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Legislation

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II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION REGULATION

of 11 December 1986

LAYING DOWN DETAILED RULES FOR THE IMPLEMENTATION OF CERTAIN
PROVISIONS OF THE FINANCIAL REGULATION OF 21 DECEMBER 1977

(86/610/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

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

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to the general budget of the European Communities of 21 December 1977 ⁽¹⁾, as last amended by the Financial Regulation of 16 December 1980 amending the Financial Regulation of 21 December 1977 as regards the use of the ECU in the general budget of the European Communities ⁽²⁾, and in particular Article 106 thereof,

After consulting the European Parliament and the Council,

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

Whereas certain provisions of Articles 18, 19, 23, 24, 32, 33, 34, 37, 41, 42, 48, 49, 51, 54, 56, 59, 60, 66, 70, 94 and 108 of the Financial Regulation explicitly provide that detailed rules shall be drawn up for their implementation;

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

TITLE I

DELEGATION OF POWERS

(Article 18 of the Financial Regulation)

Article 1

The acts by which powers are delegated pursuant to Article 18 (3) of the Financial Regulation shall designate those members of staff of the institution authorized to sign for and on behalf of the delegator.

In such acts reference shall be made to the provisions of the rules of procedure referred to in Article 18 (3) setting out the conditions governing the delegation of powers.

Article 2

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

- to the delegatee,
- to the institution's accounting officer, who may not make any payment which has been authorized by officials not empowered to do so,
- to the institution's financial controller, who shall be responsible for verifying the legality and regularity of revenue and expenditure,
- to the authorizing officers, only in the case of delegation of powers by the financial controller or by the accounting officer, or of the subdelegation of powers by authorizing

⁽¹⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽²⁾ OJ No L 345, 20. 12. 1980, p. 23.

officers within the limits of the powers delegated to them,

— to the Court of Auditors.

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

Article 3

In every case the act of delegation shall specify the limits within which the delegates are authorized to draw up proposals for the establishment of debts and for recovery orders, proposals for the commitment of expenditure and payment orders, the numbers of the articles and items in respect of which powers have been delegated and, where appropriate, the length of time for which powers have been delegated.

Article 4

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

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

The document referred to in the above paragraph shall be made available to all the departments involved in the management of the budget and to the Court of Auditors.

TITLE II

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

(Article 19 of the Financial Regulation)

Article 5

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

Article 6

The institution may appoint one or more assistant financial controllers. They shall report to the financial controller, who

shall decide on the powers to be delegated to them. They shall bear responsibility for the approvals they grant in pursuance of the powers delegated to them.

Article 7

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

Article 8

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

Article 9

All decisions relating to the delegation and subdelegation of powers by the financial controller or the assistant financial controllers shall comply with the provisions of Articles 1 to 3.

Article 10

In carrying out his control duties, the financial controller shall be completely independent and shall be responsible only to the institution. He may not receive any instructions as regards the performance of the duties assigned to him pursuant to the provisions of the Financial Regulation by virtue of his appointment.

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

Article 11

The financial controller may present reports to the institution at any time and on any subject having financial implications, especially as regards sound financial management.

Article 12

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

Article 13

The liability of the financial controller and of the assistant financial controllers to disciplinary action and, where appropriate, to payment of compensation, within the meaning of Article 69 of the Financial Regulation, can be invoked only by the institution itself, in the following circumstances:

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

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

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

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

Article 14

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

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

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

TITLE III

RECOVERY OF REVENUE

(Articles 23 and 24 of the Financial Regulation)

Article 15

In accordance with Article 23 (1) of the Financial Regulation, the competent authorizing officer shall draw up a proposal

for any measure which may give rise to or modify a debt due to the Communities. A proposal shall also be drawn up where it is not possible from the act or decision giving rise to a future debt to ascertain the amount or due date: where possible, the proposal shall indicate the estimated amount and the probable due date.

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

Article 16

1. In accordance with Article 23 (2) of the Financial Regulation, the competent authorizing officer shall make out a recovery order in respect of every established debt.

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

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

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

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

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

Article 17

Forward proposals within the meaning of Article 23 (1) of the Financial Regulation shall be strictly limited to recurring revenue. These proposals shall take the form of a proposal for the establishment of a debt.

Individual proposals need not, therefore, be submitted separately to the financial controller for his approval.

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

Article 18

In accordance with Article 16 (3), the authorizing officer and the financial controller must be informed as soon as possible of each payment received. Where no recovery order has been made out pursuant to Article 16 in respect of a payment received, the amount in question shall be immediately credited to a suspense account in the general accounts and the competent authorizing officer should initiate the procedure for establishing the debt and make out the necessary recovery order with a view to booking the revenue to the budget. Any sum credited to one of the abovementioned accounts which is found to have been unduly paid shall be repaid as soon as possible.

Article 19

Proposals and recovery orders shall be registered in the accounts so as to allow all sums due to the institution to be properly monitored particularly so that the following can be readily ascertained:

- the measures taken which may give rise to a debt,
- the amounts of debts to be recovered,
- the due dates for payment of the debts,
- the debts which have been recovered,
- the debts which have fallen due but have not been recovered.

Article 20

The accounts must be organized in such a way that the financial controller is able to check, at any given moment, that the registration of proposals for the establishment of debt and for recovery orders is correct and to carry out the tasks required of him under Article 24 (3) of the Financial Regulation.

Article 21

All proposals to waive the right to recover an established debt shall specify in particular the type of revenue, the estimated amount, the budget item in question, the grounds for the proposed waiver and the name of the debtor.

If the superior authority of the institution overrules the financial controller's refusal to give approval, the decision shall be forwarded to the authorizing officer, who shall return the waiver proposal, together with the decision, to the financial controller. The waiver proposal, together with the decision, shall be registered in accordance with the first subparagraph of Article 23 (2) of the Financial Regulation.

TITLE IV

COMMITMENT OF EXPENDITURE

(Article 32 of the Financial Regulation)

Article 22

Before taking any measure which may give rise to expenditure, the competent authorizing officer must present the financial controller with a commitment proposal. Such proposals shall in principle be drawn up in accordance with a standard form to be adopted by unanimous agreement by the authorizing officer, the accounting officer and the financial controller. Such commitment proposals must give the information referred to in Article 33 of the Financial Regulation.

Article 23

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

Article 24

If a decision of principle must be taken by the institution before expenditure may be committed, the draft decision shall first be submitted to the financial controller for approval. When the institution has adopted the draft decision, appropriations corresponding to the expenditure to be incurred shall be reserved for this purpose.

When the expenditure is committed, after the financial controller has given approval, the appropriations reserved shall be released to cover the corresponding commitment instrument.

The draft commitment instrument, drawn up in accordance with the decision to incur the expenditure, shall be the subject of a commitment proposal which shall be submitted to the financial controller for prior approval and subsequently registered as committed appropriations and deducted from the appropriations previously reserved.

Article 25

Provisional commitments within the meaning of Article 32 (1) of the Financial Regulation shall be strictly limited to recurring expenditure. Individual commitments covered by such provisional commitments need not be submitted separately to the financial controller for approval.

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

Such provisional commitments shall not give rise to the automatic carryover of appropriations as provided for in Article 6 of the Financial Regulation unless they correspond, at the end of the financial year, to financial commitments actually entered into before the deadlines laid down in the Financial Regulation.

Article 26

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

Article 27

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

Article 28

Proposals for the commitment of expenditure must be accompanied by all relevant supporting documents and, where appropriate, by any other documents and information which are necessary to enable the financial controller to establish what is required by Article 34 (a) to (d) of the Financial Regulation.

TITLE V

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

(Article 33 of the Financial Regulation)

Article 29

Commitment proposals shall be registered by the institution's accounts department. This registration procedure must make it possible to ascertain at any given moment for each budget item or heading the amounts of reserved appropriations, the commitments entered into, the payments made against these commitments, the balance of commitments outstanding and the appropriations available.

The amount of global provisional commitments under Article 96 of the Financial Regulation shall be similarly registered.

Article 30

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

TITLE VI

APPROVAL OF PROPOSALS FOR THE COMMITMENT OF EXPENDITURE

(Article 34 of the Financial Regulation)

Article 31

Subject to the provisions of Article 32 below, approval shall be given by the placing on the commitment proposal of the signature of the financial controller or of an assistant financial controller. In addition the words 'Approved by the financial controller' shall be stamped on the proposal, and the date of approval shall be shown.

Article 32

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

Article 33

If, pursuant to Article 35 of the Financial Regulation, the superior authority of the institution overrules the financial controller's refusal to grant approval, the decision shall be forwarded to the authorizing officer, who shall return the commitment proposal, together with the decision, to the financial controller. The commitment proposal, together with the decision to overrule, shall be registered in accordance with the provisions of Article 33 of the Financial Regulation.

Article 34

Articles 31, 32 and 33 shall apply to the proposals of global provisional commitments within the meaning of Article 96 of the Financial Regulation.

Article 35

If the financial controller considers that the supporting documents provided for in Articles 33, 37 and 41 of the Financial Regulation and further defined in Articles 36 to 42 below are inadequate or incomplete, he shall postpone approval and return the proposal to the authorizing officer, specifying the supporting evidence required.

TITLE VII

SUPPORTING DOCUMENTS

(Articles 33, 37 and 41 of the Financial Regulation)

Article 36

For supplies in general, the following shall constitute a valid supporting document:

the invoice drawn up by the supplier, accompanied, where appropriate, by one of the copies of the document giving rise to the Community's obligation (e.g. order form or contract).

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

- the nature and quantity of the supplies or, where appropriate, a description of the services rendered in that connection,
- the unit price and the total price,
- the Community's exemption from charges and taxes and, where appropriate, the amount of any charges, taxes and customs duties included in the price of the goods supplied.

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

- the supplies have been duly received, with an indication of the date and place of receipt,
- the supplies have been entered in the inventory, where this is required,
- all items in the invoice have been checked, and
- the opinion of the Advisory Committee on Procurements and Contracts has been given where required.

Article 37

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

The document must:

- state the nature of the service, where appropriate the unit price, the total price and the Community's exemption from charges and taxes or, in so far as this is possible, the amount of any charges and taxes in respect of the service which are included in the price,
- bear the endorsement 'passed for payment' signed by the authorizing officer or by the official to whom he has delegated authority, certifying that the service has been rendered properly and that all the items in the invoice (or bill of costs) have been checked.

Article 38

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

- (a) a copy of the contract and of any supplementary agreements, to be attached to the first order to pay;
- (b) any document which, pursuant to the financial provisions in the contract, substantiates the corresponding payments (request from the contractor, invoices, titles of the management committees in the

case of contracts of association, or any other document substantiating expenditure). The final payment must necessarily be accompanied by a document drawn up by the authorizing officer certifying that the service has been rendered.

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

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

Article 39

For staff expenditure, the following shall constitute supporting documents:

- (a) in respect of monthly salary:
 - the complete list of staff, giving all the components of remuneration. This list shall be attached to the payment order;
 - a form (personal information sheet) showing any change occurring in any component of remuneration. This form shall be drawn up on the basis of the decisions taken in each particular case;
 - in the case of recruitments or appointments, a certified true copy of the recruitment or appointment decision shall accompany the first salary payment;
- (b) in respect of other remunerations (staff paid on an hourly or daily basis):
 - a statement produced by the authorizing officer showing the days and hours of attendance;
- (c) in respect of overtime:
 - a statement signed by the authorized official certifying the amount of overtime worked by the member of staff;
- (d) in respect of mission expenses:
 - the travel order duly signed by the competent authority;
 - the 'statement of mission expenses' showing, in particular, the place of mission, the dates and times of departure and arrival at the place of mission, travel expenses, subsistence expenses, and other expenses duly authorized on production of supporting documents; this statement shall be signed by the official on mission and by the administrative superior to whom the appropriate powers have been delegated;

(e) in respect of other staff expenditure:

the supporting documents referring to the decision on which the expenditure is based and giving all the components of the calculation.

Article 40

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

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

Article 41

If a single supporting document covers several payments, all the payment orders shall bear a reference to the original document.

Article 42

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

TITLE VIII

THE GRANTING OF ADVANCES

(Article 42 of the Financial Regulation)

Article 43

Apart from the advances provided for in the Staff Regulations or a provision laid down by regulation, the authorizing officer may grant advances to cover expenditure to be incurred by an official or other servant on behalf of his institution. Such expenditure, which generally comes under Titles 1 and 2 of the budget, may arise from specific business or relate to likely expenditure, the nature or amount of which is uncertain.

Article 44

The granting of such advances and the designation of the official or other servant shall be the subject of a decision by

the authorities referred to in Article 18 of the Financial Regulation, on a proposal from the authorizing officer, after the financial controller has granted approval and a favourable opinion has been given by the accounting officer. Such decision shall specify the amount of the advance and the period during which it is to be used.

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

Article 45

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

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

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

TITLE IX

BANK AND POST OFFICE GIRO ACCOUNTS

(Article 48 of the Financial Regulation)

Article 46

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

Article 47

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

Article 48

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

Article 49

To draw on such accounts the joint signatures of two duly authorized members of the staff shall be required, one

signature necessarily being that of the accounting officer, an assistant accounting officer or an imprest administrator.

Article 50

As a general rule, payment of:

- the monthly remunerations of officials and other staff, and
- expenditure relating to supplies or services exceeding 250 ECU must be made by cheque, post office giro or bank transfer.

TITLE X

IMPRESTS

(Article 49 of the Financial Regulation)

Article 51

The setting up of imprests shall be the subject of a decision by the authorities referred to in Article 18 of the Financial Regulation, on a proposal from the authorizing officer, after a favourable opinion has been given by the accounting officer and the financial controller.

Article 52

The appointment of an imprest administrator shall be the subject of a decision by the authorities referred to in Article 18 of the Financial Regulation, on a proposal from the authorizing officer, after a favourable opinion has been given by the accounting officer.

Such decision shall indicate the responsibilities of the imprest administrator.

Article 53

The decision referred to in Articles 51 and 52 shall be communicated to the authorizing officers, the financial controller, the accounting officer and the Court of Auditors.

Article 54

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

- (a) the maximum amount which can be set aside as an imprest;
- (b) whether a bank and/or post office giro account is to be opened in the name of the institution concerned;
- (c) the nature and maximum amount of every expenditure which may be effected without prior authorization;

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

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

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

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

Article 55

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

Article 56

He shall keep an account of the funds at his disposal and of the expenditure effected, in accordance with the instructions of the accounting officer.

Article 57

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

Article 58

Without prejudice to the audits performed by the financial controller, the accounting officer must himself, or through an assistant accounting officer, carry out checks, which should normally be effected on the spot and without warning, on the funds allocated to the imprest administrators and on their accounts.

Article 59

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

TITLE XI

TENDERING PROCEDURES

(Article 51 of the Financial Regulation)

Article 60

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

Article 61

Every invitation to tender shall in particular:

- (a) specify the procedure for submitting tenders and stipulate how they are to be presented, including in particular any requirement as to the use of a standard reply form;
- (b) state that the Protocol on Privileges and Immunities applies and make reference to the general conditions applicable to the contract concerned (supplies, works, services or publications) and to any document containing conditions specifically applicable to the particular contract concerned;
- (c) include a clause stating that the submission of a tender implies acceptance of the relevant conditions;
- (d) specify the terms under which an inspection may be made, to be set out in detail in the case of on-the-spot inspections;
- (e) specify the period during which a tender will remain valid and may not be varied in any respect;
- (f) specify the penalties for failure to comply with the provisions of the contract;
- (g) specify the details which must be contained in the invoices (or in the relevant supporting documents) in accordance with the provisions of Title VII;
- (h) prohibit any contact between the institution and tenderers save, by way of special exception, under the following conditions:
 1. Before the closing date for the submission of tenders:
 - at the instance of tenderers:
additional information solely for the purpose of clarifying the nature of the invitation to tender may be communicated to suppliers,
 - at the instance of the institution:
if the departments of the institution notice an error, a lack of precision, an omission or any other type of clerical defect in the text of the invitation to tender, they may, in a manner identical to that applicable in respect of the original invitation to tender, inform the persons concerned accordingly;
 2. After the tenders have been opened and at the instance of the departments of the institution, if some clarification is required in connection with a tender, or if obvious clerical errors contained in the tender must be corrected, the institution may contact the tenderer.

Article 62

In every case where contact has been made under the conditions provided for above (Article 61 (h)), a 'Note for the file' shall be drawn up and such contact shall be mentioned in the report to be submitted subsequently to the Advisory Committee on Procurements and Contracts.

Article 63

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

Article 64

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

Article 65

Tenderers may submit tenders:

— either by post:

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

— or by hand-delivery to the institution:

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

The date must be the same in both cases.

In order to maintain secrecy and to avoid any difficulties, the call for tenders must include a provision as follows:

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

Article 66

Every tender must be opened.

The tenders shall be opened by a committee appointed for this purpose. The financial controller or his representative may be present as an observer if he considers it expedient.

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

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

Article 67

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

TITLE XII**FUNCTIONING OF THE ADVISORY COMMITTEE ON
PROCUREMENTS AND CONTRACTS**

(Articles 54 and 94 of the Financial Regulation)

Article 68

The Advisory Committee on Procurements and Contracts shall be required to give its opinion, in an advisory capacity, in accordance with the provisions of Articles 54, 55 and 94 of the Financial Regulation, on:

- (a) all proposed contracts for works, supplies or services involving amounts exceeding those given in Articles 54 and 94 of the Financial Regulation and on proposed purchases of immovable property, irrespective of the amount involved;
- (b) any proposed agreement supplementary to any contract as referred to in (a) whenever the effect of such supplementary agreement would be to alter the amount involved in the original contract;
- (c) any proposed supplementary agreement the effect of which would be to raise the total amount involved in a contract already concluded to an amount above the limits referred to in (a);
- (d) the standard forms and texts for invitations to tender and on any proposed texts involving an appreciable departure from such standard texts;
- (e) proposed invitations to tender which are particularly important or are of a special nature;
- (f) questions arising at the time of conclusion or in the course of performance of contracts (e.g. cancellation of orders, requests for remission of penalties for delay, departures from the specifications and general conditions of contract), should the matter be sufficiently serious to justify a request for an opinion;
- (g) at the request of the competent authorizing officer or of a member of the Advisory Committee on Procurements and Contracts, proposed contracts involving an amount below the limits referred to in (a), where he considers that such contracts involve questions of principle or are of a special nature.

Article 69

The Advisory Committee on Procurements and Contracts shall make:

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

Article 70

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

This report shall include:

- (a) a technical and financial assessment of each tender, including a comparative table of unit prices;
- (b) the grounds for the choice of supplier recommended.

Article 71

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

Article 72

Every Advisory Committee on Procurements and Contracts shall draw up its own rules of procedure, which shall be communicated to the institution concerned, to the Advisory Committees on Procurements and Contracts of the other institutions and to the Court of Auditors.

TITLE XIII**PRELIMINARY DEPOSIT BY WAY OF GUARANTEE OF
PERFORMANCE OF CONTRACTS**

(Article 56 of the Financial Regulation)

Article 73

When, by way of guarantee of performance of contracts, the supplier or contractor is required to provide a preliminary deposit, such deposit must, in principle, consist of a payment made to the institution in the same currency as that prescribed for the payment to be made for the supplies or works.

Article 74

This deposit may be replaced by a joint and several personal guarantee given by a third party approved by the institution.

Article 75

The usual supporting documents accompanying the first order to pay drawn up pursuant to a contract requiring the provision of a deposit shall be supplemented by a copy, certified true by the accounting officer, of the receipt issued

when the deposit was paid, or by a copy, certified true by the accounting officer, of a declaration from the establishment or third party providing the guarantee.

Article 76

Deposits shall be repaid, or the guarantees given in place thereof released, in accordance with the provisions relating to the conclusion of contracts, except in cases of non-performance or late performance as referred to in the final paragraph of Article 56 of the Financial Regulation.

TITLE XIV

VALUE ABOVE WHICH MOVABLE PROPERTY MUST BE ENTERED IN THE INVENTORY

(Article 59 of the Financial Regulation)

Article 77

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

- with a purchase price of at least 75 ECU (250 ECU in the case of movable property of a scientific or technical nature ⁽¹⁾), and
- with a normal useful life of more than one year (two years in the case of movable property of a scientific or technical nature ⁽¹⁾), and
- which is not consumable.

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

Detailed receipts shall be regarded as an appropriate description.

Article 78

Inventory checks by the institutions should verify the physical existence of each item and its conformity with the inventory entry. The checks should form part of a three-year audit programme for items with a purchase price of at least 150 ECU, subject to the specific internal provisions to be adopted by the Commission for the establishments of the Joint Research Centre in line with their special characteristics.

⁽¹⁾ Defined for the Joint Research Centre in The 'Recueil des instructions relatives aux inventaires' (Doc. 13.131/XV/68-F) and the 'Nomenclature des matériels — canevas général' (Doc. EUR/C/5115/65-F and updates).

TITLE XV

ADVERTISEMENT OF SALES OF MOVABLE PROPERTY

(Article 60 of the Financial Regulation)

Article 79

The sale of movable property shall be:

- (a) suitably advertised locally if the unit purchase price was at least 5 000 ECU; at least 14 days must elapse between the date of publication of the last advertisement and the conclusion of the contract of sale;
- (b) advertised by a notice of sale published in the *Official Journal of the European Communities* if the original unit price was at least 250 000 ECU. Such sales may also be suitably advertised in the press of the Member States. At least one month must elapse between the date of publication of the notice in the *Official Journal of the European Communities* and the conclusion of the contract of sale.

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

TITLE XVI

THE DRAWING-UP AND FUNCTIONING OF THE CHART OF ACCOUNTS

(Article 66 of the Financial Regulation)

Article 80

Drawing-up of the chart of accounts

The chart of accounts shall be divided into two separate parts:

- budget accounts,
- general accounts.

Article 81

Budget accounts

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

- the initial appropriations, the appropriations in supplementary or amending budgets, transfers of appropriations and the total appropriations thus available; commitment appropriations and payment appropriations shall be entered separately,
- the entitlements established and amounts received in respect of the financial year in question,
- the commitments and payments in respect of the financial year in question.

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

2. Separate accounts shall be opened so that the use of appropriations carried over, and the collection of amounts outstanding can be recorded separately.

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

4. The accounts shall be kept in books, or on file cards, or by means of a data-processing system.

Article 82

General accounts

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

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

3. The following classes of account shall be kept:

- Class 1: Fixed capital account,
- Class 2: Fixed asset accounts,
- Class 3: Stock accounts,
- Class 4: Accounts with third parties,
- Class 5: Financial accounts,
- Class 6: Expenditure accounts,
- Class 7: Income accounts,
- Class 8: Outturn accounts,
- Class 9: Transfers pending.

4. Each of these classes of account shall comprise groups (with a two-digit code) divided into subgroups (with a three-digit code) further divided into accounts (with a five-digit code).

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

Class 4 shall comprise the following principal groups:

- advances to staff,
- accounts between institutions,
- sundry debtors and creditors,
- funds to be transferred,
- revenue and expenditure to be booked,
- suspense accounts for re-use,

- balancing accounts,
- departments with separate accounts (sickness fund),
- suspense accounts for transfers of scientific and technical equipment between research and investment objectives,
- advances paid under the EAGGF Guarantee Section,
- VAT to be collected,
- amounts outstanding or received in excess,
- Member States in debit or in credit.

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

A separate account shall be opened for each bank account, post office giro account, cash office and imprest.

Class 5 shall comprise the following principal groups:

- shares and securities on deposit,
- cash offices,
- bank accounts,
- post office giro accounts,
- assistant accounting officers,
- imprest administrators.

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

Separate accounts shall be opened for expenditure relating to:

- appropriations for the current financial year,
- appropriations carried over pursuant to Article 6 (1) (b) of the Financial Regulation,
- appropriations carried over pursuant to Article 6 (1) (c) and 6 (2) (b) of the Financial Regulation.

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

Separate accounts shall be opened for recovery of:

- entitlements established in the course of the current financial year,
- established entitlements still outstanding from previous financial years.

9. Class 8 'Outturn accounts' shall show the outturn of the financial year.

10. Each institution shall draw up a chart of accounts along the lines set out above. It shall create groups, subgroups and individual accounts depending on its particular needs.

Article 83

Operation of the system of general accounts

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

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

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

- account number,
- description,
- total debits,
- total credits,
- balance.

4. The accounts shall be kept in such a way as to enable a detailed analysis of the transactions and balances to be made. The financial statements shall be drawn up so as to reflect properly, by means of appropriate headings, the significant assets and liabilities of the institution. If the revenue and expenditure account does not contain all the information necessary for the purposes of the balance sheet, such supplementary accounts as prove necessary shall be maintained. The balance shown by each account shall be periodically compared with the supporting documents and other external evidence, and, in particular:

- fixed asset accounts — as provided in Article 77 above,
- cash at bank and post office giro account — by monthly reconciliation of the statements of account from the financial institutions,
- cash in cash offices — by reconciliation with the cash book,
- imprest accounts and other advances under Article 43 — by verifying compliance with the conditions relating to imprest accounts and the granting of advances and with the rules for accounting,
- the expenditure accounts and income accounts of classes 6 and 7 — to be reconciled monthly with the corresponding totals in the budget accounts.

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

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

- amounts outstanding — confirmation by the accounting officer to the authorizing officer when payment is not made by the due date,
- funds to be transferred — by reference to payroll summaries or other similar statements,
- other suspense accounts — by means of an analysis of balances on the account and by notification to the authorizing officer of any item not cleared within the periods to be defined annually.

The suspense accounts shall be cleared without delay and in any case within the periods laid down in Article 65 of the Financial Regulation.

7. The suspense accounts for re-use shall be to make it possible to monitor the re-use of the types of income specified in Article 22 (2) of the Financial Regulation and to enable the statement provided for at the end of Article 73 (1) and (3) of the Financial Regulation to be drawn up.

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

Amounts expressed in national currencies shall be converted into ECU at rates to be determined in accordance with Article 91 below. The balances of accounts held in ECU shall be adjusted monthly.

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

10. Except where otherwise provided for by regulation, all the financial statements shall be presented in accordance with generally accepted accounting principles, including the principles provided for in Council Directives. At the instance of the Commission accounting officer, the accounting officers of the institutions shall adopt the practical rules for the application of these principles which shall be periodically updated.

TITLE XVII

INSURANCE OF ACCOUNTING OFFICERS, ASSISTANT ACCOUNTING OFFICERS AND IMPREST ADMINISTRATORS — SPECIAL ALLOWANCE — CATEGORIES OF OFFICIALS OR OTHER STAFF QUALIFIED TO BE APPOINTED ACCOUNTING OFFICERS OR IMPREST ADMINISTRATORS

(Article 70 of the Financial Regulation)

Article 84

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

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

Imprest administrators shall be chosen from officials of categories A, B and C, or, should the need arise, from other staff having a status equivalent to those categories.

Article 85

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

Article 86

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

Article 87

Without prejudice to:

- Articles 86 to 89 of the Staff Regulations of Officials of the European Communities and the conditions of employment of other servants of the Communities,
- Article 70 of the Financial Regulation applicable to the general budget of the European Communities,
- the institution's right of recovery *vis-à-vis* third parties;

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

Article 88

The monthly amount of the special allowance referred to in Article 70 of the Financial Regulation shall be:

- 180 ECU for the accounting officer,
- 120 ECU for assistant accounting officers,
- 60 ECU for imprest administrators, where the amount of the imprest is at least 2 500 ECU and where the period of the imprest is at least 30 consecutive days.

This allowance shall be denominated in ECU and the appropriate amount shall be credited in ECU to the guarantee account provided for in Article 89 of this Regulation.

Article 89

A guarantee account in the name of each entitled person shall be opened in the institution's general accounts.

At the request of each institution concerned, this account may be centralized in the Commission's general accounts. This account shall be credited periodically with the monthly allowance referred to in Article 88 and interest calculated on the basis of the interest which the institution receives on its bank assets. It shall be debited by the amount of the deficit for which the person concerned is declared liable by the institution which appointed him, in so far as the deficit is not covered by payments from the insurers.

On the entry into force of this Regulation, the assets in the bank guarantee accounts opened in the name of the accounting officer, assistant accounting officers and imprest administrators shall be transferred to the institution's bank accounts and credited to the corresponding guarantee accounts in the general accounts on the basis of the ECU rate applicable in the month when this Regulation enters into force.

Article 90

When an accounting officer, assistant accounting officer or imprest administrator terminates his duties, any balance standing to his credit in the guarantee account shall be paid to him or to those entitled through him, after a decision has been taken by the authorities referred to in Article 18 of the Financial Regulation and the final discharge referred to in Article 72 of the Financial Regulation has been granted, and after the accounting officer, save where he himself is concerned, and the financial controller have given a favourable opinion.

Such payment shall be made exclusively on the written instructions of the head of the Directorate-General or administrative unit to which the accounting officer is assigned.

TITLE XVIII

CONDITIONS UNDER WHICH THE EUROPEAN UNIT OF ACCOUNT IS TO BE APPLIED TO REVENUE AND EXPENDITURE

(Article 108 (7) of the Financial Regulation)

Article 91

1. For the purposes of entering revenue and expenditure in the accounts in accordance with Article 63 of the Financial Regulation, conversion between the ECU and national currencies shall be made at the monthly ECU rates calculated on the basis of the rate on the penultimate working day of the month preceding that for which the rates are established, without prejudice to any special provisions, in particular for payments of own resources.

2. The conversion rates for the currencies of certain non-member countries shall be calculated in relation to their quotation on the London Stock Exchange on the Monday immediately preceding or coinciding with the day adopted for determining the monthly rate.

Article 92

Where commitment proposals and debt establishments are drawn up in a national currency, they shall be converted into ECU at the rate in force in the month of entry in the accounts.

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

The balance, expressed in ECU, of the balance of a commitment or of a debt established in a national currency shall be reassessed each time a payment is made, or a sum due is collected, by applying the rate used for the operation in question.

In addition, the balances in question may be reassessed periodically, the final reassessment for the financial year being made at the December rate.

Article 93

By way of derogation from the provisions of Article 91, the rate to be used for the month 'n' for which statements of expenditure out of advances financed by the EAGGF Guarantee Section, or for food aid are made pursuant to the first indent of Article 3 (2) (b) of Commission Regulation (EEC) No 3184/83 ⁽¹⁾, shall be that of the 20th day of the month 'n - 2' or the first preceding day for which a general quotation is available.

This rate shall also be used for the corresponding advances laid down in Article 4 of Regulation (EEC) No 3184/83.

The differences in national currency between the financial resources made available to the Member States for month 'n' and the expenditure entered in the accounts for the same month shall be reconverted into ECU at the rate on the 20th day of month 'n - 1'.

The differences referred to in Article 99 of the Financial Regulation shall be entered in the accounts at the rate for expenditure of the month during which the decisions concerning the clearance of accounts are adopted.

Article 94

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

Payments made in respect of a given financial year between the first and 15th day of January of the following year shall be

entered in the accounts, for budget purposes, at the December rate of the ECU.

Article 95

Commitments outstanding against non-differentiated appropriations shall be settled, to the amounts of carryovers in national currencies or in ECU; payments shall be entered in the accounts at the rates in force at the times of payment.

Where, owing to a change in the exchange rate between a national currency and the ECU, the amount of a payment exceeds that of the corresponding commitment, the difference may be charged against appropriations carried over under the same budget heading within the limit of the appropriations available. If this limit is exceeded, it shall be charged against the corresponding budget heading of the year during which the payment is made.

In the case of differentiated appropriations, the adjustments of commitments outstanding from earlier years worked out at the time of payment or periodical reassessments shall give rise to the creation of positive or negative commitment appropriations remaining, as appropriate, as long as such adjustments are made before the end of the second year following the year of origin.

TITLE XIX

FINAL PROVISIONS

Article 96

The amounts specified in Articles 50, 77, 79 and 88 shall be adjusted in proportion to variations in the Community consumer price index, expressed in ECU, as follows:

- every three years in the case of the amounts referred to in Articles 50, 77 and 79,
- every year in the case of the amounts referred to in Article 88, with effect from the date of entry into force of this Regulation.

The Commission shall determine the new amounts, rounded up or down to the nearest ECU, and shall communicate them to the other institutions.

Article 97

The detailed rules above shall not affect the application of the special provisions of the Financial Regulation relating to research and investment appropriations (Title VII of the Financial Regulation), the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (Title VIII of the Financial Regulation), food aid (Title IX of the Financial Regulation) and the Office for Official Publications of the European Communities (Title X of the Financial Regulation).

⁽¹⁾ OJ No L 320, 17. 11. 1983, p. 1.

Article 98

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

These rules shall be revised if the Financial Regulation itself is revised, necessitating additions or adjustments to the rules.

Commission Regulation 75/375/Euratom, ECSC, EEC ⁽¹⁾ is hereby repealed.

Done at Brussels, 11 December 1986

Article 99

The present measures in implementation of the Financial Regulation shall take effect on 1 January 1987.

For the Commission
Henning CHRISTOPHERSEN
Vice-President

⁽¹⁾ OJ No L 170, 1. 7. 1975, p. 1.