred in any appropriation account, he shall inform the authorizing officer thereof.

3. Adjustments between categories of the account showing staff expenditure and within the specific appropriations in the appropriation accounts shall be communicated to the financial controller for information.

4. In order to enable the last charges to be booked, and with a view to effecting the balancing of the appropriation accounts, transfers may be made even after the end of the financial year.

Article 94

1. For the purposes of applying Article 21, the Articles, items and sub-items of the chapter provided for in Article 87 shall be treated as titles, chapters and Articles respectively.

2. Notwithstanding Article 21 (2), the Commission may, within the limits and subject to the conditions fixed at the final adoption of the budget, transfer appropriations from one to another and from one item to another within the special chapter referred to in Article P7, the said Articles and items being

* Amendments: see p 91.

specified, provided that such transfers relate to direct action projects and do not include action projects financed according to a special budgetary scale.

3. Notwithstanding Article 21 (5), the prohibitions of transfers referred to therein shall not be applicable to items of expenditure classified according to its type, within the meaning of Article 89.

4. Notwithstanding Article 52 (a), a contract for scientific and technical supplies and for works may be made by private treaty where the amount does not exceed 30 000 European units of account, without prejudice to those cases where private treaties are allowed under Article 52 (b), (c) and (d) and subject to the general obligation to invite competitive tenders, as far as possible and by all suitable means, from those capable of supplying the goods and services required by the contract.

5. Notwithstanding Article 54, the following shall be submitted, before the decision of the authorizing officer, for the opinion of an Advisory Committee

on purchases and contracts, whose composition and functioning shall be determined by the implementing measures provided for in Article 106:

- (a) contracts of a scientific or technical nature, for sums exceeding 150 000 European units of account, and the acquisition of immovable property;
- (b) contracts for supplies and equipment of a nature other than scientific or technical, for sums exceeding 30 000 European units of account;
- (c) contracts for supplies and equipment of a nature other than scientific or technical for sums exceeding 10 000 European units of account, to which points (c), (d) and (e) of Article 52 apply.

6. Notwithstanding the provisions of the first paragraph of Article 60, scientific and technical equipment may be sold, without first being advertised, following a decision taken by the authorizing officer after he has consulted the Advisory Committee on purchases and contracts.

TITLE VIII

SPECIAL PROVISIONS APPLICABLE TO THE EUROPEAN AGRICULTURAL GUIDANCE AND GUARANTEE FUND, GUARANTEE SECTION

Article 95

This Title shall apply to expenditure financed by the European Agricultural Guidance and Guarantee Fund, Guarantee Section, in accordance with Regulation (EEC) No 729/70, from 1 January 1971.

Article 96

Provisional global commitments shall be entered into, corresponding to the advances to be made to the Member States, in respect of the appropriations for the Guarantee Section of the European Agricultural Guidance and Guarantee Fund.

The Commission decisions fixing the amounts of these advances in accordance with Article 5 (2) (a) of Regulation (EEC) No 729/70 shall constitute provisional global commitments. The approval of the financial controller shall have the sole purpose of establishing that these commitments correspond to the amount of the advances decided by the Commission after consultation with the EAGGF Committee, and that they are within the limits of the total amount of appropriations entered in the

Guarantee Section of the European Agricultural Guidance and Guarantee Fund.

Article 97

1. Expenditure effected by authorities and bodies under Article 4 of Regulation (EEC) No 729/70 shall be the subject of a commitment by chapter, article and item, and shall also be charged as a payment, after examination of the statements forwarded by the Member States in accordance with the provisions laid down pursuant to Article 5 (3) of the said Regulation, and after the approval of the financial controller.

The commitment shall be entered into within two months following receipt of the statements forwarded by the Member States. The charging as a payment shall, in general, be carried out within the same period.

This Article shall apply without prejudice to the clearance of accounts provided for in Article 5 (2) (b) of Regulation (EEC) No 729/70.

2. The commitments provided for in this Article shall be deducted from the provisional global commitments referred to in Article 96.

Article 98

Expenditure shall be taken into account for a financial year on the basis of payments made up to 31 December by the authorities and bodies referred to in Article 4 of Regulation (EEC) No 729/70, provided that their commitment and authorization have reached the accounting officer not later than 31 March of the following year.

Article 99

Any differences which may exist between the expenditure charged to the accounts of a financial year pursuant to Article 98, and that established by the Commission when clearing the accounts as provided for in Article 5 (2) (b) of Regulation (EEC) No 729/70, shall be charged as under- or over-expenditure to the financial year during which the accounts are cleared.

Article 100

1. Appropriations which have been globally committed in accordance with Article 96 and which have not been the subject of a commitment under the budget nomenclature in accordance with Article 97 by 1 April of the following financial year, shall be maintained with a view to covering the expenditure chargeable to the original financial year.
2. Any appropriations in excess of such expenditure shall be cancelled under the original financial year.

A provisional global amount corresponding to this sum shall be committed from the appropriations for the current financial year.

Article 101

1. Appropriations made available in one chapter of expenditure may not be allocated to another chapter of expenditure.

However, not later than one month before 31 March of the following financial year, the Commission may submit proposals to the Council for transfers of appropriations from one chapter to another.

Acting by a qualified majority, the Council shall take a decision within three weeks. If it does not act within that period, the transfers of appropriations shall be deemed to be approved.

The Council shall inform the European Parliament of such transfers.

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

The Commission shall inform the budgetary authority of such transfers.

TITLE IX

SPECIAL PROVISIONS APPLICABLE TO FOOD AID

Article 102

Every food-aid programme shall as soon as possible be made the subject of a proposal for commitment in accordance with the procedure laid down in Articles 32 to 35.

The advances paid to Member States shall be entered globally against the abovementioned commitments; the sum set aside for the commitments may not be exceeded.

Articles 97, 98 and 99 shall apply as regards entry as payment of expenditure effected by the Member States using the funds advanced by the Commission, and as regards the clearance of accounts.

The Commission may decide, up to 31 March of the following financial year, on transfers from one Article to another within the chapter relating to food aid.

TITLE X

SPECIAL PROVISIONS RELATING TO THE OFFICE FOR OFFICIAL PUBLICATIONS OF THE EUROPEAN COMMUNITIES

Article 103

1. Without prejudice to the other provisions of this Financial Regulation, the following special provisions shall apply to the functioning of the Office for Official Publications of the European Communities.

2. The appropriations for the Office, the total amount of which shall be entered under a special budget heading within the section of the budget relating to the Commission, shall be set out in detail in an Annex to that section. The appropriations shown under this specific budget-heading may be transferred in accordance with the conditions set out in Article 21.

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

The appropriations entered in that Annex shall cover all the financial requirements of the Office in the performance of its duties in the service of the Community's Institutions as defined by the Decision of 16 January 1969 setting up the Office⁽¹⁾. Where necessary, the estimates may be adjusted during the financial year by the Management Committee of the Office which shall decide on the transfers required within the Annex as a result of such adjustments.

3. The remarks concerning the specific budget heading under which is entered the total appropriation for the Office shall show an estimate of the cost of services rendered by the Office to each of the Institutions. This shall be based on the forecasts of the analytical accounts provided for in paragraph 5.

The total costs of these services shall correspond to the total expenditure shown in its statement of expenditure.

A paper setting out the basic data underlying the estimate of the allocation of the Office's services as between the Institutions shall be provided as a supporting document for the preliminary draft budget.

4. Each Institution shall, for guidance, enter in its section of the budget a *pro forma* appropriation corresponding to the services which it expects the Office to render to it during the financial year concerned.

5. The Office shall draw up analytical accounts of its expenditure, enabling the proportion of its

services rendered to each of the Institutions to be determined. The Management Committee shall lay down the criteria on which the accounting system shall be based.

The Office shall notify the Institutions concerned of the results of the analytical accounts.

6. On a proposal from the Management Committee the Commission shall, for the appropriations entered in the Annex for the Office, delegate the powers of authorization to the Director of the Office and shall fix the limits and conditions of such act of delegation.

Each Institution shall retain the powers of authorization for expenditure charged to the appropriations for the publication of all work entrusted to outside bodies by the Office. The net proceeds from the sale of the publications shall be re-used by the Institution which drew up these publications, in accordance with Article 22 (2).

7. The financial controller shall delegate powers to an official who shall be responsible for monitoring the commitment and authorization of expenditure and also for monitoring the revenue of the Office.

The Commission, acting on a proposal from the Management Committee of the Office, shall appoint an assistant accounting officer with special responsibility for collecting revenue and settling expenditure effected directly by the Office.

8. To meet the cash requirements of the Office, bank accounts or post office giro accounts may be opened on its behalf by the Commission, acting on a proposal from the Management Committee.

The accounts shall be financed regularly by payments effected by the Commission upon receipt of calls for funds from the Office. Such payments may not exceed the total amount of the appropriations entered for this purpose in the Commission budget.

The final cash position for each year shall be adjusted between the Office and the Commission at the end of the financial year.

9. The revenue and expenditure account and the balance sheet in respect of the Office shall form an integral part of the revenue and expenditure account and of the balance sheet of the Communities referred to in Articles 73 and 76.

10. The Management Committee of the Office shall determine the detailed rules for the implementation of the preceding provisions, and also specific rules governing the terms of sale of publications and the corresponding accounting system.

⁽¹⁾ OJ No L 13, 18. 1. 1969, p. 19.

TITLE XI

TRANSITIONAL AND FINAL PROVISIONS

Article 104

The European Parliament and the Council shall be empowered to require any information or explanations regarding budgetary matters within their competence.

The Council may be assisted in its task by a committee set up within the framework of the Permanent Representatives Committee.

Article 105

The European Parliament, the Council and the Commission shall inform the Court of Auditors, each regarding the matters concerning it, as soon as possible, of all decisions and measures taken in implementation of Articles 3, 6 (3) and (8) and 8, 14 and 21.

The Court of Auditors shall be informed of the appointment of authorizing officers, financial controllers, accounting officers and administrators of advance funds, and of the Acts of delegation or nominations made in accordance with Articles 18, 19, 20 and 49.

The Commission shall inform the Court of Auditors of the implementing measures provided for in Article 106. Moreover, the Institutions shall forward to the Court of Auditors any rules of procedure in respect of financial matters.

Article 106

In consultation with the European Parliament and the Council and after the other Institutions have delivered their opinions, the Commission shall adopt implementing measures for this Financial Regulation.

Article 107

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

Article 108

1. When the accounts for the financial year 1977 are closed, the Commission shall draw up a statement of sums paid, comparing the sums actually paid by the Member States with those due to have been paid under the statements of revenue and expenditure for the financial years in question. This shall be followed by an adjustment of the difference shown in the statement.

The second paragraph of Article 5 of this Regulation shall apply to revenue from own resources recorded in November and December 1977; this revenue shall be entered in the accounts for the financial year 1978.

2. The provisions of this Financial Regulation shall be re-examined, in accordance with the procedure laid down for this purpose in the Treaties, after the Court of Auditors has issued its opinion on these provisions.

All appropriate measures shall be taken to ensure continuity of control after the members of the Court of Auditors have been appointed.

3. Appropriations committed but not paid at the end of the financial year 1977 shall be regarded as appropriations carried over automatically under Article 6 (1) (c).

Appropriations for the Guidance Section of the European Agricultural Guidance and Guarantee Fund entered in the budget for the financial year 1976 and in the budgets of previous financial years shall be carried over under the following conditions:

- (a) where they relate to payments remaining due under commitments, they shall be carried over automatically for a period of five years reckoned from 31 December of the financial year during which they were committed;
- (b) upon expiry of that period, the Commission may submit to the Council and forward to the European Parliament, by 1 May, the lists of appropriations remaining committed, for which a duly substantiated request for carry-over is being made. The decision shall be taken in accordance with the second subparagraph of Article 6 (3).

4. Commitment authorizations for the European Social Fund made available under the 1976 budget and to be charged against operations during the financial year 1978 on the basis of Article 104 of the Financial Regulation of 25 April 1973 shall remain in force during the financial year for which they were granted and the sums committed under these authorizations shall be added to the commitment appropriations for the financial year for which they were made available.

5. As an exception in the case of the Guidance Section of the European Agricultural Guidance and Guarantee Fund, a special entry shall be made in the remarks column of the budget regarding the appropriations reserved for improving agricultural

structures which have been carried over from previous financial years but commitment of which is not planned during the financial year concerned. In that year they shall not require to be covered by revenue.

6. Commitment appropriations entered in the budgets for 1976 and 1977 for the European Regional Development Fund and not committed by the end of the financial year for which they were entered in the budget shall remain available for the two subsequent financial years.

7. The conditions under which the European unit of account is to be applied to revenue and expenditure shall be determined by the implementing measures provided for in Article 106.

Article 109

The following shall be repealed:

- the Financial Regulation of 25 April 1973 applicable to the general budget of the European Communities ⁽¹⁾, and the Financial Regulation of 18 March 1975 amending it ⁽²⁾,
- all other provisions contrary to this Financial Regulation.

Article 110

This Financial Regulation shall enter into force on 1 January 1978.

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

Done at Brussels, 21 December 1977.

For the Council
The President
J. CHABERT

⁽¹⁾ OJ No L 116, 1. 5. 1973, p. 1.

⁽²⁾ OJ No L 73, 21. 3. 1975, p. 45.

COUNCIL REGULATION (ECSC, EEC, EURATOM) No 1252/79
of 25 June 1979
amending the Financial Regulation of 21 December 1977 applicable to the
general budget of the European Communities

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

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

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

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

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

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

Having regard to the opinion of the Court of Audi-
tors⁽³⁾,

Whereas the purpose of the Commission proposal is
to amend several provisions of the Financial Regula-
tion and the amendments involved require more
detailed examination except as regards the amend-
ments to Article 6 (3) concerning the carry-over of
appropriations and the amendments to the provisions
of Title VII which are aimed at introducing a simpli-
fied version of the research and investment appropri-
ations in Chapter 33 of the section of the budget
relating to the Commission ;

Whereas these amendments should be adopted as
swiftly as possible,

HAS ADOPTED THIS REGULATION :

Article 1

The Financial Regulation of 21 December 1977 appli-
cable to the general budget of the European Commu-
nities⁽⁴⁾ is hereby amended as follows :

⁽¹⁾ OJ No C 160, 6. 7. 1978, p. 11.

⁽²⁾ OJ No C 261, 6. 11. 1978, p. 15.

⁽³⁾ OJ No C 139, 5. 6. 1979, p. 25.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

1. Article 6(3) shall be replaced by the following :

'3. In the case of the appropriations referred to
in paragraph 1 (b), the Commission shall submit to
the Council and shall forward to the European
Parliament, by 21 April at the latest, the requests to
carry over appropriations, duly substantiated, made
by the European Parliament, the Council, the
Court of Justice, the Court of Auditors and the
Commission itself.

Upon receipt of the request to carry over appropria-
tions, the Council shall consult the European
Parliament, which shall deliver its opinion in good
time, i.e. normally not more than four weeks as
from the date of which the Council's request for an
opinion is received.

Unless the Council, acting by a qualified majority,
decides otherwise within six weeks from receipt of
the request to carry over appropriations, the carry-
over of appropriations shall be deemed to have
been approved.'

2. In Article 89, the second and third paragraphs shall
be replaced by the following :

'Appropriate remarks on each subdivision shall
include, in particular :

(a) a summary description of the action involved ;

(b) in respect of budget implementation :

— the number of staff authorized for the
current financial year,

— a simplified presentation of the timetable of
commitments and payments referred to in
the third paragraph.

The following shall be annexed to Section III
"Commission" of the budget :

— a comparative table giving a breakdown by
purpose and type of expenditure of the appro-
priations made available in Chapter 33, in accor-

dance with the classification provided for in the first subparagraph of Article 90 (3),

- a provisional timetable of commitments and payments, drawn up for each article and item and showing for each tranche the chronological breakdown for the utilization of the corresponding commitment and payment appropriations; the timetable shall be reviewed annually,
 - the decision, taken pursuant to Article 94 (2), authorizing the Commission to make certain transfers.'
3. In Article 90, the second subparagraph of paragraph 2 shall be replaced by the following paragraph :

'3. For the research and investment objectives or other activities of Part I, the appropriation accounts of Part II and the accounts showing staff expenditure of Part III, the expenditure shall be broken down by type into sub-items as follows :

<i>Sub-item</i>	<i>Heading</i>
1	Staff expenditure
2	Administrative operating expenditure
3	Technical operating expenditure
4	Expenditure on investment
5	Expenditure under contracts
9	Provisional appropriations

For management purposes, the sub-items may be subdivided into categories and headings which, as regards similar expenditure, correspond to the chapters and items of the budgetary nomenclature decided in accordance with Article 15 (3).'

Paragraphs 3, 4, 5 and 6 of Article 90 shall be deleted.

4. Article 91 shall be replaced by the following :

'Article 91

1. An appropriation account shall be provided for each instrument of implementation referred to in Article 90 (2) (b).

Each appropriation account shall show the appropriations made available in the different articles and items in Part I specifically for the use of the corresponding instrument of implementation. Within the appropriation accounts and the accounts referred to in Article 90 (2) (c) the appropriations shall be classified according to their type.

2. The charges to the accounts showing staff expenditure referred to in Article 90 (2) (c) shall not exceed the amounts earmarked for this purpose in Part I of the financial plan.

The charges to the appropriation accounts shall not exceed the amount of the appropriations entered in the articles and items in Part I of the financial plans referred to in Article 90 (2) (a). However, in the case of transfers or of additional amounts made available as a result of supplementary receipts from outside bodies and individuals, expenditure may be increased accordingly :

- for commitments, up to the amount of the repayments provided for in the contracts concluded with requesting outside bodies and individuals,
- for payments, up to the amount of the entitlements for such repayments.

3. The charges to the staff expenditure accounts shall be allocated monthly to Parts I and II of each financial plan.

The charges to the appropriation accounts shall be allocated monthly to the research and investment objectives and other activities in Part I of the financial plan according to the relevant share of the work done by the instruments.

Such bookings shall be transmitted to the financial controller for approval, and then to the accounting officer.

The charges booked to research and investment objectives and other activities in Part I of the financial plan shall be allocated monthly in the budget to the articles and items in the special chapter provided for in Article 87, by the issue of proposals for commitment and of payment orders, which shall be transmitted to the financial controller for approval, and then to the accounting officer.

4. A document shall be attached to the revenue and expenditure account showing the results of operations charged to each appropriation account and of those charged to the staff expenditure account.

This document shall show the statement of the balances of the appropriation accounts.'

5. In Article 94, paragraph 3 shall be deleted and paragraphs 4, 5 and 6 shall become paragraphs 3, 4 and 5 respectively.
6. The Annex entitled 'Budgetary nomenclature provided for in Article 89 of the Financial Regulation' shall be deleted.

Article 2

This Regulation shall enter into force on 1 July 1979.

PART IV

Texts concerning legislative conciliation
and budgetary cooperation

1. JOINT DECLARATION

of the European Parliament, the Council and the Commission

(03 No 089, 22 April 1975)

THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION,

Whereas from 1 January 1975, the Budget of the Communities will be financed entirely from the Communities' own resources;

Whereas in order to implement this system the European Parliament will be given increased budgetary powers;

Whereas the increase in the budgetary powers of the European Parliament must be accompanied by effective participation by the latter in the procedure for preparing and adopting decisions which give rise to important expenditure or revenue to be charged or credited to the budget of the European Communities,

HAVE AGREED AS FOLLOWS:

1. A conciliation procedure between the European Parliament and the Council with the active assistance of the Commission is hereby instituted.
2. This procedure may be followed for Community acts of general application which have appreciable financial implications, and of which the adoption is not required by virtue of acts already in existence.
3. When submitting its proposal the Commission shall indicate whether the act in question is, in its opinion, capable of being the subject of the conciliation procedure. The European Parliament, when giving its Opinion, and the Council may request that this procedure be initiated.
4. The procedure shall be initiated if the criteria laid down in paragraph 2 are met and if the Council intends to depart from the Opinion adopted by the European Parliament.
5. The conciliation shall take place in a 'Conciliation Committee' consisting of the Council and representatives of the European Parliament. The Commission shall participate in the work of the Conciliation Committee.
6. The aim of the procedure shall be to seek an agreement between the European Parliament and the Council.

The procedure should normally take place during a period not exceeding three months, unless the act in question has to be adopted before a specific date or if the matter is urgent, in which case the Council may fix an appropriate time limit.
7. When the positions of the two institutions are sufficiently close, the European Parliament may give a new Opinion, after which the Council shall take definitive action.

Done at Brussels, 4 March 1975.

For the
European Parliament
C. BERKHOUWER

For the Council
G. FITZGERALD

For the Commission
François-Xavier ORTOLI

2. Rule 22A of the European Parliament's Rules of Procedure

Rule 22A

1. Where, in the case of certain important Community decisions, the Council intends to depart from the opinion of Parliament, a procedure for conciliation with the Council, with the active participation of the Commission, may be initiated by Parliament when delivering its opinion.
2. This procedure shall be initiated by Parliament, either at its own or at the Council's initiative.
3. The delegation which consults with the Council shall consist of 9 members; it shall reflect the political composition of Parliament, care being taken to ensure balanced representation of political tendencies; in principle it shall include the chairmen and the rapporteurs of the committees concerned. The delegation shall be led by the President of Parliament or by one of the Vice-Presidents.
4. The appropriate committee shall report on the results of the conciliation.

COOPERATION BETWEEN THE ASSEMBLY AND THE COUNCIL IN
THE BUDGETARY PROCEDURE

(see resolution No 3 annexed to the Treaty of 22 April 1970)

(OJ No C124, 17 December 1971)

I. Cooperation between the Assembly and the Council during the first stage

(Establishment of the draft budget by the Council)

- (a) As soon as it receives the preliminary draft budget from the Commission, the Council will forward it **officially** to the Assembly, so as to enable it to subject that document to **initial** examination from the political point of view.
- (b) The Council will thus be able to take note of the Assembly's **initial** observations concerning the general lines of the preliminary draft budget when it is being established.
- (c) The Assembly's observations will be brought to the Council's attention during an exchange of views between the President-in-Office of the Council, **accompanied by any other members of the Council who desire to attend**, and a **delegation** from the Assembly. The Commission will **take part** in this exchange of views.

The President of the Council will inform the Council of the Assembly's observations before the Council commences its discussions on the preliminary draft budget.

It is to be understood that this procedure must not **hold up** the Council's work in establishing the draft budget.

II. Cooperation between the Assembly and the Council during the second stage

(Examination of the draft budget by the Assembly)

The Council accepts the Assembly's proposal. The procedure for cooperation during this stage will therefore be as follows:

- (a) The President-in-Office of the Council will submit the draft budget to the Assembly during the latter's October sitting.
- (b) The President-in-Office or other members of the Council will be present at meetings of the Committee for Finance and Budgets devoted to examination of the draft budget.
- (c) The President-in-Office of the Council will be present when the draft budget is debated and voted in plenary sitting.

III. Cooperation between the Assembly and the Council during the third stage

(Examination by the Council of modifications adopted by the Assembly and adoption of the budget)

- (a) When the Council itself examines the modified draft budget, a delegation from the Assembly may, at the start of the Council's work, explain the reasons which led the Assembly to propose modifications. After an exchange of views with this delegation the Council, as normally constituted, will resume its work and adopt the budget.
- (b) The Council will inform the Assembly of its decisions, giving the reasons why it may not have followed the Assembly's opinions. This may be done by letter, as in the past, or by direct contact between a representative of the Council and the Assembly.

Editorial note: In its letter agreeing to the budgetary cooperation procedure the Council pointed out that this procedure would have to be revised in 1975, when the provisions laid down for the definitive stage by the Treaty of 22 April 1970 would be entering into force. However, at the time of writing, the procedure still applied and had not been revised.

PART V

Rules adopted by the European Parliament

A. PROVISIONS RELATING TO THE GENERAL BUDGET

1. Rule 23 of the European Parliament's Rules of Procedure

Rule 23

Implementing procedures for examination of the general budget of the European Communities and supplementary budgets, in accordance with the Budgetary Provisions of the Treaties setting up the European Communities and the Treaty of 22 July 1975, shall be adopted by resolution of Parliament and annexed to these Rules.

2. Implementing procedures for the examination of the general budget of the European Communities and supplementary budgets

(At its sitting of 11 September 1978, the European Parliament extended to the budget for the 1979 financial year the validity of the internal Rules of Procedure adopted on 17 September 1976, having brought them into line with the Treaty of 22 July 1975.)

Article 1

(Working documents)

1. The following documents shall be printed and distributed:
 - (a) the communication from the Commission of the Communities on the maximum rate laid down in paragraph 9 of Article 78 of the ECSC Treaty, Article 203 of the EEC Treaty, and Article 177 of the EAEC Treaty;
 - (b) the proposal from the Commission or the Council fixing a new rate;
 - (c) a summary by the Council of its deliberations on the amendments and modifications adopted by Parliament to the draft budget;
 - (d) the modifications made by the Council to the amendments adopted by Parliament to the draft budget;
 - (e) the Council's position on the fixing of a new maximum rate;
 - (f) the new draft budget drawn up in pursuance of paragraph 8 of Article 78 of the ECSC Treaty, Article 203 of the EEC Treaty and Article 177 of the EAEC Treaty;
 - (g) the draft decisions on the provisional twelfths laid down in Article 78b of the ECSC Treaty, Article 204 of the EEC Treaty and Article 178 of the EAEC Treaty.
2. These documents shall be referred to the committee responsible. Any committee concerned may deliver an opinion.
3. Where other committees wish to deliver opinions, the President shall fix the time limit within which these shall be communicated to the committee responsible.

Article 2

(Rate)

1. Subject to the conditions set out below, any Member may table and speak in support of proposals for decisions fixing a new maximum rate.
2. Such proposals shall be admissible only if they are presented in writing, bear the signatures of at least five Members or are tabled on behalf of a political group or committee.
3. The President shall fix the time limit for the tabling of such proposals.
4. The committee responsible shall report on these proposals before they are discussed in plenary sitting.

9. Parliament shall then vote on the proposals.

The European Parliament shall act by a majority of its Members and three-fifths of the votes cast.

Where the Council has informed the Parliament of its agreement to the fixing of a new rate, the President shall declare in plenary sitting that the amended rate has been adopted.

If this is not the case, the Council's position shall be referred to the committee responsible

Article 3

(Consideration of the draft budget – first stage)

1. Subject to the conditions set out below, any Member may table and speak in support of:

- draft amendments to the draft budget;
- proposed modifications to the draft budget.

2. Draft amendments shall be admissible only if they are presented in writing, bear the signatures of at least five Members or are tabled on behalf of a political group or committee, specify the budget heading to which they refer and ensure the maintenance of a balance between revenue and expenditure. Draft amendments shall include all relevant information on the remarks to be entered against the budgetary heading in question.

The same provisions shall apply to proposed modifications.

3. The President shall fix the time limit for the tabling of draft amendments and proposed modifications.

4. The committee responsible shall deliver its opinion on the texts submitted before they are discussed in plenary sitting.

5. Draft amendments to the estimates of the European Parliament which are similar to those already rejected by Parliament at the time the estimates were drawn up shall be discussed only where the committee responsible has delivered a favourable opinion.

6. Notwithstanding Rule 26(1) of the Rules of Procedure, Parliament shall take separate and successive votes on:

- each draft amendment and each proposed modification,
- each section of the draft budget,
- the draft budget as a whole,
- a motion for a resolution concerning the draft budget.

7. Articles, chapters, titles and sections of the draft budget in respect of which no draft amendments or proposed modifications have been submitted shall be deemed adopted.

8. Draft amendments to the expenditure for the 1979 financial year shall require for adoption the votes of a majority of the current Members of Parliament.

Proposed modifications shall require for adoption an absolute majority of the votes cast.

9. If Parliament has adopted draft amendments that would raise the expenditure shown in the draft budget above the maximum rate laid down, the committee responsible may submit to Parliament a proposal laying down a new maximum rate as provided for in the last subparagraph of paragraph 9 of Article 78 of the ECSC Treaty, Article 203 of the EEC Treaty and Article 177 of the EALC Treaty. The proposal shall be put to the vote after the various sections of the draft budget have been voted on. The European Parliament shall act by a majority of its Members and three-fifths of the votes cast. Where the proposal is rejected, the draft budget as a whole shall be referred to the committee responsible.

10. If Parliament has not amended the draft budget, adopted proposed modifications or adopted a proposal rejecting the draft budget, the President shall declare in plenary sitting that the budget has been finally adopted.

If Parliament has amended the draft budget or adopted proposed modifications, the draft budget thus amended or accompanied by proposed modifications shall be forwarded to the Council.

11. The minutes of proceedings of the sitting at which Parliament delivered its opinion on the draft budget shall be forwarded to the Council and the Commission.

Article 4

(Final adoption of the budget
after the first reading)

Where the Council has informed Parliament that it has not modified its amendments and that it has accepted or not rejected its proposed modifications, the President shall declare in plenary sitting that the budget has been adopted. He shall arrange for its publication in the Official Journal of the Communities.

Article 5

(Consideration of the Council's deliberations - second stage)

1. If the Council has modified one or more of the amendments adopted by Parliament, the text thus modified by the Council shall be referred to the committee responsible.

2. Subject to the conditions set out below, any Member may table and speak in support of draft amendments to the text as modified by the Council.

3. Such drafts shall be admissible only if they are presented in writing, bear the signature of at least five Members or are tabled on behalf of a political group or committee and ensure the maintenance of a balance between revenue and expenditure.

Draft amendments shall be admissible only if they refer to the text modified by the Council.

4. The President shall fix the time limit for the tabling of draft amendments.

5. The committee responsible shall pronounce on the texts modified by the Council and deliver its opinion on the draft amendments to the modified texts.

6. Draft amendments to the texts modified by the Council shall be put to the vote. The European Parliament shall act by a majority of its Members and three-fifths of the votes cast. If the draft amendments are adopted, the text modified by the Council shall be deemed rejected. If they are rejected, the text modified by the Council shall be deemed adopted.

7. The Council's summary of the results of its deliberations on the proposed modifications adopted by Parliament shall be debated and a motion for a resolution may then be put to the vote.

8. Upon completion of the procedure provided for in this Article, and subject to the provisions of Article 6, the President shall declare in plenary sitting that the budget has been finally adopted. He shall arrange for its publication in the Official Journal of the Communities.

Article 6

(Total rejection)

1. Five Members, a political group or a committee may, for important reasons, table a proposal to reject the draft budget as a whole. Such a proposal shall be admissible only if it is accompanied by a written justification and tabled within the time limit set by the President. The reasons for rejection may not be contradictory.

2. The committee responsible shall deliver its opinion on such a proposal before it is put to the vote in plenary sitting.

The European Parliament shall act by a majority of its Members and two-thirds of the votes cast. If the proposal is adopted, the draft budget as a whole shall be referred back to the Council

New Article 7

(Provisional twelfths system)

1. Subject to the conditions set out below, any Member may submit a proposal for a decision different from that taken by the Council authorizing expenditure in excess of the provisional one twelfth for expenditure other than that necessarily resulting from the Treaty or from acts adopted in accordance therewith.

2. Proposals for decisions shall be admissible only if they are presented in writing, bear the signature of at least five Members or are tabled by a political group or committee and state the grounds on which they are based.

3. The committee responsible shall deliver its opinion on the texts submitted before they are discussed in plenary sitting.

4. The European Parliament shall act by a majority of its Members and three-fifths of the votes cast.

Article 8

(Community VAT rate)

On the occasion of the adoption of the budget Parliament shall also fix the VAT rate.

B. PROVISIONS RELATING TO THE ESTIMATES OF PARLIAMENT

Rules 49 to 50A of the European Parliament's Rules of Procedure

Rule 49

1. Parliament shall be assisted by a Secretary-General appointed by the Bureau.

The Secretary-General shall give a solemn undertaking before the Bureau to perform his duties conscientiously and with absolute impartiality.

2. The Secretary-General shall head a Secretariat the composition and organization of which shall be determined by the Bureau.

3. The Bureau, after consulting the appropriate committee of Parliament, shall decide the number of staff and lay down regulations relating to their administrative and financial situation.

The Bureau shall also decide to what categories of officials and servants Articles 12 to 14 of the Protocol on the privileges and immunities of the European Communities shall apply in whole or in part.

The President of Parliament shall inform the appropriate institutions of the European Communities accordingly.

Rule 50

1. The Bureau shall draw up a first preliminary draft of the estimates of Parliament on the basis of a report prepared by the Secretary-General, and shall consult the appropriate committee on the subject.

2. After receiving the opinion of that committee, the enlarged Bureau shall adopt the preliminary draft estimates.

3. The President shall forward the preliminary draft estimates to the appropriate committee, which shall draw up the draft estimates and report to Parliament.

4. The President shall fix a time-limit for the tabling of amendments to the draft estimates.

The appropriate committee shall give its opinion on these amendments.

5. Parliament shall adopt the estimates.

6. The President shall forward the estimates to the Commission and Council.

7. The foregoing provisions shall also apply to supplementary estimates.

Rule 50 A

1. The President shall incur and settle, or cause to be incurred and settled, the expenditure covered by the internal financial regulations issued by the Bureau after consulting the appropriate committee.

2. The President shall forward the draft annual accounts to the appropriate committee.

3. On the basis of a report by its appropriate committee, Parliament shall pass its accounts and decide on the giving of a discharge.

PART VI

Provisions relating to Community loans

A. PROVISIONS UNDER THE EEC TREATY

1. Article 130 of the EEC Treaty defining the task of the European Investment Bank

Article 130

The task of the European Investment Bank shall be to contribute, by having recourse to the capital market and utilising its own resources, to the balanced and steady development of the common market in the interest of the Community. For this purpose the Bank shall, operating on a non-profit-making basis, grant loans and give guarantees which facilitate the financing of the following projects in all sectors of the economy:

(a) projects for developing less developed regions;

(b) projects for modernising or converting undertakings or for developing fresh activities called for by the progressive establishment of the common market, where these projects are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States;

(c) projects of common interest to several Member States which are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States.

2. Articles 18 to 23 of the Protocol on the Statute of the European Investment Bank

Article 18

1. Within the framework of the task set out in Article 130 of this Treaty, the Bank shall grant loans to its members or to private or public undertakings for investment projects to be carried out in the European territories of Member States, to the extent that funds are not available from other sources on reasonable terms.

However, by way of derogation authorised by the Board of Governors, acting unanimously on a proposal from the Board of Directors, the Bank may grant loans for investment projects to be carried out, in whole or in part, outside the European territories of Member States.

2. As far as possible, loans shall be granted only on condition that other sources of finance are also used.

3. When granting a loan to an undertaking or to a body other than a Member State, the Bank shall make the loan conditional either on a guarantee from the Member State in whose territory the project will be carried out or on other adequate guarantees.

4. The Bank may guarantee loans contracted by public or private undertakings or other bodies for the purpose of carrying out projects provided for in Article 130 of this Treaty.

5. The aggregate amount outstanding at any time of loans and guarantees granted by the Bank shall not exceed 250% of its subscribed capital.

6. The Bank shall protect itself against exchange risks by including in contracts for loans and guarantees such clauses as it considers appropriate.

Article 19

1. Interest rates on loans to be granted by the Bank and commission on guarantees shall be adjusted to conditions prevailing on the capital market and shall be calculated in such a way that the income therefrom shall enable the Bank to meet its obligations, to cover its expenses and to build up a reserve fund as provided for in Article 24.

2. The Bank shall not grant any reduction in interest rates. Where a reduction in the interest rate appears desirable in view of the nature of the project to be financed, the Member State concerned or some other agency may grant aid towards the payment of interest to the extent that this is compatible with Article 92 of this Treaty.

Article 20

In its loan and guarantee operations, the Bank shall observe the following principles:

1. It shall ensure that its funds are employed as rationally as possible in the interests of the Community.

It may grant loans or guarantees only:

(a) where, in the case of projects carried out by undertakings in the production sector, interest and amortisation payments are covered out of operating profits or, in other cases, either by a commitment entered into by the State in which the project is carried out or by some other means; and

(b) where the execution of the project contributes to an increase in economic productivity in general and promotes the attainment of the common market.

2. It shall neither acquire any interest in an undertaking nor assume any responsibility in its management unless this is required to safeguard the rights of the Bank in ensuring recovery of funds lent.

3. It may dispose of its claims on the capital market and may, to this end, require its debtors to issue bonds or other securities.

4. Neither the Bank nor the Member States shall impose conditions requiring funds lent by the Bank to be spent within a specified Member State.

5. The Bank may make its loans conditional on international invitations to tender being arranged.

6. The Bank shall not finance, in whole or in part, any project opposed by the Member State in whose territory it is to be carried out.

Article 21

1. Applications for loans or guarantees may be made to the Bank either through the Commission or through the Member State in whose territory the project will be carried out. An undertaking may also apply direct to the Bank for a loan or guarantee.

2. Applications made through the Commission shall be submitted for an opinion to the Member State in whose territory the project will be carried out. Applications made through a Member State shall be submitted to the Commission for an opinion. Applications made direct by an undertaking shall be submitted to the Member State concerned and to the Commission.

The Member State concerned and the Commission shall deliver their opinions within two months. If no reply is received within this period, the Bank may assume that there is no objection to the project in question.

3. The Board of Directors shall rule on applications for loans or guarantees submitted to it by the Management Committee.

4. The Management Committee shall examine whether applications for loans or guarantees submitted to it comply with the provisions of this Statute, in particular with Article 20. Where the Management Committee is in favour of granting the loan or guarantee, it shall submit the draft contract to the Board of Directors; the Committee may make its favourable opinion subject to such conditions as it considers essential. Where the Management Committee is against granting the loan or guarantee, it shall submit the relevant documents together with its opinion to the Board of Directors.

5. Where the Management Committee delivers an unfavourable opinion, the Board of Directors may not grant the loan or guarantee concerned unless its decision is unanimous.

6. Where the Commission delivers an unfavourable opinion, the Board of Directors may not grant the loan or guarantee concerned unless its decision is unanimous, the director nominated by the Commission abstaining.

7. Where both the Management Committee and the Commission deliver an unfavourable opinion, the Board of Directors may not grant the loan or guarantee.

Article 22

1. The Bank shall borrow on the international capital markets the funds necessary for the performance of its tasks.

2. The Bank may borrow on the capital market of a Member State either in accordance with the legal provisions applying to internal issues or, if there are no such provisions in a Member State, after the Bank and the Member State concerned have conferred together and reached agreement on the proposed loan.

The competent authorities in the Member State concerned may refuse to give their assent only if there is reason to fear serious disturbances on the capital market of that State.

Article 23

1. The Bank may employ any available funds which it does not immediately require to meet its obligations in the following ways:

(a) it may invest on the money markets;

(b) it may, subject to the provisions of Article 20 (2), buy and sell securities issued by itself or by those who have borrowed from it;

(c) it may carry out any other financial operation linked with its objectives.

2. Without prejudice to the provisions of Article 25, the Bank shall not, in managing its investments, engage in any currency arbitrage not directly required to carry out its lending operations or fulfil commitments arising out of loans raised or guarantees granted by it.

3. The Bank shall, in the fields covered by this Article, act in agreement with the competent authorities or with the bank of issue of the Member State concerned.

3. Council Regulation No 397/75 of 17 February 1975 concerning Community loans and Council Regulation No 398/75 of 17 February 1975 implementing Regulation No 397/75

(OJ No L46, 20 February 1975)

REGULATION (EEC) No 397/75 OF THE COUNCIL
of 17 February 1975
concerning Community loans

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Whereas the considerable changes in the terms of international trade have produced a deterioration in the balance of payments of the Member States of the Community;

Whereas the effects of this deterioration will vary from one Member State to another and may thereby compromise the proper operation of the common market;

Whereas the Community should accordingly contribute to the financing required by this situation, and to this end itself borrow funds to be put at the disposal of Member States whose balance of payments is affected by the increase in the price of petroleum products, in the form of loans having identical financial characteristics;

Whereas, moreover, intervention by the Community as such is likely to contribute to a stabilization of capital movements due to the increase in the price of petroleum products, to the benefit of the whole international community;

Whereas each loan to a Member State must be conditional upon the adoption by that Member State of economic policy measures designed to redress its balance of payments;

Whereas it follows from the foregoing that transactions of this type are necessary to attain the objectives of the Community as defined in the Treaty, and in particular the harmonious development of economic activities throughout the Community;

Whereas the Treaty makes no provision for the powers of action required for this purpose,

HAS ADOPTED THIS REGULATION:

Article 1

The Community may undertake a series of operations to raise funds, either directly from third countries and financial institutions, or on the capital markets, with the sole aim of re-lending those funds to one or more Member States in balance of payments difficulties caused by the increase in prices of petroleum products.

Article 2

The opening of the negotiations necessary for each loan transaction shall be authorized by the Council on the initiative of one or more Member States. The decision to open negotiations shall also lay down the procedures for those negotiations.

In the light of the outcome of those negotiations, the Council shall decide on what terms each loan agreement is to be concluded. The average period for which funds are borrowed shall not be less than five years.

Article 3

The Council shall decide on the principle and the terms of loans to be granted to one or more Member States and on the economic policy conditions to be fulfilled by each beneficiary Member State in order to redress its balance of payments.

The funds shall be paid only into central banks and shall be used only for the purposes indicated in Article 1.

Article 4

The operations of borrowing and lending referred to in Article 1 shall be expressed in the same currency and carried out on the same terms with respect to

repayment of the principal and payment of interest. The costs incurred by the Community in concluding and carrying out each operation shall be borne by the beneficiary Member State concerned.

Article 5

The loan operations authorized by this Regulation shall be limited to the equivalent in European monetary units of account of 3 000 million US dollars in principal and interest payments.

Article 6

The guarantees designed to ensure that the loans referred to in Article 1 are serviced and repaid in all circumstances shall not exceed the following percentages applied to the total amount of the loan in principal and interest:

	%
Germany	44.04
United Kingdom	44.04
France	44.04
Italy	29.36
Belgium/Luxembourg	14.68
Netherlands	14.68
Denmark	6.60
Ireland	2.56

Article 7

The Council shall lay down detailed rules for the implementation of this Regulation.

Article 8

The measures referred to in Articles 2, 3 and 7 shall be adopted by the Council acting unanimously on a proposal from the Commission, which shall consult the Monetary Committee on the matter.

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

Done at Brussels, 17 February 1975.

For the Council

The President

R. RYAN

REGULATION (EEC) No 398/75 OF THE COUNCIL
of 17 February 1975
implementing Regulation (EEC) No 397/75 concerning Community loans

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community;

Having regard to Council Regulation (EEC) No
397/75⁽¹⁾ of 17 February 1975 concerning Commu-
nity loans, and in particular Article 7 thereof;

Having regard to the proposal from the Commission
which has for this purpose consulted the Monetary
Committee;

Whereas Regulation (EEC) No 397/75 provides that
the Community shall, where necessary, undertake
operations to raise funds to re-lend to one or more
Member States in balance of payments difficulties due
to the increase in the price of petroleum products;

Whereas, in order to ensure that the Community debt
is at all times duly serviced, as regards both capital
and interest, it is essential to define the conditions
under which the Community shall be entitled to
receive from the other Member States the necessary
foreign exchange if the debtor Member State finds
itself unable to make payment on one or more due
dates;

Whereas a procedure must be provided for examining
both the circumstances preventing a debtor Member
State from meeting its obligations in respect of the
debt and those in which a Member State might be
exempted from the arrangements for the Member
States to provide the Community with the foreign
exchange due from the debtor Member State,

HAS ADOPTED THIS REGULATION:

Article 1

Where it is found, pursuant to the procedure laid
down in Article 6, that a Member State which has
received a loan from the Community is wholly or
partially unable to provide the necessary foreign
exchange to make a payment falling due in respect of
such loan, the other Member States shall be under an
obligation to provide the Community with this
foreign exchange in the proportions specified in
Article 2.

Article 2

The allocation among the Member States of the
foreign exchange to be provided by them pursuant to
Article 1 shall be calculated by applying, in the
manner set out in this Article, the following scale:

⁽¹⁾ See page 1 of this Official Journal.

	%
Germany	22.02
United Kingdom	22.02
France	22.02
Italy	14.68
Belgium/Luxembourg	7.34
Netherlands	7.34
Denmark	3.30
Ireland	1.28

This scale shall be applied by dividing the total
financing requirement among the other Member
States in the above proportions without taking
account of the debtor Member State's quota.

Article 3

Where, pursuant to the procedure laid down in Article
7, one or more Member States are temporarily
exempted in whole or in part from the obligation to
provide the Community with foreign exchange due
from the debtor Member State, the scale laid down in
Article 2 shall be applied without taking account of
the quotas of those Member States, to the extent that
they have been exempted.

Article 4

1. However, no Member State may be required to
provide the Community with a total amount of
foreign exchange which exceeds the percentage laid
down in Article 6 of Regulation (EEC) No 397/75
applied to the total amount of the basic loan plus
interest.

2. If this limit is reached and there remains a
balance to be financed, the balance shall only be
divided, in accordance with the scale laid down in
Article 2, among the Member States other than the
Member State which has received the loan which
otherwise would have been temporarily exempted in
whole or in part from participating in the operation;
for the Member States only partially exempted, the
percentage allotted to them in the scale laid down in
Article 2 shall be reduced by the percentage taken
into account in calculating their share of the alloca-
tion which left the balance to be financed.

Article 5

Member States which have provided foreign exchange
pursuant to Articles 2 to 4 shall *ipso facto* acquire a
claim against the Community for the foreign
exchange provided.

Any outstanding sums shall bear interest at the rate set out in the original loan, subject to a decision taken by the Council by a qualified majority to amend this rate.

Article 6

1. When a Member State receives a loan from the Community, the Commission, in collaboration with the Monetary Committee, shall take the necessary measures to verify that the economic policy of this State accords with the conditions laid down by the Council pursuant to Article 3 of Regulation (EEC) No 397/75. Subject to any arrangements which may be made in connection with individual loans, this verification shall take place at regular and frequent intervals. To this end, the Member State shall place all the necessary information at the disposal of the Commission.

2. This surveillance shall be closer as the date for the first repayment approaches, or if recourse is had to the re-financing arrangements provided for in Articles 2 to 4.

3. Should it appear that difficulties may arise in making a payment on the due date, the Commission, in collaboration with the Monetary Committee and the Committee of the Governors of the Central Banks shall, sufficiently in advance of the due date, make a special examination of the situation. This examination shall be concerned in particular with the financing arrangements available to the debtor Member State both inside and outside the Community.

4. If this examination indicates that the debtor Member State will be partly or wholly unable to make payment on the due date, the Commission shall propose that the Council, by a unanimous decision, implement the re-financing arrangements described in Articles 2 to 4.

If the examination raises serious doubts as regards the debtor Member State's alleged incapacity to pay, the Commission shall make a report to the Council which may include a proposal that it implement the

re-financing arrangements. In the absence of such a proposal, the debtor Member State may make application to the Council. The Council shall take a unanimous decision after consulting the Monetary Committee and the Committee of the Governors of the Central Banks.

Article 7

Any Member State which wishes to be temporarily exempted in whole or in part from participating in any re-financing arrangements owing to balance of payments difficulties or serious deterioration in its foreign exchange reserves shall make known its reasons at the examination provided for in Article 6 (3). The procedure provided for in Article 6 (4) shall apply to such request.

Article 8

In any event, both in the case of a debtor Member State being unable to pay, as envisaged in Article 1, and in the case of other Member States being temporarily exempted in whole or in part from contributing, as envisaged in Article 3, all possibilities open to the Member States concerned for obtaining finance either inside or outside the Community must first have been exhausted before recourse is had to the re-financing arrangements provided for in Articles 2 to 4.

Article 9

Any Member State which has been temporarily exempted in whole or in part, whether as regards a payment due from it or as regards participation in re-financing arrangements, shall be under an obligation to make payment or to provide its share to the Community as soon as its balance of payments situation and foreign exchange reserves so permit.

Article 10

The European Monetary Cooperation Fund shall make the necessary arrangements for the administration of the loans.

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

Done at Brussels, 17 February 1975.

For the Council

The President

R. RYAN

4. COUNCIL DECISION

of 16 October 1978

empowering the Commission to contract loans for the purpose of promoting investment within the Community

(78/870/EEC)

(OJ No L298, 25 October 1978)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Whereas economic activity, employment and investment in the Community are unevenly distributed and are all too low;

Whereas, in order to stimulate an economic upturn and support common policies, a new financial mechanism designed to make an additional contribution to investment promotion in the Community should be added to existing Community mechanisms alongside existing Community financial institutions and bodies whose scope should be widened;

Whereas Community action to this end would have a real follow-through effect and financial impact far beyond its apparent size;

Whereas such Community action should aim to realize investment projects which contribute to greater convergence and integration of the economic policies of the Member States and are in line with priority Community objectives;

Whereas plentiful finance can be found on the capital markets which could be tapped to finance investment within the Community;

Whereas the Community has a creditworthiness in its own right which must be used to best advantage to reinforce European support for the said investments and to support policies decided on at Community level;

Whereas borrowings equivalent to 1 000 million EUA in principal seem appropriate in the present circumstances for helping to achieve the desired result;

Whereas this new financial mechanism should be introduced on an experimental basis;

Whereas the European Investment Bank has stated that it is willing to contribute to the implementation of this Decision,

HAS DECIDED AS FOLLOWS:

Article 1

The Commission shall be empowered to contract loans on behalf of the European Economic Community which shall not exceed the equivalent of 1 000 million EUA in principal.

The proceeds of these loans shall be lent to finance investment projects which contribute to greater convergence and integration of the economic policies of the Member States. These projects must help attain the priority Community objectives in the energy, industry

⁽¹⁾ OJ No C 108, 8. 5. 1978, p. 32.

⁽²⁾ Opinion delivered on 26 and 27 April 1978 (not yet published in the Official Journal).

and infrastructure sectors, taking account *inter alia* of the regional impact of the projects and the need to combat unemployment.

This mechanism may be used on its own or in conjunction with other Community financing instruments.

Article 2

Loans shall be activated tranche by tranche.

The Council, acting unanimously on a proposal from the Commission, and after consulting the European Parliament, shall authorize each tranche and lay down the guidelines for the eligibility of projects.

The Commission shall decide whether or not projects are eligible in accordance with the guidelines laid down by the Council.

The Commission will borrow on the capital markets within the limits of the tranches authorized. A single borrowing may be used to finance loans for different objectives.

Article 3

Borrowing and lending transactions shall be expressed in the same currency. Lending terms for reimbursement of the principal and the rate and payment of interest shall be fixed in such a way as to cover the costs and expenses of both the borrowing and lending side of each transaction.

Article 4

The terms of loans to be contracted shall be negotiated by the Commission in the best interests of the Community having regard to the conditions on capital markets and in accordance with the constraints imposed by the duration and other financial aspects of the loans to be granted. Funds borrowed shall be deposited with the European Investment Bank to be invested on a temporary basis if necessary.

Article 5

A mandate shall be given to the Bank to grant loans in pursuance of this Decision. The Bank shall carry out transactions under this mandate on behalf of, for and at the risk of the Community. Loan requests shall

be forwarded to the Bank either directly or through the Commission or a Member State. After a Commission decision on the eligibility of each project pursuant to Article 2 the Bank shall, in accordance with the procedures laid down in its Statute and its usual criteria, examine these requests, decide whether and on what terms to grant the loans, and administer them.

The mandate given to the Bank shall be embodied in a cooperation agreement between the Commission and the Bank.

Article 6

The Commission shall annually inform the Council and the European Parliament of receipts and expenses resulting from borrowing and lending transactions. Each year it shall submit a review of its borrowing and lending policy together with the budget estimates.

In the light of this information, the Council may carry out an assessment of the general operation of the mechanism set up by this Decision.

As soon as the amount of loans taken up reaches the equivalent of 800 million EUA, or two years after the adoption of this Decision, whichever is the earlier, the Commission will submit a report to the Council and the European Parliament on the experience gained during the operation of this Decision.

The financial control and audit of the Commission's accounts shall be carried out in accordance with the Financial Regulation applicable to the general budget of the European Communities.

Article 7

For the purposes of this Decision the European unit of account (EUA) shall be that defined by the Financial Regulation applicable to the general budget of the European Communities.

Done at Luxembourg, 16 October 1978.

For the Council

The President

H. MATTHÖFER

B. PROVISIONS UNDER THE EURATOM TREATY

1. Article 172(4) of the EURATOM Treaty

4. Loans for the financing of research or investment shall be raised on terms fixed by the Council in the manner provided for in Article 177 (5).

The Community may borrow on the capital market of a Member State, either in accordance with the legal provisions applying to internal issues, or, if there are no such provisions in a Member State, after the Member State concerned and the Commission have conferred together and have reached agreement upon the proposed loan.

The competent authorities of the Member State concerned may refuse to give their assent only if there is reason to fear serious disturbances on the capital market of that State.

2. COUNCIL DECISION

of 29 March 1977

empowering the Commission to issue Euratom loans for the purpose
of contributing to the financing of nuclear power stations

(77/270/Euratom)

(OJ No L88, 6 April 1977)

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 2, 172 and 203 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Whereas the use of nuclear energy can reduce the Community's excessive dependence on external sources of energy and thus improve the terms on which energy is imported;

Whereas, under present technical and economic conditions, the use of nuclear energy for the production of electricity is economically advantageous and more satisfactory than the use of petroleum products;

Whereas the additional investment required for nuclear plant by comparison with conventional plant, combined with the costs arising out of the increase in the price of petroleum products which affect the operating costs of existing conventional power stations, means that electricity producers are being forced to borrow more;

Whereas Article 2 (c) of the Treaty gives the Community the task of facilitating investment and ensuring, particularly by encouraging ventures on the part of undertakings, the establishment of the basic installa-

tions necessary for the development of nuclear energy in the Community; whereas, if a contribution is to be made to the financing of nuclear power stations, arrangements must be made for borrowing and lending; whereas such action appears to be necessary if the objective set out in Article 2 (c) of the Treaty is to be attained, although the Treaty does not provide for the powers necessary for that purpose;

Whereas in view of the large amount of capital required the financing potential should be increased; whereas it appears that the Community can provide a substantial amount of aid in this field;

Whereas the Community has a duty to employ all the means at its disposal to facilitate the attainment of the aims adopted under the new common energy policy strategy.

HAS DECIDED AS FOLLOWS:

Article 1

The Commission is hereby empowered to issue loans, on behalf of the European Atomic Energy Community (Euratom) and within amounts fixed by the Council, the proceeds of which will be lent for the purpose of financing investment projects relating to the industrial production of electricity in nuclear power stations and to industrial fuel cycle installations.

The Commission shall borrow no more than the amounts of the loans for which it has received applications.

(1) OJ No C 157, 14. 1975, p. 35.

(2) OJ No C 248, 29. 1975, p. 8.

Borrowing transactions and the lending transactions related thereto shall be expressed in the same currency and carried out on the same terms as regards the repayment of principal and the payment of interest. The costs incurred by the Community in concluding and carrying out each transaction shall be borne by the beneficiary undertakings concerned.

Article 2

The terms of loans to be issued shall be negotiated by the Commission in the best interests of the Community having regard to the conditions on capital markets and in accordance with the constraints imposed by the duration of the loans to be granted.

Article 3

The Commission shall decide on the grant of each loan. Its decisions shall be based in particular on the principle that preference will be given to the use of resources under the most profitable conditions in installations of optimum size.

Loans shall be guaranteed in the manner customary in banking practice.

Article 4

The Commission shall inform the Council and the European Parliament at regular intervals of the revenue and expenditure transactions arising out of the contracting and servicing of Euratom loans issued and granted. Each year it shall submit a review of its borrowing policy together with the budget estimates.

Article 5

Financial control and auditing shall be carried out in accordance with the Financial Regulation of 25 April 1973 applicable to the general budget of the European Communities⁽¹⁾.

Done at Brussels, 29 March 1977.

For the Council

The President

T. BENN

(1) OJ No L 116, 1. 5. 1973, p. 1.

C. PROVISIONS UNDER THE ECSC TREATY

(See Articles 49 to 53 of the Treaty, pages 23 and 24)

Article 54 of the ECSC Treaty

Article 54

The High Authority may facilitate the carrying out of investment programmes by granting loans to undertakings or by guaranteeing other loans which they may contract.

With the unanimous assent of the Council, the High Authority may by the same means assist the financing of works and installations which contribute directly and primarily to increasing the production, reducing the production costs or facilitating the marketing of products within its jurisdiction.

In order to encourage coordinated development of investment, the High Authority may, in accordance with Article 47, require undertakings to inform it of individual programmes in advance, either by a special request addressed to the undertaking concerned or by a decision stating what kind and scale of programme must be communicated.

The High Authority may, after giving the parties concerned full opportunity to submit their comments, deliver a reasoned opinion on such programmes within the framework of the general objectives provided for in Article 46. If application is made by the undertaking concerned, the High Authority must deliver a reasoned opinion. The High Authority shall notify the opinion to the undertaking concerned and shall bring the opinion to the attention of its Government. Lists of such opinions shall be published.

If the High Authority finds that the financing of a programme or the operation of the installations therein planned would involve subsidies, aids, protection or discrimination contrary to this Treaty, the adverse opinion delivered by it on these grounds shall have the force of a decision within the meaning of Article 14 and the effect of prohibiting the undertaking concerned from drawing on resources other than its own funds to carry out the programme.

The High Authority may impose on undertakings which disregard the prohibition referred to in the preceding paragraph fines not exceeding the amounts improperly devoted to carrying out the programme in question.

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ABBREVIATIONS

Accession	Act of Accession
Agmt .	Agreement
Art.	Article(s)
Bud. Coop. (Agmt.)	Budgetary Cooperation (Agreement)
CA	Court of Auditors
Dec.	Decisions
Decl.	Declarations etc. annexed to the Treaties
Dec. Own Res.	Decision of 21 April 1970 on the replacement of financial contributions from the Member States by the Communities' own resources
EAGGF	European Agricultural Guidance and Guarantee Fund
ECSC	Treaty establishing the European Coal and Steel Community
EEC	Treaty establishing the European Economic Community
EIB	European Investment Bank
EIB St.	Statute of the European Investment Bank
EP	European Parliament
EPIRP	European Parliament Internal Rules of Procedure for the consideration of the Budget
EPRP	European Parliament's Rules of Procedure
EURATOM	Treaty establishing the European Atomic Energy Community
Fin. Reg.	Financial Regulation
Joint Decl.	Joint Declaration
Merg.	Merger Treaty
Own res.	Own Resources
Reg.	Regulation
Reg. fin. mec.	Regulation setting up a financial mechanism
Res.	Resolution

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(see 'Internal rules for consideration of the budget')

