II

(Preparatory Acts)

COMMISSION

Proposal for a Council Regulation (ECSC, EEC, Euratom) amending the financial regulation of 21 December 1977 applicable to the general budget of the European Communities

(93/C 221/06)

COM(93) 328 final

(Submitted by the Commision on 20 July 1993)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Court of Auditors,

Whereas conciliation has taken place in a conciliation committee as provided in the joint declaration of the European Parliament, the Council and the Commission of 4 March 1975 (1);

Whereas provisions should be added to the financial regulation to enhance the role of the financial controller, by guaranteeing him full access to documents or data on magnetic media and by specifying more explicitly the need to secure prior approval;

Whereas the various stages of budgetary implementation as regards amounts owing to the Community should be specified in more detail;

Whereas provision should be made for appropriate accounting and budgetary treatment of fines;

Whereas, in order to facilitate operation of imprest accounts, the time allowed for booking expenditure in the accounts should be adjusted and the arrangements currently laid down in Article 122 should be given general application;

Whereas additional time should be allowed for settling a series of accounting transactions after the accounts for the year have been closed;

Whereas the administrative operation of offices and sub-offices within the Community is comparable to that of delegations outside the Community; whereas the scope of Title X should be enlarged accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The financial regulation is amended as follows:

1. Article 5 (1) is replaced by the following:

   '1. Subject to Article 28a, no revenue shall be collected and no expenditure effected unless credited to or charged against an article in the budget.'

2. Article 24 is amended as follows:

   (a) The second paragraph is replaced by the following:

   'He shall carry out his duties in accordance with the principles laid down in Article 2 and the provisions of Article 22 (3). He shall report to his institution on any problem he encounters regarding the management of Community finances.'

   (b) After the fifth paragraph the following paragraph is inserted:

   'All documents and information produced or stored on a magnetic medium which the financial controller considers necessary for the performance of his duties shall be supplied to him at his request by the departments concerned in the institution.'

3. Article 28 is amended as follows:

   (a) in the first subparagraph of paragraph 1, the words 'or situations' are inserted after the words 'all measures' and the words 'by a proposal from the competent authorizing officer' are replaced by the words 'by a forward estimate by the competent authorizing officer of the amount involved';

(1) OJ No C 89, 22. 4. 1975, p. 1.

(b) in the second subparagraph of paragraph 1, the words 'such proposals' are replaced by the words 'such forward estimates';

(c) the introductory sentences of the third subparagraph of paragraph 1 are replaced by the following:

'They shall mention, in particular, the type of revenue and the budget item to which it is to be booked and, if possible, the estimated amount and the description of the debtor. The purpose of the approval of the financial controller shall be to establish that:';

(d) in point (b) of the third subparagraph of paragraph 1, the word 'proposal' is replaced by the word 'forward estimate';

(e) the fourth subparagraph of paragraph 1 is deleted;

(f) in the first subparagraph of paragraph 2 the words 'such recovery orders' are replaced by the words 'such debts';

(g) the following subparagraph is inserted after the first subparagraph of paragraph 2:

'Provisional establishments may be made for certain routine revenue items in accordance with the implementing measures provided for in Article 126.'

4. The following Article is inserted:

'Article 28a

Revenue received by way of fines, periodic penalty payments and other penalties imposed by the Commission on the basis of the relevant rules may, as long as the decisions imposing them may be annulled by the Court of Justice, be entered provisionally on a suspense account.

The appropriate adjustment shall be made:

— if no appeal is lodged, as soon as the time allowed for appeal has expired,

— if an appeal is lodged, as soon as the Court of Justice has given final judgment.'

5. Article 36 (1) is replaced by the following:

'In respect of any measure which may give rise to expenditure chargeable to the budget, the authorizing officer must draw up a proposal for commitment and the institution may not enter into any legally binding commitment with third parties until the financial controller has given approval. A provisional commitment may be entered into in respect of routine expenditure.'

6. Article 38 is amended as follows:

(a) in the first paragraph the following point (a) is inserted:

'(a) the proposal for commitment has been presented in compliance with the requirements of Article 36 (1);'

(b) points (a), (b), (c) and (d) of the first paragraph become points (b), (c), (d) and (e) respectively.

7. Article 54 is amended as follows:

(a) the present paragraph is numbered paragraph 1;

(b) the following paragraph is added:

'2. Expenditure involving payments made not later than 31 December under the imprest accounts may be booked to the accounts for that year up to 15 February of the following year.'

8. Article 72 is amended as follows:

(a) the present paragraph is numbered paragraph 1;

(b) the following paragraph is added:

'2. Any operation after the closure of the accounts for the financial year which, without affecting the Community's financial position, is necessary for a full and true and fair presentation of the financial statements, may be implemented and approved by the financial controller up to 31 March of the following year.'

9. Title X is amended as follows:

(a) the heading is replaced by the following:

'Special provisions applicable to the management of appropriations relating to staff serving in offices and sub-offices in the Community and in delegations outside the Community and to their administration';

(b) Article 122 is deleted.

Article 2

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

It shall apply from ...

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