

EUROPEAN PARLIAMENT

The Budgetary powers
of the
European Parliament

Directorate-General for Research and Documentation

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The European Parliament as an institution assumes no responsibility for this study, which has been produced by the Directorate-General for Research and Documentation.

The Directorate-General for Research and Documentation felt it would be useful now when the debate on the 1978 budget is in progress to attempt to summarize - particularly for the benefit of a number of Members who, having joined the European Parliament since 1977, have not taken part in the previous debates - the roles played by the various institutions, and the European Parliament in particular, in drawing up, adopting and controlling the budget of the European Communities.

It is also to be expected, if previous experience is anything to go by, that there will be many requests for information on the budgetary powers of the European Parliament when direct elections are held. This document, even though it may yet be revised after the adoption of the 1978 budget, which should be the last one before direct elections, should satisfy the desire for accurate information on this subject.

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INTRODUCTION

When considering the budgetary powers of the European Parliament, it should be remembered that relations between the institutions are very different in the Community and the Member States.

In the Member States the finance bill is a legislative act under which the same institutions - parliament and government - have similar powers: the government proposes legal texts and the budget and parliament adopts them. In the European Communities, the distribution of powers between the various institutions as regards the preparation and adoption of the budget is very different. Whereas in the Member States the executive has more power than parliament in budgetary matters, in the Communities Parliament has always had more power over the budget than in the drawing up of legislative texts.

Until 1967, the administrative expenditure of the ECSC institutions was covered by a simple set of estimates and adopted unanimously by a committee composed of the Presidents of the four institutions¹. On the other hand, non-budgetary decisions were taken by the High Authority - replaced by the Commission in 1967 - often after consulting the Council of Ministers. The budgetary procedure of the ECSC thus gave the institutions, including Parliament represented by its President, joint decision-making powers.

The budgetary procedure of the other two Communities - the EEC and Euratom - established in 1957 is also quite distinct from the legislative procedure. In their original form, applicable from 1958 to 1970, the budgetary procedure prescribed by Article 203 of the EEC Treaty and Article 117 of the Euratom Treaty differed from the procedure for legislative acts - regulations, decisions and directives in three ways:

- if Parliament submitted proposed modifications to the draft budget there had to be second reading in the Council;
- under Article 149 of the EEC Treaty the Commission may alter its original legislative proposals as long as the Council has not acted, but it does not have the same right as regards the budget;
- the Council may decide by a qualified majority to depart from the Commission's preliminary draft budget whereas in the legislative field a unanimous decision is required.

¹ Article 78 of the ECSC Treaty before being amended by the Treaty establishing a Single Council and a Single Commission of the European Communities which entered into force in July 1967.

The original Article 203 put the Council in a fairly strong position, but this was changed by the Treaty of 22 April 1970¹, which gave Parliament the right of amendment and the power to adopt the budget. 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 increased Parliament's budgetary powers but left the allocation of legislative powers unaltered.

The following shows that the Council's legislative power is currently offset by Parliament's budgetary power and that if this balance is to be maintained, not only must each institution respect the powers conferred on the other but Council and Parliament must cooperate in general.

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The European Parliament's budgetary powers are constantly changing. For the sake of clarity, the situation described below is the situation that arises pursuant to Article 203 of the EEC Treaty, i.e. the version contained in the Treaty of 22 April 1970, and the Financial Regulation of 25 April 1973². When reference is made to the new provisions of the Treaty of 22 July 1975 strengthening Parliament's budgetary powers or to proposed amendments to the Financial Regulation, this will be clearly stated.

This note on the budgetary powers of the European Parliament is divided into four chapters:

- I. The budget and budgetary principles
- II. Parliament's power to adopt the budget
- III. Parliament's power to control revenue and expenditure
- IV. Parliament's power to authorize and administer its own appropriations.

¹Treaty 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, OJ No. L 2, 2 January 1971.

²Financial Regulation of 25 April 1973 applicable to the general budget of the European Communities, OJ No. L 116, 1 May 1973.

CHAPTER I : THE BUDGET AND BUDGETARY PRINCIPLES

Before discussing budgetary procedure proper, we shall give a brief description of budget revenue and expenditure and see how Parliament may intervene in accordance with the various budgetary principles in order to enforce its decision on the budget.

A. Revenue

Up to 1970, the budget of the Communities was financed by contributions from the Member States in accordance with scales that varied according to the nature of the expenditure. In the social and agricultural fields, the budget provided for financial compensation to be paid to the Member States and took the form of a series of entries in the accounts at the end of the budget year.

From 1 January 1971, the budget of the Communities has gradually been financed by the Communities' own resources. At present these resources consist of levies imposed on agricultural products traded with third countries, levies on the production of sugar and customs duties imposed at the Community's external frontiers.

The decision of 21 April 1970¹ provides that the resources necessary to meet the balance of budgetary expenditure may accrue from the value added tax (VAT), 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 Commission submitted a draft Sixth Directive harmonizing the basis of assessment, which the Council adopted on 17 May 1977². Although the Sixth Directive was originally intended as a solution to the problem of harmonizing tax legislation and of the financial autonomy of the Communities, only the latter seems to have been satisfactorily resolved. This should permit the financing of the Community budget from own resources alone as from 1 January 1978, provided the Member States have the opportunity to adapt their national legislation to the rules laid down in the directive before then.

¹Decision on the replacement of financial contributions from Member States by the Communities' own resources, OJ No. L 94, 28 April 1970

²OJ No. L 145, 13 June 1977

The decision of 21 April 1970 granting the Communities own resources made provision for a situation in which not all Member States applied the uniform basis of assessment of VAT at the same time:

- If at least three Member States do not apply the uniform basis of assessment, the balance of the budget not covered by agricultural levies and customs duties is financed by contributions from all the Member States. The contribution of each Member State is determined according to the proportion of its gross national product to the sum total of the gross national products of the Member States;
- If the uniform basis of assessment is applied in at least three Member States but not in all, the balance of the budget not covered by own resources is divided among the Member States that do not apply the uniform basis of assessment in accordance with the gross national product rule and is covered by VAT in the other Member States.

Own resources provide the majority of the revenue in the Community budget. The 'other revenue' referred to in Article 4 of the Decision of 21 April 1970 consists mainly of the tax levied on the salaries of Community officials, certain social security contributions paid out of their salaries, and the sale of Community property. Revenue also includes loans which could in future assume added importance and provide capital to finance some Community activities. The entering of loans in the budget has the advantage that an overall picture of the Community's financial activity is obtained and that own resources are then used as security for such loans.

Annex I provides the most important data on revenue in the 1977 financial year.

This statement on revenue shows that Parliament must comply with the strict rules governing the limited financial autonomy of the Communities when adopting the budget. It has absolutely no power to create new revenue. That right is reserved for the Council under Article 201 of the EEC Treaty and Article 173 of the Euratom Treaty¹.

There is a separate budget for ECSC expenditure, which is financed from a tax known as a levy, imposed only on coal and steel products² and from income from ECSC investments.

¹ However, a number of taxes - notably monetary compensatory amounts and the coresponsibility being on dairy products - have been created by Council decision without recourse to the procedure laid down by Article 201 of the EEC Treaty

² ECSC operational budget for 1977, OJ No. L 352, 22 December 1976

The levy rate is fixed each December by the Commission after consulting Parliament on the budget for the following year. For several years the rate has been fixed at 0.29% and currently yields 89 million u.a. The ECSC Treaty provides that it may not exceed 1% unless previously authorized by the Council acting by a two-thirds majority.

Expenditure under the ECSC budget for 1977 consists mainly of the following items: 18 million u.a. as the flat-rate share of administrative expenditure; 25 million u.a. for aid to resettlement; 42 million u.a. for aid to research; 15 million u.a. in interest subsidies for investments and redevelopment; 6 million u.a. in aid to coking coal and metallurgical coke; 5 million u.a. in aid to victims in Friuli.

Because of the current difficulties in the iron and steel industry, it is proposed to reduce the flat-rate share for administrative expenditure and research appropriations, and charge expenditure such as aid for coal stocks to the general budget and thus release further funds for the restructuring of the steel sector.

B. Expenditure

1. Budgetary expenditure

Not all Community expenditure is entered in the general budget. As Annex II shows, only the expenditure of the institutions, Parliament, the Council, the Commission, the Court of Justice and the expenditure of the Court of Auditors, is entered, in separate 'sections' of the budget. Each section is divided into titles, chapters, articles and items numbered according to the decimal classification system. Together, these subdivisions form what is called the 'budgetary nomenclature'.

Social Fund expenditure is entered in Chapters 50 to 53, and Regional Fund expenditure in Chapter 55 of Title 5 of the section of the budget reserved for the Commission. EAGGF expenditure is entered under three titles, Guarantee Section expenditure under Titles 6 and 7 and Guidance Section expenditure under Title 8. Expenditure on cooperation with developing countries and third countries is entered in Title 9, the main item currently being food aid. Title 10 is reserved for provisional appropriations and the contingency reserve for unexpected expenditure or expenditure not specified when the budget is drawn up.

Going back a little, some chapters in Titles 3 and 4 are worth mentioning. Appropriations for research and investment are entered in Chapter 33. Chapter 40 shows the 10% lump-sum repayment to the Member States of the costs incurred in collecting agricultural levies, sugar levies and customs duties.

2. Extra-budgetary expenditure

It should be noted that if Parliament is to exercise its budgetary powers validly and form a balanced and clear picture of all Community financial activities, all items of revenue and expenditure must be included in one single document submitted for its prior approval in accordance with Article 199 of the EEC Treaty. It is not however possible at present to achieve this budgetary unity in the case of:

- expenditure financed from ECSC levies; the Treaty establishing the ECSC still exists and because the levies imposed on coal and steel products are of a fiscal nature, ECSC expenditure cannot be included in the general budget. Nevertheless the intention is to consider the ECSC budget and the general budget side by side;
- the expenditure of the European Development Fund created in 1975 for a period of five years under the Lomé Convention with the associated countries in Africa, the Caribbean and the Pacific (ACP). The Council and the Commission have undertaken to find out how the expenditure of the next fund can be entered in the general budget and financed from the Communities' own resources instead of scaled contributions from the Member States;
- the financial activities of the ECSC and the European Investment Bank (EIB). These do not appear in any budgetary document whereas Community loans and Euratom borrowing¹ are recorded in the general budget. Parliament feels that the budget should give a better overall view of the Community's borrowing and lending policy based on the detailed programmes of the various institutions. This requirement is justified in the case of the EIB because of the important role conferred on it by the EEC Treaty (Articles 129 and 130), particularly as regards regional policy;
- the administrative expenditure of various bodies, such as the European University Institute in Florence, created indirectly under the Treaties establishing the European Communities.

On the other hand, during the budget debate in the autumn of 1976, the Council entered, at Parliament's request, a token item to which appropriations will subsequently be allocated for cooperation agreements with certain third countries, especially the Maghreb countries.

¹ Council Regulation of 17 February 1975, OJ No L 46/75 and Council Decision of 29 March 1977, OJ No L 88/77

Another aspect of 'debudgetization' is the creation of more or less decentralized bodies of the European Communities such as the Publications Office, the European Centre for the Development of Vocational Training (Berlin), the European Foundation for the improvement of living and working conditions (Dublin), the European Cooperation Association (AEC) with associated countries and territories, and the Euratom Supply Agency. These bodies benefit fairly extensively from subsidies entered in the general budget and are subject to financial management rules that often depart from the general Financial Regulation.

Extra-budgetary financing activities are relatively low, the exceptions being:

- the financial activities of the ECSC. The operational budget amounts to about 100 million u.a. Lending amounted to slightly more than 1,000 million u.a. for the 1976 financial year;
- the European Development Fund with 3,150 million u.a. at its disposal, of which 2,165 million u.a. take the form of subsidies for a period of five years;
- the activities of the EIB, which granted loans totalling 730 million u.a. in 1976.

C. Principles governing adoption and implementation of the budget

Budgetary activity is subject to a series of general rules, usually to be found in one form or another in the budgets of all the Member States. The following is a brief description of the general rules that determine Parliament's role as regards the budget.

1. Budget equilibrium

Budget revenue and expenditure must be in balance. So far, recourse to borrowing to cover a deficit has been rejected. Thus, when the budget is put to the vote, amendments and proposed modifications have always consisted of two sections, one for expenditure and the other for revenue.

However, considering that 'own resources' are limited to levies, customs duties and VAT up to a maximum of 1% of the added value, own resources could well prove insufficient in the future to cover authorized expenditure. It would be politically unacceptable for the restriction represented by the ceiling on own resources to prevent the development of Community activities. The slowness of a ratification procedure such as that provided for in Article 201 of the EEC Treaty for the creation of new own resources could well be the source of this problem. That is why Parliament stressed the need for a solution during discussion of the two Treaties in 1970 and 1975. The Council has so far evaded the question.

2. The globality of the budget

As mentioned above (see page 9) the EEC and Euratom Treaties also state that all items of Community revenue and expenditure should be included in estimates drawn up for each budget year and shown in the budget, but this principle is disparaged and, despite Parliament's warnings, the present tendency is to create a series of bodies indirectly connected with the Community for the specific purpose of avoiding the restrictive budgetary procedure that gives Parliament the final say. For the same reason, Parliament has had to insist that loans be budgetized.

3. The budget as an estimate

The budget is basically an estimate. This principle is admittedly laid down in Article 199 of the EEC Treaty and Article 171 of the Euratom Treaty, but in practice it is the subject of discord between Parliament and the Council. According to Parliament, all foreseeable expenditure must be shown in the budget even though the legislative text has not been finally adopted and published. Supplementary budgets are permissible during a financial year only in the case of unforeseeable and unavoidable expenditure due for instance to financial intervention by the Commission following a natural disaster. The Council maintains that expenditure may not be entered in the budget unless the legal basis has been finalized and is ready to be applied.

The Council does not stick rigidly to this view, however, since several appropriations were entered in the budget for the 1976 and 1977 financial years for projects not yet incorporated in legislation.

Parliament for its part could not unreservedly enter appropriations for projects whose scope is not precisely defined. That would be tantamount to signing a blank cheque for any policy whatsoever. It is thus only natural that, to get round this snag, it either blocks appropriations under the relevant budget heading or enters them under Chapter 100, provisional appropriations, until it receives the text that has been finally adopted. If, during a financial year, the Commission proposed the release of appropriations or their transfer to a budget heading, Parliament could check whether the legislative provisions took account of its opinion on where they should be entered.

4. Annuality

The principle of annuality is laid down in Articles 202 and 203 of the EEC Treaty and Articles 175 and 177 of the Euratom Treaty. Appropriations unexpended at the end of the financial year should in principle be cancelled. Two exceptions are, however, allowed. Appropriations committed are automatically carried forward as payment appropriations without a request having to be submitted. For appropriations not yet committed, a request may be submitted for them to be carried forward for commitment and payment. Whether automatic or not, the carrying forward of appropriations distorts the picture that the budget should give of available appropriations. The implications of such carrying forward should thus be limited and requests for carrying forward appropriations should be submitted to the budgetary authority for authorization.

The main problem with requests to carry forward appropriations arises when operational expenditure extends over several financial years. In such cases, the solution is to create commitment authorizations and payment appropriations¹, in other words to divide the appropriations for a given project into two parts and authorize them for different financial years. As part of the current review of the Financial Regulation, the Commission proposes a solution along these lines. Commitment authorizations valid for one year only; non-automatic carryig-forward would be replaced by re-entry in the budget. Payment authorizations would be valid indefinitely depending on commitments; the automatic carrying forward of appropriations would thus be confirmed.

5. The specificity of appropriations

Appropriations are classified under different chapters, articles and items and cannot in principle be used for any purpose other than that specified by the budgetary authority. Under Article 205 of the EEC Treaty and the corresponding articles of the ECSC and Euratom Treaties, however, the Commission must implement the budget on its own responsibility and may transfer appropriations from one chapter to another or from one subdivision to another, subject to the limits and conditions laid down in the Financial Regulation.

¹ During the review of the Financial Regulation of 25 April 1973, Parliament proposed definitions for differentiated appropriations in its resolution of 14 December 1976 (OJ No C 6, 10 January 1977):

'Appropriations for payment 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. Commitment authorizations shall cover, for the current financial year, the total of the legal obligations to be entered into for activities which are to be implemented over more than one financial year'.

Under these articles, transfers of appropriations may be regarded either as a means of implementing the budget or as an amendment to the annual budget authorization. The 'limits and conditions' laid down in the Financial Regulation should indicate when a transfer is large enough to be regarded as going beyond the mere implementation of the budget.

In pursuance of the above articles, the Council adopted provisions in the Financial Regulation of 25 April 1973 that gave it the last word on transfers from one chapter to another. Parliament need only be consulted in the case of transfers from Chapter 100 (provisional appropriations). This unilateral division of power now seems to be in conflict with the strengthening of Parliament's budgetary powers.

In its proposal for a regulation amending the Financial Regulation, the Commission expresses the view that the decision to transfer appropriations from one chapter to another should be taken by the Council in the case of compulsory expenditure and by the Parliament otherwise¹. Parliament agrees with this proposal but feels that it should be limited to payment appropriations since in its opinion commitment authorizations should be entered in the remarks column of the budget on the right-hand page of the budget document.

In Parliament's view, major amendments to the budget originally adopted should be the subject of a rectifying budget and undergo the same procedure as the annual budget. A rectifying budget is different from a supplementary budget in that it does not have the effect of increasing the revenue needed to meet expenditure.

Both institutions - Commission and Parliament - agree that the Financial Regulation should give the Council, Parliament, the Court of Justice and the Court of Auditors the right to transfer appropriations from one chapter to another within their own section of the budget.

¹ The difference between compulsory and non-compulsory expenditure is explained on page 14.

CHAPTER II : THE POWER TO ADOPT THE BUDGET

Budgetary power is shared by the three institutions:

- The Commission gathers together the estimates of each of the institutions and draws up the preliminary draft budget;
- The Council adopts the draft budget, Parliament having the right to modify the appropriations appearing therein;
- Parliament may amend the draft budget; it adopts the final budget; it may reject the draft budget as a whole.

The exercising of budgetary power is subject to various rules of procedure, which are discussed below.

A. Proposed modifications or amendments

Parliament's right to amend the draft budget depends on the category of expenditure to which the appropriations it wishes to modify belong:

- It may amend 'non-compulsory' expenditure as well as revenue;
- It may only propose modifications to 'compulsory' expenditure.

The amendments adopted by Parliament at the second reading are final; they must be within the limits imposed by the rate of increase in non-compulsory expenditure. Proposed modifications may be rejected by the Council. It is thus essential to define compulsory expenditure. Until now, the three institutions have been content with the simple solution offered by the Commission, i.e. a list annexed to the preliminary draft budget. The list is thus subject to variations due to conflicting political pressures¹.

At first sight, it would have been fairly simple to define compulsory expenditure as expenditure which the Commission, the institution responsible for implementing the budget, is not at liberty to refuse to commit. One way of defining non-compulsory expenditure would be to decide whether it is useful to differentiate between commitment authorizations and payment appropriations; there is obviously no point in approving commitment authorizations for an item if the Commission cannot refuse to commit the appropriations allocated to it. This definition centres on the 'compulsory' nature of the expenditure.

It has also been maintained that expenditure created pursuant to Article 235 of the EEC Treaty can only be non-compulsory since it does not necessarily result from the Treaty or from acts adopted in accordance

¹ See Annex 3 III : Main items of compulsory and non-compulsory expenditure.

therewith. This second definition centres on the words 'resulting from the Treaty'.

A third argument is that sums fixed as annual expenditure in a legislative text - for instance Regional Fund expenditure¹ - is compulsory. This argument is difficult to defend since the adoption of a purely budgetary decision by legislative means could be termed abuse of power.

On the whole, however, the best definitions give rise to difficulties when applied in practice: it soon becomes necessary to split appropriations into compulsory and non-compulsory expenditure in a way that serves no practical purpose and would make the authorizing of appropriations very complicated.

Parliament has therefore requested that in future the legal consequences of distinguishing between compulsory and non-compulsory expenditure should be abolished.

B. The rate of increase of non-compulsory expenditure (amendments)

Parliament's powers over the draft budget are limited in two ways:

- It may only propose modifications to compulsory expenditure: the Council has the last word;
- It may propose amendments to non-compulsory expenditure provided it complies with the annual rate of increase.

This rate is fixed each year by the Commission on the basis of objective factors such as the trend of the gross national product, the variation in the budgets of the Member States and the trend of the cost of living. It determines the variation in non-compulsory expenditure from one year to the next. If the rate of increase in the draft budget established by the Council is over half the maximum rate, the margin for manoeuvre Parliament retains to exercise its right of amendment is equal to half the rate fixed.

Where, in specific cases, it appears necessary to exceed the rate determined, the budgetary authority - Council and Parliament - must try to agree on a new rate. The Council admitted in 1975 that even in this case, Parliament still had a margin of manoeuvre equal to half the rate determined. A new rate may be fixed only if there is joint agreement between the Council, acting by a qualified majority, and Parliament, acting by a majority of its Members and three fifths of the votes cast.

Greater use of commitment 'authorizations' and payment appropriations could influence the rate actually applied, depending on whether calculations are based on payment appropriations or commitment authorizations. So far,

¹ See Council Regulation of 18 March 1975 creating the European Regional Development Fund, OJ No. L 73/75

calculations have been based on payment appropriations. This solution leaves Parliament at perfect liberty to increase commitment authorizations by amendment. The Commission now proposes that the method should be changed and the rate of increase of non-compulsory expenditure calculated by reference to total expenditure obtained by adding together commitment authorizations and non-differentiated appropriations. The Council has said it is willing to adopt the Commission's proposal¹.

The Commission's preliminary draft budget for 1977 made greater use of commitment authorizations not only to avoid having to enter in the budget appropriations that would not give rise to any payment during the budget year but also to limit the collection of own resources to actual expenditure. The Council felt that the budgetary authority could not create new commitment authorizations since that was part of its legislative power. Parliament and the Council finally agreed that the Council should adopt a regulation listing ten projects for which new commitment authorizations could be created in 1977². This problem will be solved once and for all when the 1978 budget is adopted.

C The reverse majority (proposed modifications)

Hitherto, under Article 203 the Council has been able to reject Parliament's proposed modifications by a blocking minority. It had in fact to act by a qualified majority to 'accept' the modifications proposed by Parliament. The Treaty of 22 July 1975, which entered into force on 1 June 1977, partly rectifies this anomaly: from now on the Council will have to act by a qualified majority to 'reject' proposed modifications which do not have the effect of increasing the total amount of an institution's appropriations. Parliament's other proposed modifications will still have to be 'accepted' by the Council.

This aspect of the procedure is far from insignificant. The new method of voting was first used under the provisional version of Article 203 applicable to the budget for the financial years 1971 to 1974, and proved to be to Parliament's advantage, since the Council had some difficulty in securing the qualified majority necessary to reject certain proposed modifications. The Treaty of 22 July 1975 merely sanctions the procedure in the final version of Article 203.

¹ In its resolution of 16 December 1976, Parliament stated that commitment authorizations could not under any circumstances be taken into consideration in the calculation of the margin for increase available to it (OJ No. C 6, 10 January 1977)

² Financial Regulations of 21 October 1976 and 21 December 1976 - OJ No. L 333 and OJ No. L 362/76.

D. The budget timetable

Unlike a debate on a legislative draft, which is not by law subject to mandatory deadlines, the budgetary procedure is based on a series of fixed dates, some of which have to be respected if the budget is not to be adopted as it stood during the preceding phase. There are five main phases¹:

(1) The preliminary draft budget drawn up by the Commission

Before 1 May (1 March) the Commission informs the institutions of the maximum rate determined.

Before 1 July (15 May) the institutions draw up their estimates and forward them to the Commission for consolidation in the preliminary draft budget.

Not later than 1 September (20 June) the Commission forwards the preliminary draft budget to the Council and to Parliament for information.

In Parliament's view it is very important that the Commission should forward the preliminary draft budget to it before communicating it to the press.

(2) The draft budget adopted by the Council

Before 5 October (10 September), the Council establishes the draft budget after receiving a delegation from Parliament to hear its initial reaction to the preliminary draft budget. It acts by a qualified majority. The Council submits the draft budget to Parliament no later than 5 October (10 September); it thus has 35 days in which to draw up this document (50 days minus the month of August from 20 June to 10 September).

(3) First reading in Parliament

Parliament has 45 days (50 days), i.e., until 19 November (28 October), to pronounce on the draft budget. If by the end of this period Parliament has not amended the draft budget or proposed any modifications, it is deemed to be finally adopted.

Amendments require for adoption the votes of a majority of the Members of Parliament; proposed modifications require for adoption a single majority. Parliament forwards the draft budget thus modified to the Council on 19 November (28 October).

¹ The dates given in parentheses have been jointly agreed on for consideration of the budget for the 1978 financial year. The dates laid down in Article 203 of the EEC Treaty (see Doc. 119/77) have been brought forward to give the Council more time to consider the budgetary documents.

Parliament may then approve the draft budget, in which case the budget is finally adopted.

(4) Second reading in the Council

The Council has 15 days (25 days), i.e., until 4 December (23 November) to pronounce on Parliament's amendments and proposed modifications. It may, acting by a qualified majority, modify the amendments. For one of Parliament's proposed modifications to be 'accepted', a qualified majority must be in favour¹.

Before taking its decision, the Council must again receive a delegation from Parliament.

If it does not modify the draft budget within the time limit laid down, the budget is deemed to be finally adopted.

(5) Final reading in Parliament and adoption of the budget

The draft budget is given a final reading no later than 20 December only if the draft modified by Parliament has been amended during the preceding phase. Parliament is notified by the Council of the action taken on its proposed modifications; it may, acting by a majority of its Members and three fifths of the votes cast, pronounce on the modifications made by the Council to its amendments. When this procedure has been completed, the President of Parliament declares that the budget has been finally adopted, unless the draft budget as a whole has been rejected by Parliament acting by a majority of its Members and two thirds of the votes cast.

The President of Parliament must ensure that the budget as adopted is published in the Official Journal of the Communities.

E. Collaboration and conciliation between the institutions

Since budgetary and legislative powers are shared by Parliament, the Council and the Commission, they must work together in the best possible atmosphere of mutual understanding. Two procedures have been introduced for this purpose, collaboration during the budgetary procedure and conciliation on legislative acts with long-term financial implications.

¹ Since 1 June 1977, when the Treaty of 22 July 1975 entered into force, the Council must act by a qualified majority to 'reject' proposed modifications that do not have the effect of increasing the total amount of the expenditure of an institution.

Collaboration¹ between Council and Parliament during the budget debate consists mainly of two meetings between the Council and a delegation from Parliament, the first before the Council adopts the draft budget in July and the second at the beginning of December when the Council takes a decision after the second reading. Such collaboration makes it possible to reconcile views on disputed points and on certain procedural aspects such as whether expenditure is to be classified as compulsory or non-compulsory².

On the other hand, conciliation³ is not confined to the budgetary procedure. Its purpose is to enable agreement to be reached between the Council and Parliament with the active participation of the Commission. Conciliation is used for general Community acts (regulations, decisions, etc.) which have considerable financial implications but do not have to be adopted in accordance with existing acts. The procedure is opened if the Council intends to depart from the opinion adopted by Parliament. In principle, it lasts three months. When the positions of the two institutions have been sufficiently aligned, Parliament may deliver a new opinion and the Council then takes a final decision.

In Parliament's view conciliation is very important. It means that Parliament's budgetary power does not consist of entering appropriations over which it has no control because they are subject to legislation adopted outside the budgetary procedure. Conciliation is all the more important in the case of compulsory expenditure, in other words expenditure that has to be incurred when the budget is adopted. To date, however, the conciliation procedure has never been applied, except in connection with the revision of the Financial Regulation, which is still in progress.

¹ Collaboration between Parliament and the Council as part of the budgetary procedure. Proceedings of the European Parliament, sitting of 18 November 1971.

² At the end of the discussion on the budget for the 1977 financial year, the Council persuaded Parliament to agree to a third meeting on 15 December 1976, i.e., between the time when the Committee on Budgets adopted new amendments and the time when those amendments were put to the vote in plenary sitting. At the end of the meeting, the Committee on Budgets had to modify certain amendments although the deadline for submitting amendments had passed and the political groups no longer had a chance to react to the new situation. The advisability of a third meeting at such a time remains a moot point.

³ Joint Declaration of 4 March 1975 instituting a conciliation procedure, OJ No. C 89/75. See also Rule 22A of Parliament's Rules of Procedure.

F. Rejection of the budget as a whole

Long before the debate on the draft Treaty that was signed on 22 April 1970, Parliament had insisted that it was imperative for it to have the right to reject the budget as a whole if a major dispute arose between it and the Council. Rejection of the budget as a whole was expressly mentioned in Article 203 of the EEC Treaty only as a result of the Treaty of 22 July 1975. A new paragraph 8 in Article 203 of the EEC Treaty states explicitly that Parliament may reject the draft budget if there are important reasons and ask for a new draft to be submitted to it.

Total rejection of the budget would not, however, bring the Community to a standstill since, under the terms of Article 204, the Commission would be able to spend each month a sum equivalent to one-twelfth of the budget appropriations for the preceding financial year, provided that these appropriations were not in excess of one-twelfth of those provided for in the new draft budget in course of preparation. Furthermore, the Council would have the power to authorize expenditure in excess of one-twelfth. In the case of non-compulsory expenditure, however, Parliament, acting by a majority of its members and three-fifths of the votes cast, would be able to adopt a different decision from that of the Council.

Since the budget of the Communities amounts to thousands of millions of units of account, control is becoming an increasingly difficult problem. Fraud and especially the errors caused by the different ways in which Member States apply agricultural regulations with financial implications have caused much public concern. The European institutions have therefore been obliged to gradually introduce an effective control apparatus capable of maintaining the image of the European Communities.

A. The control structure

Parliamentary control of European public funds is the last of a series of internal and external controls carried out by the Commission and the Audit Board, recently replaced by the Court of Auditors of the European Communities under the Treaty of 22 July 1975.

To start with, there is partial control by the national authorities, which have retained their power over own resources because they have an irreplaceable collecting and control system. The operational expenditure of the EAGGF, the Social Fund and the Regional Fund is also controlled by the authorities of the Member States which often bear part of the intervention expenditure.

In each of the Community institutions, control is effected first of all by authorizing and accounting officers and then by the internal financial controller. External control is assured by the Court of Auditors, which must submit a detailed annual report to the budgetary authority, indicating any cases of a decision to overrule a refusal to grant authorization, the main weapon of the internal controllers.

The purpose of control during these various stages is to establish that all revenue has been received and all expenditure incurred in a lawful and regular manner; the internal and external controllers must also ensure that the financial management has been sound.

When the budgetary authority receives the accounts and the report of the Court of Auditors, control assumes a political aspect. Realizing the increased importance of control in the Communities, especially with the creation of the Court of Auditors under the Treaty of 22 July 1975, Parliament set up a Control Sub-committee in 1976, composed of nine members and directly responsible to the Committee on Budgets.

Parliament has always been aware of the importance of financial control. But its interest increased even further when its powers were strengthened under the Treaty of 22 July 1975. From 1958 to 1970 Parliament was merely kept informed of the Council's decisions to grant a discharge to the Commission as the institution responsible for implementing the budget. At the very most it could deliver an opinion beforehand. In 1971 Parliament was granted powers of co-decision with the Council on the discharge. Since 1 June 1977, when the new Treaty entered into force, it alone grants a discharge on the accounts after the Council has submitted a recommendation. In its work preparatory to granting a discharge, Parliament is assisted by a new institution - the Court of Auditors - which has greater authority and powers than the Audit Board.

The Court of Auditors was established under Article 206 of the EEC Treaty as modified by the Treaty of 22 July 1975 and consists of nine members 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. They are appointed for a term of six years by the Council after Parliament has been consulted.

The role of the Court of Auditors is to examine whether - instead of establishing that - all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound. Its audits may be carried out before the closure of accounts for the budget year in question. The audit is carried out in the institutions of the Community and in the Member States. The Court may at any time submit observations on specific questions and deliver opinions at the request of one of the institutions of the Community.

The Treaty of 22 July 1975 stresses the fact that in the Member States the audit must be carried out in liaison with the national audit bodies and that the institutions of the Community and the national audit bodies 'shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task'.

B. The extent of parliamentary control

The range of financial activities over which Parliament has the power to exercise control is wider than that to which its right to adopt the budget applies.

The accounts of some decentralized bodies have to be granted a discharge by Parliament whereas the latter does not adopt their estimates of expenditure except in the form of an overall subsidy. Parliament thus grants a discharge directly to the European Centre for the Development of Vocational Training

and the European Foundation for the improvement of living and working conditions although it may not adopt their estimates of revenue and expenditure. The difference between budgetary power and control power is even more marked in the case of the last European Development Fund for the ACP¹. As in the case of the preceding funds, expenditure is met by financial contributions from the Member States. No budget estimates are published. But since the Lomé Convention entered into force, it is for Parliament to grant a discharge in respect of expenditure under the new Fund. On the other hand, Parliament had to deliver an opinion before the Council granted a discharge in respect of the accounts of funds created under the Yaoundé Convention.

C. The validity of parliamentary control

In accordance with the texts in force until now, Parliament has scrutinized, mainly at the end of the budget year, the accounts submitted by the Commission, taking the Audit Board's report as the basis for these activities.

The Commission draws up the revenue and expenditure accounts no later than 1 June of the year following the financial year in question. The Audit Board's report is adopted no later than 15 July of the same year. Both documents are forwarded by the Commission to Parliament and Council before 1 November. The discharge must be granted before 30 April of the following year, i.e. one year and four months after the end of the financial year in question.

Much time thus elapses between the operations to be audited and Parliament's scrutiny. It is to be hoped that the provisions of the Treaty of 22 July 1975 which allow controls to be made soon after financial transactions are carried out² will enable Parliament to keep a closer eye on the management activities of the Commission, as the institution responsible for implementing the budget, and of the other bodies that perform financial activities in the Community.

Besides this, there is the question of the consequences of refusing to grant a discharge. Would a refusal be as effective as a motion of censure against the Commission? Until this question is answered, Parliament

¹ ACP: African, Caribbean and Pacific States

² EEC Treaty, second subparagraph of Article 206a(4): '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'.

can always attach to its discharge decisions recommendations prompted by the shortcomings noted in the financial management. Parliament's power of control could thus culminate, if not in legislative power, at least in a series of suggestions to the Commission and Council which would have the same moral value. The institutions are in effect obliged to take all the necessary steps to comply with comments in the discharge decisions.

Consideration of Parliament's estimate of expenditure occupies a special place in the budget debate because of Parliament's recognized financial autonomy.

A. The drawing up of the estimates

In March each year the Secretary-General compiles a report based on information obtained from the five Directorates-General. On the basis of this report, the Bureau draws up provisional preliminary draft estimates and consults the committee responsible, in this case the Committee on Budgets.

The next step is for the enlarged Bureau to draw up the preliminary draft estimates and again forward them to the Committee on Budgets.

The Committee on Budgets draws up the draft estimates and reports to Parliament in plenary sitting, when amendments may be tabled. The President forwards the estimates to the Council and Commission no later than 15 June.

It often happens that in autumn the estimates are again amended to take account of new developments that make it possible to update estimates that had to be made very early in the year before the budget was implemented. This final reading takes place during the debate on the budget of the Communities as a whole.

B. Financial decisions

The authority responsible for taking decisions with financial implications on Parliament's estimates is the Bureau, composed of the President and 12 Vice-Presidents. In some cases, the Bureau is enlarged to include the chairmen of the political groups, of which there are at present six. The Committee on Budgets is consulted before any decision affecting the budget is taken. This applies particularly to the internal financial regulation adopted by the Bureau, under which the President ensures that expenditure is committed and cleared.

In some cases, Parliament has to comply with the decisions taken by other bodies. The Council, for instance, adopts the Staff Regulations, and it is the Member States that have decided that three towns should remain the provisional working places of the Community institutions.

There is no list of internal decisions that have financial implications, but three main groups can be mentioned:

- the financial arrangements for Members, which the Bureau alone decides and which include provisions for Members' travel and subsistence allowances, individual secretarial allowances, life assurances, accident and sickness insurances and the rates of exchange applicable to the payment of allowances. A working party has now been set up by the Bureau to study financial arrangements for Members elected by universal suffrage. In 1977, Parliament appointed three quaestors to examine, in particular, the question of expenditure relating to its Members;
- financing arrangements for the political groups, which are determined by the enlarged Bureau and which include allowances for their secretarial expenses and supplementary political activities, including preparations for elections to Parliament by universal suffrage;
- the conditions of employment of staff of the institution, in other words the Staff Regulations, which are adopted by the Council for all staff of the institutions of the European Communities. It is obviously for the Bureau of Parliament, after consulting the Committee on Budgets, to decide on the composition and organization of its Secretariat and the number of staff and to adopt regulations on their administrative and financial position.

C. Main components of the estimates

The estimates for 1977, adopted in December 1976, amount to 65.7 million u.a. or 0.75% of the total budget. Expenditure relating to persons connected with the institution - Members of Parliament and Secretariat staff - amounts to 40 million u.a. or almost two thirds of Parliament's budget.

Appropriations for buildings rented, equipment and miscellaneous operating expenditure amount in 1977 to 12.3 million u.a. The cost of renting buildings represents half this amount since buildings are rented in Luxembourg, Strasbourg and Brussels.

Other expenditure worth mentioning is that occasioned by inter-parliamentary bodies connected with the ACP, Greece, Turkey and Malta, the share in the expenditure of the Audit Board and the ECSC auditor and the contribution made to the expenses of groups of visitors to Parliament.

CONCLUSION

This document has by no means exhausted the subject of the European Parliament's budgetary powers. At best it tries to give a general description of, and to identify Parliament's new role in, the financial management of the Community.

Indeed, some points have been passed over: the financial statements attached to Commission proposals, which inform Parliament of the implications of the proposals for the budget; the multiannual financial estimates annexed to the budget; the importance Parliament attaches to compliance with Article 205 of the EEC Treaty, which empowers the Commission to implement the budget on its own responsibility. Other examples could be given, particularly in connection with the current review of the Financial Regulation of 25 April 1973.

There is another reason for the incompleteness of this document: relations between the institutions and their powers are constantly changing. For example, when the preparation of this document was in the final stages, the Commission representative made a very interesting statement about the importance the Commission attaches to any refusal by the European Parliament to grant a discharge in respect of accounts precisely when Parliament was wondering what conclusions would have to be drawn from such a situation.

Constant adjustment to new situations and Parliament's desire to consolidate its budgetary powers have led it to seek an almost permanent dialogue with the Council and the Commission.

It is in fact by constantly devoting attention to each financial problem and examining it in depth that Parliament will be able to play a larger part in defining Community policies. When promoting the inter-institutional dialogue on budgetary questions, the Committee on Budgets and the working party it has set up have borne in mind the ever-present three-fold desire of the European Parliament:

- to adapt developments in budgetary technique to the required developments in its budgetary powers;
- to ensure compliance with the basic principles of budgetary law which are generally accepted in the Member States and which are the best guarantee of Parliament's power to authorize and control expenditure;
- to enable the budget, which should be the best possible reflection of Community requirements, to be updated regularly.

General budget revenue of the Communities, 1977 financial year
(in million u.a.)

B. Apportionment¹

Member State	Own resources	financial contribution	Total	%
Belgium	408	167.3	575.3	6.08
Germany	1,324	1,154.2	2,478.2	26.20
France	773.6	1,131.5	1,905.-	20.14
Italy	1,137.6	442.5	1,580.-	16.70
Luxembourg	3.6	10	13.7	0.14
Netherlands	639.5	170.5	810.-	8.56
Denmark	134.3	83.8	218.2	2.31
Ireland	57.4	-	57.5	0.60
United Kingdom	1,819.8	-	1,819.7	19.24
Total	6,297.8	3,159.8	9,457.6	

¹ This apportionment over own resources and financial contributions i.e., points 1, 2, 3 and 8 in the left-hand column of this table.

A. Breakdown

<u>I. Own resources</u>	
1. Agricultural levies	1,328.7
2. Sugar levies	232.0
3. Customs duties	4,737.1
4. Value added tax	-
<u>II. Other revenue</u>	
5. Surplus from the preceding financial year	39.1
6. Share in the ECSC levy	18.0
7. Deductions from staff remunerations	63.3
8. Supplementary financial contributions	3,159.8
9. Financing of supplementary Euratom programmes	0.2
10. Miscellaneous	1.3
11. Borrowing and lending	7.4
Total	9,586.9

ANNEX II

General Budget expenditure of the Communities, 1977 financial year

(in million u.a.)

<u>A. By institution</u>		<u>B. Commission expenditure</u>	
Section I	: Parliament	68.1	Title I : Persons working with the institution 288.2
Section II	: Council	72.5	Title II : Administrative 117.3
Section III	: Commission	9,433.1	Title III : Specific projects 62.1
Section IV	: Court of Justice	12.7	Research and investment 183.1
Section V	: Court of Auditors	0.5	Repayment of own resources 629.8
	Total	9,586.9	172.-
			400.-
			5,528.1
			1,573.5
			158.-
			255.2
			65.8
			<u>9,433.1</u>
			Total

Non-compulsory expenditure

In a Joint Declaration annexed to the Treaty of 22 April 1970, which increased the budgetary powers of the European Parliament, the Council stated that in adopting the Treaty, it had taken as its basis the classification of budget expenditure as set out in the list prepared by the President of the Council on 3 February 1970, while at the same recognizing that the classification might change in the light of the operational requirements of the Communities.

The list covered only operating expenditure and represented some 3.6% of total budget expenditure at that time.

Things have changed since then. In Doc. 17/77 submitted by the Commission in March 1977, non-compulsory expenditure was estimated as follows:

Payment appropriations

1974	728 million u.a.
1975	1,025 million u.a.
1976	1,479 million u.a.
1977	1,406 million u.a.

Non-compulsory expenditure for the 1977 financial year¹ is broken down below into differentiated appropriations, i.e., commitment authorizations and payment appropriations, and non-differentiated appropriations. Since Parliament is of the opinion that the rate of increase of non-compulsory expenditure cannot be calculated on the basis of commitment authorizations, only payment appropriations are mentioned when appropriations are differentiated.

¹ Excluding supplementary and rectifying budget No.1 for the 1977 financial year

I. Non-differentiated appropriations

Title 1	: Expenditure relating to persons working with the institution	247,877,100
Title 2	: Buildings, equipment and miscellaneous administrative expenditure	116,943,840
Title 3	: Expenditure on specific projects undertaken by the institution	30,842,500
Title 5	: Social and Regional Funds	5,000,000
Title 9	: Cooperation with developing countries and non-member states	58,102,200
Title 10	: Other expenditure	4,000,000
Other institutions (Parliament - Council - Court of Justice)		148,099,329
		<u>610,864,969</u>
		=====

II. Differentiated appropriations (= payment appropriations)

Title 3

306	: Pilot research projects on action to combat poverty	1,170,000
3200	: Community technological development projects in the hydrocarbons sector	23,000,000
3201	: Joint projects in prospecting for hydrocarbons	9,000,000
321	: Prospecting for uranium deposits	2,000,000
33	: Expenditure on research and investment	183,337,388
3620	: Three-year project on scientific and technical information and documentation	1,250,000
3621	: Activities supplementary to the three-year project	500,000
3701	: Second programme - projects in the data-processing sector	2,835,800

Title 5

Social Fund	172,440,000
Regional Fund	400,000,000
	<u>795,533,188</u>
	<u><u>1,406,398,157</u></u>

Financial provisions of the EEC Treaty - Articles 199 to 209

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 authorized 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, 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 forty-five 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 preceeding 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 fifteen 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 modification 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 fifteen 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 products 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.

10. 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, authorize 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 thirty 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 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 preceeding 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 re-appointment.

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 insofar 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 205 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 authorizing officers and accounting officers and concerning appropriate arrangements for inspection.

* Text amended by the Treaty of 22 July 1975, which entered into force on 1 June 1977

** New text introduced by the Treaty of 22 July 1975