

# Official Journal

## of the European Communities

ISSN 0378-6978

L 357

Volume 45

31 December 2002

English edition

## Legislation

### Contents

#### I Acts whose publication is obligatory

- ★ **Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities** ..... 1
- ★ **Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities** ..... 72
- ★ **Commission Regulation (EC) No 2344/2002 of 18 December 2002 amending Annexes I, III, V and VII to Council Regulation (EEC) No 3030/93 on common rules for imports of certain textile products from third countries** ..... 91

#### Corrigenda

- ★ **Corrigendum to Council Regulation (EC) No 2555/2001 of 18 December 2001 fixing for 2002 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where limitations in catch are required (OJ L 347 of 31.12.2001)** ..... 144

Price: EUR 26

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

## I

*(Acts whose publication is obligatory)***COMMISSION REGULATION (EC, Euratom) No 2342/2002****of 23 December 2002****laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities****TABLE OF CONTENTS**

<b>PART ONE</b>	<b>COMMON PROVISIONS</b> .....	7
TITLE I	SUBJECT .....	7
TITLE II	BUDGETARY PRINCIPLES .....	7
<b>Chapter 1</b>	<b>Principles of unity and budget accuracy</b> .....	7
<b>Chapter 2</b>	<b>Principle of annuality</b> .....	8
<b>Chapter 3</b>	<b>(Chapter 4 of the Financial Regulation) Principle of unit of account</b> .....	8
<b>Chapter 4</b>	<b>(Chapter 5 of the Financial Regulation) Principle of universality</b> .....	9
<b>Chapter 5</b>	<b>(Chapter 6 of the Financial Regulation) Principle of specification</b> .....	10
<b>Chapter 6</b>	<b>(Chapter 7 of the Financial Regulation) Principle of sound financial management</b> .....	11
<b>Chapter 7</b>	<b>(Chapter 8 of the Financial Regulation) Principle of transparency</b> .....	12
TITLE III	ESTABLISHMENT AND STRUCTURE OF THE BUDGET .....	12
<b>Chapter 1</b>	<b>Establishment of the budget</b> .....	12
<b>Chapter 2</b>	<b>Structure and presentation of the budget</b> .....	13
TITLE IV	IMPLEMENTATION OF THE BUDGET .....	13
<b>Chapter 1</b>	<b>General provisions</b> .....	13
<b>Chapter 2</b>	<b>Methods of implementation</b> .....	14
Section 1	General provisions .....	14
Section 2	Special provisions .....	15
<b>Chapter 3</b>	<b>Financial actors</b> .....	16
Section 1	Rights and obligations of the financial actors .....	16
Section 2	Authorising officer .....	17
Section 3	Accounting officer .....	18
Section 4	Imprest administrator .....	20
<b>Chapter 4</b>	<b>Liability of the financial actors</b> .....	22
Section 1	General rules .....	22
Section 2	Rules applicable to authorising officers by delegation and subdelegation .....	22
<b>Chapter 5</b>	<b>Revenue operations</b> .....	23
Section 1	Own resources .....	23
Section 2	Estimate of amounts receivable .....	23
Section 3	Establishment of amounts receivable .....	23
Section 4	Authorisation of recovery .....	24
Section 5	Recovery .....	24

<b>Chapter 6</b>	<b>Expenditure operations</b> .....	26
Section 1	Commitment of expenditure .....	26
Section 2	Validation of expenditure .....	27
Section 3	Authorisation of payments .....	28
Section 4	Payment of expenditure .....	29
Section 5	Time limits for expenditure operations .....	29
<b>Chapter 7</b>	<b>IT systems</b> .....	30
<b>Chapter 8</b>	<b>Internal auditor</b> .....	30
TITLE V	PROCUREMENT .....	31
<b>Chapter 1</b>	<b>General provisions</b> .....	31
Section 1	Scope and award principles .....	31
Section 2	Publication .....	32
Section 3	Procurement procedures .....	33
Section 4	Guarantees and control .....	43
<b>Chapter 2</b>	<b>Specific provisions applicable to contracts awarded by the Community institutions on their own account</b> .....	44
TITLE VI	GRANTS .....	45
<b>Chapter 1</b>	<b>Scope</b> .....	45
<b>Chapter 2</b>	<b>Award principles</b> .....	46
<b>Chapter 3</b>	<b>Award procedure</b> .....	48
<b>Chapter 4</b>	<b>Payment and control</b> .....	50
<b>Chapter 5</b>	<b>Implementation</b> .....	51
TITLE VII	PRESENTATION OF THE ACCOUNTS AND ACCOUNTING .....	52
<b>Chapter 1</b>	<b>Presentation of the accounts</b> .....	52
<b>Chapter 2</b>	<b>(Chapter 3 of the Financial Regulation) accounting</b> .....	55
Section 1	Organisation of the accounts .....	55
Section 2	Accounting ledgers .....	55
Section 3	Chart of accounts .....	56
Section 4	Registration .....	56
Section 5	Reconciliation and verification .....	57
Section 6	Budget accounts .....	57
<b>Chapter 3</b>	<b>(Chapter 4 of the Financial Regulation) property inventories</b> .....	58
<b>PART TWO</b>	<b>SPECIAL PROVISIONS</b> .....	59
TITLE I	(TITLE II OF THE FINANCIAL REGULATION) STRUCTURAL FUNDS .....	59
TITLE II	(TITLE III OF THE FINANCIAL REGULATION) RESEARCH .....	59
TITLE III	(TITLE IV OF THE FINANCIAL REGULATION) EXTERNAL ACTIONS .....	60
<b>Chapter 1</b>	<b>General provisions</b> .....	60
<b>Chapter 2</b>	<b>Implementation of actions</b> .....	60
<b>Chapter 3</b>	<b>Procurement</b> .....	60
<b>Chapter 4</b>	<b>Grants</b> .....	67
<b>Chapter 5</b>	<b>Imprest accounts and inventories</b> .....	68
TITLE IV	(TITLE V OF THE FINANCIAL REGULATION) EUROPEAN OFFICES .....	68
TITLE V	(TITLE VI OF THE FINANCIAL REGULATION) ADMINISTRATIVE APPROPRIATIONS .....	69
<b>PART THREE</b>	<b>TRANSITIONAL AND FINAL PROVISIONS</b> .....	69
TITLE I	TRANSITIONAL PROVISIONS .....	69
TITLE II	FINAL PROVISIONS .....	70

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities <sup>(1)</sup>, and in particular Article 183 thereof,

Having consulted the European Parliament, the Council, the Court of Justice of the European Communities, the Court of Auditors, the European Economic and Social Committee, the Committee of the Regions, the Ombudsman and the European Data Protection Supervisor,

Whereas:

- (1) The provisions of Regulation (EC, Euratom) No 1605/2002 (hereinafter 'the Financial Regulation') have been simplified to confine the Regulation to the basic principles and definitions relating to the establishment, execution and control of the general budget of the European Communities (hereinafter 'the budget').
- (2) These implementing rules should therefore not only supplement the Financial Regulation in respect of the provisions thereof for which it expressly refers to the implementing rules but also in respect of the provisions whose application requires the implementing measures to be determined in advance. In the interests of clarity, it is necessary to replace Commission Regulation (Euratom, ECSC, EC) No 3418/93 of 9 December 1993 laying down detailed rules for the implementation of the Financial Regulation of 21 December 1977 <sup>(2)</sup>, as last amended by Regulation (EC) No 1687/2001 <sup>(3)</sup>.
- (3) To ensure that sectoral rules are consistent with the budgetary principles set out in the Financial Regulation, an inventory should be produced of all regulatory instruments relating to budget execution and provision made for this inventory to be drawn up by the Commission and submitted to the budgetary authority.
- (4) As regards the budgetary principles, in particular the principle of unity, the requirement that interest on pre-financing to be repaid to the budget be identified means that any pre-financing which remains the property of the Communities must be identified. Such pre-financing remains the property of the institution unless the basic act, within the meaning of Article 49 of the Financial Regulation, provides otherwise and unless it is paid under a procurement contract, or to staff or members of the institutions, or to the Member States. This rule should be spelled out according to the type of management (direct or indirect centralised management and shared management). It does not apply to joint management since in such cases the Community funds are

merged with the funds of the international organisation. Where pre-financing which remains the property of the Communities yields interest, this interest should be paid to the budget as miscellaneous revenue.

- (5) For the principle of annuality, it is important to clarify the meaning of annual appropriations and the preparatory stages of the commitment procedure which, if completed by 31 December, may allow the carryover of commitment appropriations which will then have to be used by 31 March of the following financial year.
- (6) As regards the principle of the unit of account, the rates to be used for conversion between the euro and the other currencies for the requirements of the management of the cash flow and the accounts should be specified.
- (7) As regards the derogations from the principle of universality, the budget treatment to be given to assigned revenue, in particular to contributions by Member States or third countries to certain Community programmes, should be specified, as must the limits on the netting of expenditure and revenue.
- (8) As regards the principle of specification, a precise definition should be given of the calculation of the percentage of appropriations which the institutions are authorised to transfer by virtue of the autonomy they enjoy and provision should be made for the budgetary authority to be given full information through a detailed explanation of the requests for transfers which have to be submitted to it.
- (9) As for sound financial management, it is necessary to specify the objectives of the *ex ante*, interim and *ex post* evaluations of the programmes and activities, the minimum frequency with which they are to be carried out and the information to be given in the legislative financial statement.
- (10) As for the establishment and presentation of the budget, it is necessary to determine the contents of the general introduction to the budget, the working documents backing up the budget and the budget remarks for ensuring that the budgetary authority is fully informed. In the new activity-based budgeting (ABB) presentation, the definition and classification of administrative appropriations should also be set out.
- (11) As regards implementation of the budget, it is appropriate first to clarify the forms which may be taken by basic acts in the Community field and in the fields covered by the Treaty on European Union. The maximum amounts of appropriations which may be implemented for preparatory actions and pilot schemes without the existence of a basic act should be determined and the provisions of the Treaties conferring specific powers directly on the Commission should be listed.

<sup>(1)</sup> OJ L 248, 16.9.2002, p. 1.

<sup>(2)</sup> OJ L 315, 16.12.1993, p. 1.

<sup>(3)</sup> OJ L 228, 24.8.2001, p. 8.

- (12) Acts likely to constitute a conflict of interests should also be defined, together with the procedure to be followed in such cases.
- (13) As for the different methods of implementing the budget, it should be laid down that, when the Commission does not implement the budget directly in its departments, it must first ascertain that the entities to which it plans to entrust implementing tasks have management procedures and control and accounting systems which are adequate and appropriate with regard to the requirements of sound financial management.
- (14) In respect of indirect centralised management, that is to say, of management delegated by the Commission to executive agencies or to bodies governed by Community law or national public-sector bodies or bodies with a public-service mission, it is also necessary to lay down the framework for such delegation of powers and the arrangements for its implementation by act of delegation or agreement. The executive agencies, which remain under Commission control, should be recognised as authorising officers by delegation of that institution for implementation of the Community budget. Where national bodies have to carry out acts of budget implementation, they should offer adequate financial guarantees and be chosen in a transparent manner following a cost-effectiveness analysis showing the reasons for delegating management to such a body. The Commission should seek the opinion of the relevant committee, in accordance with the basic act for implementing the appropriations concerned, before delegating powers to national bodies. Private-law entities performing preparatory or ancillary tasks on the Commission's behalf should be selected in accordance with procurement procedures.
- (15) For shared management with the Member States or decentralised management with third countries, the stages and objectives of the procedure for the clearance of accounts should be laid down without prejudice to the specific provisions contained in the relevant sectoral regulations.
- (16) Finally, for joint management, it should be made clear that the share contributed by each donor to each type of expenditure need not be identified but that the subsidised actions must none the less be subject to comprehensive controls; the international organisations eligible for this type of management should be identified.
- (17) As regards the role of the financial actors, the reform of financial management, together with the dropping of centralised *ex ante* controls, increases the responsibilities of the authorising officers in all revenue and expenditure operations, including in terms of internal control systems. The budgetary authority should in future be informed of the appointment or termination of duties of an authorising officer by delegation. Consequently, the tasks, responsibilities and principles of the procedures to be observed should also be laid down. The internalisation of *ex ante* controls requires, in particular, a clear distinction between tasks relating to the initiation of operations in implementation of the budget and tasks relating to the verification of such operations. Moreover, each institution should adopt a code of professional standards applicable to the staff responsible for *ex ante* and *ex post* verifications. Provision should then be made for the responsibilities assumed to be accounted for in an annual report to the institution which must, *inter alia*, give the results of the *ex post* verifications; arrangements should also be made for keeping the supporting documents relating to the operations carried out. Finally, all the various forms of negotiated procedure for the award of public contracts should, since they represent derogations, be the subject of a special report to the institution and of a communication to the budgetary authority.
- (18) In order to clarify responsibilities, a precise definition should also be given of the tasks and responsibilities of the accounting officer in connection with the accounting systems, treasury management, the management of bank accounts and third-party files. The arrangements for the termination of the accounting officer's duties should also be spelled out.
- (19) The conditions for the use of imprest accounts, a system of management which forms an exception to normal budgetary procedures, should also be laid down, and the tasks and responsibilities of the imprest administrators, as well as those of the authorising officer and accounting officer in connection with the control of imprest accounts, should be set out. The budgetary authority should be informed of any appointment or termination of duties.
- (20) Once the tasks and responsibilities of each financial actor have been defined, they may be held liable only under the conditions laid down in the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants. However, a new specialised financial irregularities panel should be set up in appropriate manner in each institution to determine whether irregularities of a financial nature have occurred. The procedure by which an authorising officer may seek confirmation of an instruction and thus be released from any liability should also be laid down.
- (21) As regards revenue, except for the special case of own resources covered by Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources <sup>(1)</sup>, it is necessary to specify the tasks and controls falling within the responsibility of the authorising officers at the different stages of the procedure: establishment of the estimate of amounts receivable and then the recovery order; dispatch of the debit note informing the debtor that the amount receivable has been established; calculation of any default interest due; and, finally, the decision, where necessary, to waive an entitlement subject to criteria guaranteeing compliance with sound financial management. The accounting officer's role in the collection of revenue and in allowing any additional time for payment should also be specified.

<sup>(1)</sup> OJ L 130, 31.5.2000, p. 1.



- (22) As regards expenditure, the relationship between financing decisions, global commitments and individual commitments should be defined, as should the characteristics of those different stages. The distinction between a global commitment and an individual commitment depends on the extent to which the beneficiaries are identified and the amounts involved. Provisional commitments are limited to routine administrative expenditure and expenditure in connection with the European Agricultural Guidance and Guarantee Fund (EAGGF). To restrict the volume of dormant commitments, appropriations corresponding to commitments for which no payment has been made for three years should be decommitted.
- (23) It is then necessary to clarify the relationship between validation, authorisation and payment operations and the controls to be carried out by the authorising officer when validating expenditure, with the endorsement 'passed for payment', and when authorising payment by checking the validity of the release from all liability, for which the authorising officer now has sole responsibility. The documents to be produced in support of payments should be specified and rules laid down for the clearing of pre-financing and interim payments. Finally, the time-limits applicable to validation and payment operations should be laid down, account being taken of Directive 2000/35/EC of the European Parliament and of the Council of 29 June 2000 on combating late payment in commercial transactions <sup>(1)</sup>.
- (24) For the internal audit, it is necessary to lay down the procedure for appointing the auditor and to guarantee his independence within the institution which has appointed him and to which he must report on his activities; the budgetary authority should be informed of any appointment or termination of duties.
- (25) With regard to procurement, the option taken is to insert in the present Regulation the provisions of Council Directives 92/50/EEC <sup>(2)</sup>, 93/36/EEC <sup>(3)</sup> and 93/37/EEC <sup>(4)</sup>, as last amended by Commission Directive 2001/78/EC <sup>(5)</sup>, relating to the procedures for the award of public service, supply and works contracts respectively. Consequently, it is first necessary to define the various types of procurement contract; the advertising and publication measures applicable; the conditions in which use may be made of a particular form of procedure and the main features of the existing procedures; the specification of selection criteria and the possible award arrangements; rules for access to tender documents and for communication with tenderers or candidates; and, for cases where the Commission awards contracts on its own account, the various thresholds applicable and the rules for estimating the value of the contracts to be awarded.
- (26) The purpose of the procedures for the award of contracts is to satisfy the needs of the institutions on the best possible terms while guaranteeing equal access to public contracts and complying with the principles of transparency and non-discrimination. With a view to ensuring transparency and the equal treatment of candidates, as well as the full responsibility of authorising officers in the final choice, it is necessary to lay down the procedure for opening and then evaluating tenders and requests to participate, from the appointment of a committee up to the substantiated and documented award decision, which ultimately rests with the contracting authority. The financial guarantees needed to protect the Communities' financial interests should also be specified.
- (27) Finally, it is necessary to delimit the contracting authorities' powers to impose administrative penalties, in order to ensure that penalties are proportionate and dissuasive and to secure equal treatment as between the various institutions and as between departments.
- (28) The scope of the Title on grants should also be clarified, particularly with regard to the different methods for implementing the budget, but also with regard to the type of action or body of general European interest eligible for a grant. The characteristics of the annual work programme and of calls for proposals should be specified, as should the possible exceptions in this context and the possibility of retroactive effect, particularly in the context of humanitarian aid and the management of crisis situations, for which the constraints are very specific.
- (29) Again with regard to the requirements of transparency, equal treatment for applicants and the enhancement of the accountability of authorising officers, the award procedure should be laid down, from the application for the grant to its evaluation, by a committee, in the light of previously specified selection and award criteria, before the authorising officer takes his final, appropriately documented decision.
- (30) Sound financial management then requires that the Commission protect itself with guarantees: at the stage of grant applications, by arranging financial audits for applications involving larger amounts; then, at the time of paying pre-financing, by requiring advance financial guarantees; and, finally, at the stage of final payment, by arranging financial audits for the requests which involve the largest amounts and which present most risk. Sound management and compliance with the no-profit and co-financing principles also require rules to be laid down delimiting the possible use of flat-rate payments. Finally, the sound management of Community funds means that the grant beneficiaries themselves must comply with the principles of transparency and equal treatment of potential contractors, as well as with the principle that the contract must be awarded to the tender offering best value for money when the action is partly sub-contracted.

<sup>(1)</sup> OJ L 200, 8.8.2000, p. 35.

<sup>(2)</sup> OJ L 209, 24.7.1992, p. 1.

<sup>(3)</sup> OJ L 199, 9.8.1993, p. 1.

<sup>(4)</sup> OJ L 199, 9.8.1993, p. 54.

<sup>(5)</sup> OJ L 285, 29.10.2001, p. 1.

- (31) Finally, powers for imposing penalties in that context should be aligned with those conferred in the context of procurement.
- (32) As regards the keeping and presentation of the accounts, each of the generally accepted accounting principles on which the financial statements must be based should be defined. It is also necessary to specify the conditions for entering a transaction in the accounts and the rules for valuing assets and liabilities and for the constitution of provisions.
- (33) It should be specified that the institutions' accounts must be accompanied by a report on budgetary and financial management and details should be given of the content and presentation of the elements making up the financial statements (balance sheet, economic outturn account, cash-flow table and annex) and the budget implementation statements (budget outturn account and annex).
- (34) On accounting matters, it should be specified that the accounting officer of each institution must produce documents describing the organisation of the accounts and the accounting procedures of that institution and define the conditions to be respected by the computerised accounting systems, in particular as regards security of access and the audit trail for any changes made to the systems.
- (35) As regards the keeping of the accounts, it is necessary to specify the principles applicable to the accounting ledgers, the trial balance, the periodical reconciliation of the totals in that balance and the inventory, and to specify the components of the chart of accounts adopted by the Commission's accounting officer. The rules applicable to the registration of operations, in particular the double-entry method, the rules for the conversion of operations which are not denominated in euro and the supporting documents for accounting entries, should be laid down. The content of the accounting records should also be specified.
- (36) Finally, it is necessary to lay down the rules relating to the property inventory and to clarify the respective responsibilities in this field of the accounting officers and authorising officers, as well as the rules applicable to the resale of property entered in the inventory.
- (37) As regards the Structural Funds, it should be specified that the repayment of payments on account in respect of a given operation does not have the effect of reducing the contribution from the Fund to that operation.
- (38) The types of action, direct and indirect, which may be financed in the research sector should be specified.
- (39) For external actions, the implementing rules, like the Financial Regulation itself, aim to make provision for exceptions which reflect the specific operational features of that sector, mainly as regards procurement and the award of grants.
- (40) As regards procurement, these implementing rules take over the substance of the provisions of the Commission Decision of 10 November 1999 on the simplification of the management systems for the award of contracts in the framework of the cooperation programmes implemented by the Directorates-General for external relations,<sup>(1)</sup> resulting in procurement rules which differ from the standard rules by virtue of the different thresholds set and the management procedures, which have been adapted to external actions.
- (41) As for grants, it is necessary to list the types of action for which derogation is possible from the principle of co-financing referred to in Article 109 of the Financial Regulation. This applies in particular to humanitarian aid and aid in crisis situations and actions for the protection of the health or fundamental rights of peoples.
- (42) To guarantee the sound management of Community appropriations, it is also necessary to specify the pre-conditions and the rules to be contained in the agreements when the management of appropriations is decentralised or if use is made of imprest accounts.
- (43) The provisions of the Financial Regulation relating to European Offices should be supplemented by specific rules for the Office for Official Publications of the European Communities and by provisions authorising the Commission's accounting officer to delegate some of his tasks to staff in those Offices. Operational procedures should also be laid down for the bank accounts which the European Offices may be authorised to open in the Commission's name.
- (44) As regards administrative appropriations, each institution should inform the budgetary authority of significant building projects which are under way, that is to say, of those increasing the building stock.
- (45) It is necessary to identify the bodies which may receive grants charged to the budget and which have to be given a set of rules in accordance with the conditions laid down in Article 185 of the Financial Regulation.
- (46) The various thresholds and amounts referred to in this Regulation should be regularly updated by linking them with the inflation recorded in the Community, with the exception of the thresholds applicable to procurement,

<sup>(1)</sup> SEC(1999) 1801.

HAS ADOPTED THIS REGULATION:

## PART ONE

### COMMON PROVISIONS

#### TITLE I

##### SUBJECT

###### Article 1

###### Subject

(Article 1 of the Financial Regulation)

This Regulation sets out the rules for implementing the provisions of Regulation (EC, Euratom) No 1605/2002 (hereinafter 'the Financial Regulation').

The institutions concerned by this Regulation are the institutions within the meaning of the Financial Regulation.

###### Article 2

###### Inventory of legislative acts concerning the implementation of the budget

(Article 2 of the Financial Regulation)

The Commission shall keep an inventory of the acts referred to in Article 2 of the Financial Regulation. It shall update that inventory each year and inform the budgetary authority accordingly.

#### TITLE II

### BUDGETARY PRINCIPLES

#### CHAPTER 1

##### Principles of unity and budget accuracy

###### Article 3

###### Scope of pre-financing remaining the property of the Communities

(Article 5(4) of the Financial Regulation)

1. Pre-financing within the meaning of Article 105 shall remain the property of the Communities, unless the basic act, within the meaning of Article 49(1) of the Financial Regulation, provides otherwise. That provision shall not concern pre-financing paid under a contract within the meaning of Article 88 of the Financial Regulation, or to Member States, or under the pre-accession aid, or the advances referred to in Article 265. It shall not apply to joint management within the meaning of Article 53 of the Financial Regulation.

2. In the case of direct centralised management within the meaning of Article 53 of the Financial Regulation involving a number of partners, the rule referred to in paragraph 1 of this Article shall apply solely to the principal contractor.

3. In the case of decentralised management and in the case of indirect centralised management within the meaning of Article 53 of the Financial Regulation, the rule referred to in paragraph 1 of this Article shall apply only to the entity receiving pre-financing direct from the Commission.

4. The rule referred to in paragraph 1 shall apply to pre-financing paid under contracts or agreements concluded after the entry into force of this Regulation.

5. Paragraphs 1 to 4 shall be without prejudice to the entry of pre-financing on the assets side of the financial statements, as will be laid down in the accounting rules provided for in Article 133 of the Financial Regulation.

The authorising officers shall provide the accounting officer with details enabling him to identify pre-financing which remains the property of the Communities.

###### Article 4

###### Entry in the budget of interest yielded by Community funds

(Article 5(4) of the Financial Regulation)

1. Where pre-financing which remains the property of the Communities in accordance with Article 3 yields interest or equivalent benefits, these shall be paid to the general budget of the European Communities (hereinafter 'the budget') as miscellaneous revenue.

2. Authorising officers shall ensure that, under contracts and agreements concluded with beneficiaries:

- (a) such pre-financing is paid to accounts which allow the funds paid by the Communities to be identified; and
- (b) the beneficiaries inform the authorising officer responsible of the amount of any interest or equivalent benefits yielded by those funds at least once a year if such interest represents significant amounts and in any event whenever requests are made for interim payments or payments of balances that clear the pre-financing.



3. In accordance with Chapter 5 of Title IV, the authorising officer responsible shall, upon payment of the pre-financing, draw up an estimate of amounts receivable covering any interest or equivalent benefits yielded by the pre-financing.

The authorising officer responsible shall, in accordance with the timetable referred to in point (b) of paragraph 2, draw up a recovery order for the amount of interest referred to in paragraph 1.

4. Where pre-financing is paid from the same budget line, under the same basic act and to beneficiaries covered by the same award procedure, the authorising officer may draw up a single estimate of amounts receivable for a number of debtors.

## CHAPTER 2

### **Principle of annuity**

#### Article 5

#### **Appropriations for the financial year**

(Article 8(3) of the Financial Regulation)

The commitment appropriations and payment appropriations entered in the budget for a financial year and which have to be used during that year shall consist of the appropriations authorised for that financial year. The appropriations authorised for the financial year are:

- (a) appropriations provided in the budget, including by amending budgets;
- (b) appropriations carried over;
- (c) appropriations made available again in accordance with Articles 157 and 181(5) of the Financial Regulation;
- (d) appropriations arising from payments on account which have been repaid in accordance with Article 228;
- (e) appropriations provided following the receipt of revenue assigned during the financial year or during previous financial years and not used.

#### Article 6

#### **Carryover of appropriations**

(Article 9(2) of the Financial Regulation)

1. The commitment appropriations referred to in Article 9(2)(a) of the Financial Regulation may be carried over only if the commitments could not be made before 31 December of the financial year for reasons not attributable to the authorising officer and if the preparatory stages are sufficiently advanced to make it reasonable to surmise that the commitment will be made by no later than 31 March of the following year.

2. The preparatory stages referred to in Article 9(2)(a) of the Financial Regulation, which should be completed by 31 December of the financial year in order to allow a carryover to the following year, are in particular:

- (a) for global commitments within the meaning of Article 76 of the Financial Regulation, the adoption of a financing decision or the closing by that date of the consultation of the departments concerned within each institution for the adoption of the decision;

- (b) for individual commitments within the meaning of Article 76 of the Financial Regulation, the advanced stage of preparation of the contracts or agreements. This advanced stage of preparation of the contracts or agreements shall mean the completion of the selection of potential contractors or beneficiaries.

3. Appropriations carried over in accordance with Article 9(2)(a) of the Financial Regulation which have not been committed by 31 March of the following financial year shall be automatically cancelled.

The Commission shall inform the budgetary authority by 15 April of the appropriations cancelled in this way.

4. Appropriations carried over in accordance with Article 9(2)(b) of the Financial Regulation may be used until 31 December of the following financial year.

5. The accounts shall identify appropriations carried over in this way.

6. The appropriations for staff expenditure referred to in Article 9(6) of the Financial Regulation are those for remuneration and allowances for members and staff of the institutions.

## CHAPTER 3

### **(Chapter 4 of the Financial Regulation)**

#### **Principle of unit of account**

#### Article 7

#### **Rate of conversion between the euro and other currencies**

(Article 16 of the Financial Regulation)

1. Without prejudice to specific provisions arising from the application of sectoral regulations, conversion between the euro and another currency shall be made using the daily euro rate published in the C series of the *Official Journal of the European Communities*.

2. If no daily euro rate is published in the *Official Journal of the European Communities* for the currency in question, the Commission shall use the accounting rate referred to in paragraph 3.

3. For the purposes of the accounts provided for in Articles 132 to 137 of the Financial Regulation and subject to Article 213, conversion between the euro and another currency shall be made using the monthly accounting rate of the euro. That accounting rate shall be established by the Commission by means of any source of information it regards as reliable, on the basis of the rate on the penultimate working day of the month preceding that for which the rate is established.

## Article 8

**Rate to be used for conversion between the euro and other currencies**

(Article 16 of the Financial Regulation)

1. Without prejudice to specific provisions deriving from the application of sectoral regulations, the rate to be used for conversion between the euro and other currencies shall be that of the day on which the payment order or recovery order is drawn up by the authorising department.

2. In the case of euro imprest accounts, the rate to be used shall be determined by the date of the payment by the bank.

3. In the case of imprest accounts in national currencies, referred to in Article 16 of the Financial Regulation, the rate to be used shall be that of the month of the expenditure from the imprest account.

4. For expenditure financed by the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, the rate to be used for month 'n' in respect of which such expenditure has been declared in accordance with Article 3 of Commission Regulation (EC) No 296/96<sup>(1)</sup> shall be that for the tenth day of month 'n+1' or for the first preceding day for which a rate is quoted.

That rate shall also be used for the corresponding advances provided for in Articles 4 and 5 of Regulation (EC) No 296/96.

## Article 9

**Information on cash transfers by the Commission between different currencies**

(Article 16 of the Financial Regulation)

Each quarter the Commission shall send the Member States a statement of transfers carried out between different currencies.

## CHAPTER 4

**(Chapter 5 of the Financial Regulation)****Principle of universality**

## Article 10

**Structure to accommodate assigned revenue and provision of corresponding appropriations**

(Article 18 of the Financial Regulation)

1. Without prejudice to Articles 12 and 13, the structure to accommodate assigned revenue in the budget shall comprise:

- (a) in the statement of revenue of each institution's section, a budget line to receive the revenue;
- (b) in the statement of expenditure, the remarks shall show which lines may receive the appropriations corresponding to the assigned revenue which are made available.

<sup>(1)</sup> OJ L 39, 17.2.1996, p. 5.

In the case referred to in point (a) of the first subparagraph, if the amount of such revenue is foreseeable, it shall be entered on the line. If it is not foreseeable, a token entry (p.m.) shall be made and the estimated revenue shall be shown for information in the remarks.

2. The appropriations corresponding to assigned revenue may be made available, both as commitment appropriations and as payment appropriations, when the revenue has been received by the institution, save in the case provided for in Article 161(2) of the Financial Regulation. They shall be made available automatically save in the case of repayments of payments on account, referred to in Article 156 of the Financial Regulation, and in the case of financial corrections in connection with the Structural Funds.

## Article 11

**Contributions from Member States to research programmes**

(Article 18(1)(a) of the Financial Regulation)

1. The Member States' contributions to the financing of certain supplementary research programmes, provided for in Article 5 of Regulation (EC, Euratom) No 1150/2000, shall be paid as follows:

- (a) seven twelfths of the sum entered in the budget shall be paid by no later than 31 January of the current financial year;
- (b) the remaining five twelfths shall be paid by no later than 15 July of the current financial year.

2. Where the budget has not been finally adopted before the start of a financial year, the contributions provided for in paragraph 1 shall be based on the sum entered in the budget for the previous financial year.

3. Any contribution or additional payment owed by the Member States to the budget shall be entered in the Commission's account or accounts within thirty calendar days of the call for funds.

4. Payments made shall be entered in the account provided for in Regulation (EC, Euratom) No 1150/2000 and shall be subject to the conditions laid down by that Regulation.

## Article 12

**Assigned revenue resulting from the participation of EFTA States in certain Community programmes**

(Article 18(1)(d) of the Financial Regulation)

1. The budget structure to accommodate the participation of the EFTA States in certain Community programmes shall be as follows:

- (a) in the statement of revenue, a line with a token entry (p.m.) shall be entered to accommodate the full amount of the EFTA States' contribution for the financial year in question. The estimated amount shall be shown in the budget remarks;

- (b) in the statement of expenditure:
- (i) the remarks for each line relating to the Community activities in which the EFTA States participate shall show 'for information' the estimated amount of the participation;
  - (ii) an annex, forming an integral part of the budget, shall set out all the lines covering the Community activities in which the EFTA States participate.

The annex referred to in point (b)(ii) of the first subparagraph reflects and is part of the structure to accommodate the appropriations corresponding to such participation, as provided for in paragraph 2, and to allow the expenditure to be implemented.

2. Under Article 82 of the Agreement on the European Economic Area (EEA), the amounts of the annual participation of the EFTA States, as confirmed to the Commission by the EEA Joint Committee in accordance with Article 1(5) of Protocol 32 annexed to that Agreement, shall give rise to the provision, at the start of the financial year, of the full amounts of the corresponding appropriations for commitments and appropriations for payments.

3. If, in the course of the financial year, additional appropriations are provided on the budget lines with EFTA State participation without the EFTA States being able, during that year, to adjust their contributions accordingly in order to comply with the 'proportionality factor' provided for in Article 82 of the Agreement on the European Economic Area, the Commission may, as a provisional and exceptional measure, use its cash resources to pre-finance the share of the EFTA States. Whenever such additional appropriations are provided, the Commission shall, as soon as possible, call in the corresponding contributions from the EFTA States. The Commission shall inform the budgetary authority each year of any such decisions taken.

The pre-financing shall be regularised as soon as possible in the budget for the following financial year.

4. In accordance with Article 18(1)(d) of the Financial Regulation, the financial contributions of the EFTA States shall constitute assigned revenue. The accounting officer shall adopt appropriate measures to ensure that use of the revenue arising from those contributions and of the corresponding appropriations is monitored separately.

In the report provided for in Article 131(2) of the Financial Regulation, the Commission shall show separately the stage of implementation, in both revenue and expenditure, corresponding to EFTA State participation.

#### Article 13

### **Proceeds of sanctions imposed on Member States declared to have an excessive deficit**

(Article 18(1)(b) of the Financial Regulation)

The budget structure to accommodate the proceeds of the sanctions referred to in Section 4 of Council Regulation (EC) No 1467/97 <sup>(1)</sup> shall be as follows:

- (a) in the statement of revenue, a line carrying a token entry (p.m.) shall be entered to accommodate the interest on such amounts;

<sup>(1)</sup> OJ L 209, 2.8.1997, p. 6.

- (b) at the same time, and without prejudice to Article 74 of the Financial Regulation, entry of those amounts in the statement of revenue shall give rise to the provision, in the statement of expenditure, of commitment appropriations and payment appropriations. These appropriations shall be implemented in accordance with Article 17 of the Financial Regulation.

#### Article 14

### **Passing for payment of the net amount**

(Article 20(1) of the Financial Regulation)

Pursuant to Article 20(1) of the Financial Regulation, the following deductions may be made from payment requests, invoices or statements, which shall then be passed for payment of the net amount:

- (a) penalties imposed on parties to contracts, including procurement contracts;
- (b) adjustments for amounts paid unduly, which can be made by means of direct deduction against a new payment of the same type to the same payee under the chapter, article and financial year in respect of which the excess payment was made, and which give rise to interim payments or payments of balances.

Discounts, refunds and rebates on individual invoices and payment requests shall not be recorded as Community revenue.

#### Article 15

### **Accounts for recoverable taxes**

(Article 20(2) of the Financial Regulation)

Any taxes borne by the Communities under Article 20(2) of the Financial Regulation shall be entered in a suspense account until they are refunded by the States concerned.

## CHAPTER 5

### **(Chapter 6 of the Financial Regulation)**

#### **Principle of specification**

#### Article 16

### **Transfer procedures**

(Article 22(1) of the Financial Regulation)

1. Each institution may propose to the budgetary authority, within its own section of the budget, transfers from one title to another exceeding the limit of 10 % of the appropriations for the financial year on the line from which the transfer is to be made. It shall inform the Commission accordingly.

Those transfers shall be subject to the procedure laid down in Article 24 of the Financial Regulation.

2. Each institution may, within its own section of the budget, make transfers within articles.

#### Article 17

### Rules concerning the calculation of limits on transfers

(Article 23 of the Financial Regulation)

1. The percentages referred to in Article 22(1) and points (b) and (c) of the first subparagraph of Article 23(1) of the Financial Regulation shall be calculated at the time the request for transfer is made.

2. For the purposes of the limit referred to in Article 22(1) and points (b) and (c) of the first subparagraph of Article 23(1) of the Financial Regulation, the amount to be taken into consideration shall be the sum of the transfers to be made on the line from which the transfer is being made after adjustment for earlier transfers made.

#### Article 18

### Administrative expenditure

(Article 23 of the Financial Regulation)

The expenditure referred to in point (b) of the first subparagraph of Article 23(1) of the Financial Regulation shall cover, for each policy area, the items referred to in Article 27.

#### Article 19

### Grounds for requests for transfers of appropriations

(Articles 22 and 23 of the Financial Regulation)

Proposals for transfers and all information for the budgetary authority concerning transfers made under Articles 22 and 23 of the Financial Regulation shall be accompanied by appropriate and detailed supporting documents showing the implementation of appropriations and estimates of requirements up to the end of the financial year, both for the lines to which the appropriations are to be transferred and for those from which they are to be taken.

#### Article 20

### Grounds for requests for transfers from the emergency aid reserve

(Article 26 of the Financial Regulation)

Proposals for transfers to allow the utilisation of the emergency aid reserve, referred to in the first subparagraph of Article 26(2) of the Financial Regulation, shall be accompanied by appropriate and detailed supporting documents showing:

(a) for the line to which the transfer is to be made, the most recent information available for the implementation of appropriations and the estimate of requirements up to the end of the financial year;

- (b) for all lines relating to external action, the implementation of appropriations up to the end of the month preceding the request for transfer and an estimate of requirements up to the end of the financial year, including a comparison with the initial estimate;
- (c) an analysis of the possibilities of reallocating appropriations.

#### CHAPTER 6

### (Chapter 7 of the Financial Regulation)

### Principle of sound financial management

#### Article 21

### Evaluation

(Article 27 of the Financial Regulation)

1. All proposals for programmes or activities occasioning expenditure or a reduction in revenue for the budget shall be the subject of an *ex ante* evaluation, which shall identify:

- (a) the need to be met in the short or long term;
- (b) the objectives to be achieved;
- (c) the results expected and the indicators needed to measure them;
- (d) the added value of Community involvement;
- (e) the risks, including fraud, linked with the proposals and the alternative options available;
- (f) the lessons learned from similar experiences in the past;
- (g) the volume of appropriations, human resources and other administrative expenditure to be allocated with due regard for the cost-effectiveness principle;
- (h) the monitoring system to be set up.

2. All programmes or activities shall then be the subject of an interim and/or *ex post* evaluation in terms of the human and financial resources allocated and the results obtained in order to verify that they were consistent with the objectives set, as follows:

- (a) the results obtained in carrying out a multiannual programme shall be periodically evaluated in accordance with a timetable which enables the findings of that evaluation to be taken into account for any decision on the renewal, modification or suspension of the programme;
- (b) activities financed on an annual basis shall have their results evaluated at least every six years.



Point (b) of the first subparagraph shall not apply to each of the projects or actions conducted within those activities, for which the requirement may be met by the final reports sent by the bodies which carried out the action.

#### Article 22

##### **Financial statement**

(Article 28 of the Financial Regulation)

1. Any proposal for an act submitted to the legislative authority which may have an impact on the budget, including changes in the number of posts, shall include a financial statement.

The financial statement shall contain the financial and economic data for the assessment by the legislative authority of the need for Community action. It shall provide appropriate information as regards coherence with other financial instruments and any possible synergy.

In the case of multiannual operations, the financial statement shall contain the foreseeable schedule of annual requirements in terms of appropriations and posts and an evaluation of their medium-term financial impact.

2. In order to prevent any risk of fraud or irregularity which might adversely affect the protection of the Communities' financial interests, the financial statement shall provide information regarding existing and planned fraud prevention and protection measures.

#### CHAPTER 7

##### **(Chapter 8 of the Financial Regulation)**

##### **Principle of transparency**

#### Article 23

##### **Provisional publication of a summary of the budget**

(Article 29 of the Financial Regulation)

As soon as possible after the final adoption of the budget and within no more than four weeks, a summary of the budget figures shall be published on the Internet site of the institutions, on the Commission's initiative, pending official publication in the *Official Journal of the European Communities*.

#### TITLE III

##### **ESTABLISHMENT AND STRUCTURE OF THE BUDGET**

#### CHAPTER 1

##### **Establishment of the budget**

#### Article 24

##### **General introduction to the preliminary draft budget**

(Article 33 of the Financial Regulation)

The Commission shall draw up the general introduction to the preliminary draft budget.

Each of the sections of the preliminary draft budget shall be preceded by an introduction drawn up by the institution concerned.

The general introduction shall comprise:

- (a) financial tables covering the entire budget;
- (b) as regards the titles in the Commission section:
  - (i) a description of the policies substantiating entitlement to the appropriations requested, with due account for the principles and requirements set out in Articles 27 and 33(2)(d) of the Financial Regulation;
  - (ii) the grounds for changes in appropriations from one financial year to the next.

#### Article 25

##### **Working documents in support of the preliminary draft budget**

(Articles 30 and 33 of the Financial Regulation)

In support of the preliminary draft budget, the following working documents shall be provided:

- (a) in respect of staff of the institutions:
  - (i) a statement of the policy for permanent and temporary staff;
  - (ii) for each category of staff, an organisation chart of budgetary posts and persons in post on the date of the presentation of the preliminary draft budget, indicating their distribution by grade and administrative unit;
  - (iii) where a change in the number of persons in post is proposed, a statement of the reasons justifying such change;
  - (iv) a list of posts broken down by policy area;
- (b) a detailed statement of borrowing and lending policy;
- (c) in respect of subsidies to the bodies referred to in Article 32 of the Financial Regulation, an estimate of revenue and expenditure prefaced by an explanatory memorandum drawn up by the bodies concerned and, for the European Schools, a statement showing revenue and expenditure prefaced by an explanatory memorandum.

#### Article 26

##### **Preliminary draft amending budgets**

(Article 37(1) of the Financial Regulation)

Preliminary draft amending budgets shall be accompanied by statements of grounds and the information on the implementation of the budget for the preceding and current financial years available at the time of their establishment.



## CHAPTER 2

**Structure and presentation of the budget**

## Article 27

**Administrative appropriations**

(Article 41 of the Financial Regulation)

Where the statement of expenditure of a section of the budget is presented in a nomenclature based on a classification by purpose, administrative appropriations shall be divided into separate headings by title according to the following classification:

- (a) expenditure on staff authorised in the establishment plan: there shall be an amount of appropriations and a number of employment posts corresponding to this expenditure;
- (b) expenditure on external staff (including auxiliary staff and agency staff) and other management expenditure (including representation expenses and meeting expenses);
- (c) expenditure on buildings and other related expenditure, including cleaning and maintenance, rental and hiring, telecommunications, water, gas and electricity;
- (d) support expenditure.

The Commission's administrative expenditure of a type common to all titles shall also be set out in a separate summary statement classified by type.

## Article 28

**Actual expenditure in the last financial year for which the accounts have been closed**

(Article 46(1)(e) of the Financial Regulation)

For the purposes of establishing the budget, actual expenditure in the last financial year for which the accounts have been closed shall be determined as follows:

- (a) in commitments: commitments entered in the accounts during the financial year against appropriations for that financial year as defined in Article 5;
- (b) in payments: payments made during the financial year, that is to say, for which a payment order has been sent to the bank, against appropriations for that financial year as defined in the same article.

## Article 29

**Budget remarks**

(Article 46(1)(g) of the Financial Regulation)

The budget remarks shall include:

- (a) the references of the basic act, where one exists;
- (b) all appropriate explanations concerning the nature and purpose of the appropriations.

## Article 30

**Establishment plan**

(Article 46(1)(3)(a) of the Financial Regulation)

The staff of the Supply Agency shall appear separately in the Commission establishment plan.

## TITLE IV

**IMPLEMENTATION OF THE BUDGET**

## CHAPTER 1

**General provisions**

## Article 31

**Possible forms of basic acts**

(Article 49(1) of the Financial Regulation)

1. In the Community field, a basic act may take the form of a regulation, a directive, a decision<sup>(1)</sup> within the meaning of Article 249 of the EC Treaty or a decision *sui generis*.
2. In the field of the common foreign and security policy a basic act may take one of the forms specified in Articles 13(2), 14 and 23(2) of the Treaty on European Union.
3. In the field of police and judicial cooperation in criminal matters a basic act may take one of the forms specified in Article 34(2) of the Treaty on European Union.

<sup>(1)</sup> Entscheidung or Beschluss.

## Article 32

**Maximum amounts for pilot schemes and preparatory actions**

(Article 49(2)(a) and (b) of the Financial Regulation)

1. The total amount of appropriations for the pilot schemes referred to in Article 49(2)(a) of the Financial Regulation may not exceed EUR 32 million in any budget year.
2. The total amount of appropriations for new preparatory actions referred to in Article 49(2)(b) of the Financial Regulation may not exceed EUR 30 million in any budget year, and the total amount of appropriations actually committed for preparatory actions may not exceed EUR 75 million.

## Article 33

**Specific powers of the Commission under the Treaties**

(Article 49(2)(c) of the Financial Regulation)

1. The articles of the EC Treaty which directly confer specific powers on the Commission are as follows:

- (a) Article 138 (social dialogue);
- (b) Article 140 (studies, opinions and consultations on social matters);
- (c) Articles 143 and 145 (special reports on social matters);
- (d) Article 152(2) (initiatives to promote coordination on health protection matters);
- (e) Article 155(2) (initiatives to promote coordination on trans-European networks);
- (f) Article 157(2) (initiatives to promote coordination on matters relating to industry);
- (g) Article 159, second paragraph (report on progress made towards achieving economic and social cohesion);
- (h) Article 165(2) (initiatives to promote coordination on research and technological development);
- (i) Article 173 (report on research and technological development);
- (j) Article 180(2) (initiatives to promote coordination of development cooperation policies).

2. The articles of the Euratom Treaty which directly confer specific powers on the Commission are as follows:

- (a) Article 70 (financial support, within the limits set by the budget, for prospecting programmes in the territories of the Member States);
- (b) Article 77 *et seq.* (safeguards).

3. In the presentation of the preliminary draft budget, further detail may be added to the lists set out in paragraphs 1 and 2, with an indication of the articles in question and the amounts involved.

## Article 34

**Definition of a conflict of interests**

(Article 52(2) of the Financial Regulation)

1. Acts likely to be vitiated by a conflict of interests within the meaning of Article 52(2) of the Financial Regulation may, *inter alia*, take one of the following forms:

- (a) granting oneself or others unjustified direct or indirect advantages;
- (b) refusing to grant a beneficiary the rights or advantages to which that beneficiary is entitled;

- (c) committing undue or wrongful acts or failing to carry out acts that are mandatory.

2. The competent authority referred to in Article 52(1) of the Financial Regulation shall be the hierarchical superior of the member of staff concerned. The hierarchical superior shall confirm in writing whether or not there is a conflict of interests. If there is, the hierarchical superior shall personally take any appropriate decision.

## CHAPTER 2

**Methods of implementation**

## Section 1

**General provisions**

## Article 35

**Prior checks carried out by the Commission**

(Articles 53 and 56 of the Financial Regulation)

1. Where the Commission implements the budget by shared, decentralised or indirect centralised management, it shall first carry out document and on-the-spot checks into the existence, relevance and proper operation within the entities to which it entrusts implementation, in accordance with the rules of sound financial management, and, in cases of decentralised management, in full or in part depending on the degree of decentralisation agreed, of:

- (a) procedures applied;
- (b) control systems;
- (c) accounting systems;
- (d) procurement and grant award procedures.

2. The Commission shall review such arrangements as necessary whenever there are substantial changes to procedures or systems in order to ensure continued compliance with the conditions set out in paragraph 1.

3. The entities referred to in paragraph 1 shall provide the Commission, within a specified time-limit, with any information it requests and shall inform it without delay of any substantial changes in their procedures or systems. The Commission shall, as appropriate, set out those obligations in the instruments of delegation or in the agreements concluded with those entities.

4. Where the Commission implements the budget by joint management, the verification agreements concluded with the international organisations concerned shall apply.

## Section 2

**Special provisions***Article 36***Direct centralised management**

(Article 53 of the Financial Regulation)

Where the Commission implements the budget on a centralised basis directly in its departments, implementation tasks shall be performed by the financial actors within the meaning of Articles 58 to 68 of the Financial Regulation and in compliance with the conditions laid down in this Regulation.

*Article 37***Exercise of powers delegated to executive agencies**

(Articles 54(2)(a) and 55(2) of the Financial Regulation)

1. Decisions to delegate powers to executive agencies shall authorise them, as authorising officers by delegation, to implement appropriations relating to the Community programme the management of which is entrusted to them.
2. The powers delegated to the executive agency shall be exercised by the director of the agency pursuant to Article 55(2) of the Financial Regulation.
3. The Commission's instrument of delegation shall contain the same provisions as are listed in Article 39(2). It shall be formally accepted in writing by the director on behalf of the executive agency.

*Article 38***Eligibility of national public-sector bodies or private-law entities with a public-service mission and conditions for delegation of powers to them**

(Article 54(2)(c) of the Financial Regulation)

1. The Commission may delegate tasks involving the exercise of public authority to national public-sector bodies or private-law entities with a public-service mission only if they are governed by the law of one of the Member States, or the States of the European Economic Area (EEA) or the countries that have applied to join the European Union, unless the basic act provides otherwise.
2. The Commission shall ensure that the bodies or entities referred to in paragraph 1 offer adequate financial guarantees, issued preferably by a public authority, in particular as regards full recovery of amounts due to the Commission.
3. Where the Commission is planning to entrust tasks involving the exercise of public authority, and in particular tasks of budget implementation, to a body referred to in point (c) of

Article 54(2) of the Financial Regulation, it shall analyse compliance with the principles of economy, effectiveness and efficiency. If that analysis shows that delegation best satisfies the requirements of sound financial management, the Commission shall, before proceeding to implement the delegation, request the opinion of the competent committee provided for in the basic act, which may also give its opinion on the planned application of the selection criteria.

*Article 39***Designation of national public-sector bodies or private-law entities with a public-service mission**

(Article 54(2)(c) of the Financial Regulation)

1. The national public-sector bodies or private-law entities with a public-service mission shall be subject to the law of the Member State or the country in which they have been set up.
2. Such bodies or entities shall be chosen in an objective and transparent manner, following a cost-effectiveness analysis, to match the implementation requirements identified by the Commission. That choice may not entail any discrimination between the various Member States or countries concerned.
3. In cases of management by a network, requiring the designation of at least one body or entity by Member State or by country concerned, the body or entity shall be designated by the Member State or the country concerned in accordance with the provisions of the basic act.

In all other cases the Commission shall designate such bodies or entities in agreement with the Member States or countries concerned and in accordance with the provisions of the basic acts.

*Article 40***Compliance with the procurement rules**

(Article 57 of the Financial Regulation)

Where the Commission entrusts tasks to private bodies under Article 57(2) of the Financial Regulation, it shall conclude a contract in accordance with the provisions of Title V of Part One of the Financial Regulation.

*Article 41***Detailed arrangements for indirect centralised management**

(Articles 54(2)(b) and (c) of the Financial Regulation)

1. Where the Commission entrusts implementing tasks to agencies, bodies or entities under points (b) and (c) of Article 54(2) of the Financial Regulation, it shall conclude an agreement with them.

2. The agreement referred to in paragraph 1 shall include the following provisions:

- (a) a definition of the tasks assigned;
- (b) the conditions and detailed arrangements for performing the tasks, including appropriate provisions for demarcating responsibilities and organising the controls to be carried out;
- (c) the rules on reporting to the Commission on how the tasks are performed;
- (d) the conditions under which performance of the tasks terminates;
- (e) the detailed arrangements for Commission scrutiny;
- (f) the conditions governing the use of separate bank accounts, the beneficiary of the interest yielded and the use made of it;
- (g) the provisions guaranteeing the visibility of Community action in relation to the other activities of the body;
- (h) an undertaking to refrain from any act which may give rise to a conflict of interests within the meaning of Article 52(2) of the Financial Regulation.

3. The agencies, bodies or entities referred to in paragraph 1 shall not have the status of authorising officers by delegation.

#### Article 42

### **Clearance-of-accounts procedures in decentralised or shared management**

(Article 53(5) of the Financial Regulation)

1. The purpose of the clearance-of-accounts procedure referred to in Article 53(5) of the Financial Regulation shall be to ensure that expenditure by the Member States in the context of shared management or by third countries in the context of decentralised management and which may be chargeable to the Community budget is in order and consistent with the applicable Community rules.

2. Without prejudice to specific provisions contained in sectoral rules, the clearance-of-accounts procedure shall consist in:

- (a) the declaration of expenditure by the Member States or third countries in the form of accounts certified by a technically competent department or body functionally independent of the spending agency;
- (b) document and, where appropriate, on-the-spot checks by the Commission, subject to no limitations or restrictions, on the content of those accounts and on the underlying transactions, including checks made with beneficiaries;
- (c) establishment by the Commission of the amount of expenditure recognised as chargeable to the budget, following an adversarial procedure and after the Member States or third countries have been notified;

(d) calculation of the financial correction arising from the difference between declared expenditure and expenditure recognised as chargeable to the budget;

(e) recovery or repayment of the balance arising from the difference between recognised expenditure and the sums already paid to the Member States or third countries. Recovery shall be by offsetting as specified in Article 83.

3. In the context of decentralised management, the clearance-of-accounts procedure described in paragraphs 1 and 2 shall apply in accordance with the degree of decentralisation agreed.

#### Article 43

### **Joint management**

(Articles 53 and 165 of the Financial Regulation)

1. The appropriations used in joint management with international organisations within the meaning of Articles 53 and 165 of the Financial Regulation shall finance actions, performance of which requires the pooling of resources from a number of donors, where it is not reasonably possible or appropriate to assign the share contributed by each donor to each type of expenditure.

The Commission shall ensure that suitable arrangements exist for the control and audit of the action in its entirety.

2. The international organisations referred to in paragraph 1 are as follows:

- (a) international public-sector organisations set up by intergovernmental agreements, and specialised agencies set up by such organisations;
- (b) the International Committee of the Red Cross (ICRC);
- (c) the International Federation of National Red Cross and Red Crescent Societies.

## CHAPTER 3

### **Financial actors**

#### Section 1

### **Rights and obligations of the financial actors**

#### Article 44

### **Rights and obligations of the financial actors**

(Article 58 of the Financial Regulation)

Each institution shall provide each financial actor with the resources required to perform his duties and a charter describing in detail his tasks, rights and obligations.

## Section 2

**Authorising officer**

## Article 45

**Assistance for authorising officers by delegation and subdelegation**

(Article 59 of the Financial Regulation)

1. The authorising officer responsible may be assisted in his duties by officials or other servants (hereinafter 'staff') entrusted, under his responsibility, with certain operations required for the implementation of the budget and production of the financial and management information. In order to prevent any conflict of interests, staff assisting authorising officers by delegation or subdelegation shall be subject to the obligations referred to in Article 52 of the Financial Regulation.

2. Each institution shall inform the budgetary authority whenever a grade A1 authorising officer by delegation takes up his duties, changes duties or terminates his duties.

## Article 46

**Internal provisions governing delegations**

(Article 59 of the Financial Regulation)

In accordance with the Financial Regulation and this Regulation, each institution shall lay down in its internal rules such measures for the management of appropriations as it considers necessary for proper implementation of its section of the budget.

## Article 47

**Segregation of duties of initiation and verification of an operation**

(Article 60(4) of the Financial Regulation)

1. Initiation of an operation shall be understood to mean all the operations which are normally carried out by the staff referred to in Article 45 and which are preparatory to the adoption of the acts implementing the budget by the competent authorising officer, holder of a delegation or a subdelegation.

2. *Ex ante* verification of an operation shall be understood to mean all the *ex ante* checks put in place by the authorising officer responsible in order to verify its operational and financial aspects.

3. Each operation shall be subject at least to an *ex ante* verification. The purpose of that verification shall be to ascertain that:

- (a) the expenditure and revenue are in order and comply with the provisions applicable, in particular those of the budget and the relevant regulations and of any acts adopted in implementation of the Treaties or regulations and, where appropriate, the terms of contracts;

- (b) the principle of sound financial management referred to in Chapter 7 of Title II of the Financial Regulation is applied.

4. The *ex post* verifications on documents and, where appropriate, on the spot shall check that operations financed by the budget are correctly implemented and in particular that the criteria referred to in paragraph 3 are complied with. These verifications may be organised on a sample basis using risk analysis.

5. The officials or other staff responsible for the verifications referred to in paragraphs 2 and 4 shall be different from those performing the tasks of initiation referred to in paragraph 1 and shall not be their subordinates.

## Article 48

**Management and internal control procedures**

(Article 60(4) of the Financial Regulation)

The management and internal control systems and procedures shall be designed to:

- (a) achieve the objectives of the policies, programmes and actions of the institution in accordance with the principle of sound financial management;
- (b) comply with the rules of Community law and minimum control standards established by the institution;
- (c) safeguard the institution's assets and information;
- (d) prevent and detect irregularities, errors and fraud;
- (e) identify and prevent management risks;
- (f) ensure reliable production of financial and management information;
- (g) keep supporting documents relating to and subsequent to budget implementation and budget implementation measures;
- (h) keep documents relating to advance guarantees for the institution and keep a log to enable such guarantees to be adequately monitored.

## Article 49

**Keeping of supporting documents by authorising officers**

(Article 60(4) of the Financial Regulation)

The management systems and procedures concerning the keeping of original supporting documents shall provide for:

- (a) such documents to be numbered;
- (b) such documents to be dated;
- (c) registers, which may be computerised, to be kept identifying the exact location of such documents;



- (d) such documents to be kept for at least five years from the date on which the European Parliament grants discharge for the budgetary year to which the documents relate.

Documents relating to operations not definitively closed shall be kept for longer than provided for in point (d) of the first subparagraph, that is to say, until the end of the year following that in which the operations are closed.

#### Article 50

### Code of professional standards

(Article 60(5) of the Financial Regulation)

1. The staff designated by the authorising officer responsible to verify financial operations shall be chosen on the grounds of their knowledge, skills and particular qualifications as evidenced by diplomas or by appropriate professional experience, or after an appropriate training programme.

2. Each institution shall draw up a code of professional standards which determine, on matters of internal control:

- (a) the level of technical and financial competence required of the staff referred to in paragraph 1;
- (b) the obligation for such staff to undergo continuing training;
- (c) the mission, role and tasks allocated to them;
- (d) the rules of conduct, in particular the standards of ethics and integrity that they must comply with and the rights they enjoy.

3. Each institution shall put in place the appropriate structures to distribute to authorising departments and update periodically appropriate information concerning the control standards and the methods and techniques available for that purpose.

#### Article 51

### Failure of the authorising officer by delegation to take action

(Article 60(6) of the Financial Regulation)

Failure by the authorising officer by delegation to take action, as referred to in Article 60(6) of the Financial Regulation, shall mean the absence of any reply within a reasonable time given the circumstances of the case and, at all events, within a month at most.

#### Article 52

### Ex post verification and annual activity report

(Article 60(7) of the Financial Regulation)

The result of the ex post verifications shall, with other matters, be set out in the annual activity report submitted by the authorising officer by delegation to his institution.

#### Article 53

### Transmission of financial and management information to the accounting officer

(Article 60 of the Financial Regulation)

The authorising officer by delegation shall send the accounting officer, in accordance with the rules adopted by the latter, the financial and management information required for the performance of the accounting officer's duties.

#### Article 54

### Report on negotiated procedures

(Article 60 of the Financial Regulation)

Authorising officers by delegation shall record, for each financial year, contracts concluded by the negotiated procedures referred to in Articles 126, 127, 242, 244, 246 and 247. If the proportion of negotiated procedures in relation to the number of contracts awarded by the same authorising officer by delegation increases appreciably in relation to earlier years or if that proportion is distinctly higher than the average recorded for the institution, the authorising officer responsible shall report to the institution setting out any measures taken to reverse that trend. Each institution shall send a report on negotiated procedures to the budgetary authority. In the case of the Commission, that report shall be annexed to the summary of the annual activity reports referred to in Article 60(7) of the Financial Regulation.

#### Section 3

### Accounting officer

#### Article 55

### Appointment of the accounting officer

(Article 61 of the Financial Regulation)

Each institution shall appoint an accounting officer from officials subject to the Staff Regulations of Officials of the European Communities.

The accounting officer shall, obligatorily, be chosen by the institution on the grounds of his particular competence as evidenced by diplomas or by equivalent professional experience.

#### Article 56

### Termination of duties of the accounting officer

(Article 61 of the Financial Regulation)

1. An interim statement of account shall be drawn up without delay in the event of termination of the duties of the accounting officer.

That statement shall be made up of the accounts provided for in Title VII of Part One of the Financial Regulation, closed on the last day of the month in which the accounting officer terminates his duties.

2. No interim statement of account shall be required where the accounting officer terminates his duties at the end of a financial year.

3. The interim statement or, in the circumstances referred to in paragraph 2, the provisional accounts referred to in Article 128 of the Financial Regulation shall be transmitted by the accounting officer who is terminating his duties or, if this is not possible, by an official in his department to the new accounting officer, who, within no more than one month from the date of transmission, must sign in acceptance and may make reservations.

4. Each institution shall inform the budgetary authority of the appointment or termination of duties of its accounting officer.

#### Article 57

### Opinion on accounting and inventory systems

(Article 61 of the Financial Regulation)

Where financial management systems set up by the authorising officer provide data for the institution's accounts or are used to substantiate data in those accounts, the accounting officer must give his agreement to the introduction or modification of such systems.

The accounting officer shall also be consulted regarding the introduction or modification by the authorising officers responsible of inventory systems and systems for valuing assets and liabilities.

#### Article 58

### Treasury management

(Article 61 of the Financial Regulation)

1. The accounting officer shall ensure that his institution has at its disposal sufficient funds to cover the cash requirements arising from budgetary implementation.

2. For the purposes of paragraph 1, the accounting officer shall set up cash management systems enabling him to draw up cash-flow forecasts.

3. The Commission's accounting officer shall divide up the funds available in accordance with Regulation (EC, Euratom) No 1150/2000.

#### Article 59

### Management of bank accounts

(Article 61 of the Financial Regulation)

1. For the requirements of treasury management, the accounting officer may open accounts in the name of the institution with financial institutions or national central banks or cause such accounts to be opened. In duly warranted circumstances, he/she may open accounts in currencies other than the euro.

2. The accounting officer shall negotiate the operating terms for accounts with financial institutions, in accordance with the principles of sound financial management, efficiency and competitive tendering.

3. At least every five years the accounting officer shall relaunch competitive tendering between financial institutions with which accounts have been opened.

4. The accounting officer shall ensure strict compliance with the operating terms for accounts opened with financial institutions.

5. The Commission's accounting officer shall be responsible, after consulting the accounting officers of the other institutions, for harmonising the operating terms for accounts opened by the various institutions.

#### Article 60

### Signatures on accounts

(Article 61 of the Financial Regulation)

The terms governing the opening, operation and use of accounts shall provide, depending on internal control requirements, that cheques, bank credit transfer orders or any other banking operations must be signed by one or more duly authorised members of staff.

To that end each institution shall communicate to all financial institutions with which it has opened accounts the names and specimen signatures of the authorised officials.

#### Article 61

### Management of account balances

(Article 61 of the Financial Regulation)

1. The accounting officer shall ensure that the balance on the bank accounts provided for in Article 59 does not deviate significantly from the cash-flow forecasts referred to in Article 58(2) and in any event:

- (a) that none of those accounts is in debit;
- (b) that the balance of accounts held in other currencies is periodically converted into euro.

2. The accounting officer may not maintain balances in foreign currency accounts which might cause excessive losses to the institution as a result of exchange rate fluctuations.

#### Article 62

### Transfers and conversion operations

(Article 61 of the Financial Regulation)

Without prejudice to Article 69, the accounting officer shall conduct transfers between accounts opened in the name of the institution with financial institutions, and conduct currency conversion operations.

## Article 63

**Methods of payment**

(Article 61 of the Financial Regulation)

Payments shall be made by bank credit transfer or by cheque.

## Article 64

**Third-party files**

(Article 61 of the Financial Regulation)

1. The accounting officer may make payments by bank credit transfer only if the bank account details of the payee have first been entered in a common file by institution.

Entry in the file of the payee's bank account details or modification of those details shall be based on a document, in paper or electronic form, certified by the payee's bank.

2. With a view to payment by bank credit transfer, authorising officers may enter into a commitment towards a third party on behalf of their institution only if that third party has provided the documentation required for its entry in the file.

Authorising officers shall check that the bank account details communicated by the payee are still valid when each payment order is drawn up.

In connection with pre-accession aid, individual commitments may be concluded with the public authorities in the countries applying for accession to the European Union without a prior entry in the third-party file. In such cases the authorising officer shall do his utmost to ensure that the entry is made as quickly as possible. The agreements shall provide that communication to the Commission of the payee's bank account details is a condition to be fulfilled before the first payment can be made.

## Article 65

**Keeping of supporting documents by the accounting officer**

(Article 61 of the Financial Regulation)

Supporting documents for the accounting system and for the preparation of the accounts referred to in Article 121 of the Financial Regulation shall be kept for at least five years from the date on which the European Parliament grants discharge for the budgetary year to which the documents relate.

However, documents relating to operations not definitively closed shall be kept for longer, that is to say, until the end of the year following that in which the operations are closed.

Each institution shall decide in which department the supporting documents are to be kept.

## Section 4

**Imprest administrator**

## Article 66

**Conditions of use of imprest accounts**

(Article 63 of the Financial Regulation)

1. Where, owing to the limited amounts involved, it is materially impossible or inefficient to carry out payment operations by budgetary procedures, imprest accounts may be set up for the payment of such expenditure.

2. The imprest administrator may provisionally validate and pay expenditure, on the instructions of the authorising officer responsible.

3. The creation of an imprest account and the appointment of an imprest administrator shall be the subject of a decision by the accounting officer, on a duly substantiated proposal from the authorising officer responsible. That decision shall set out the respective responsibilities and obligations of the imprest administrator and the authorising officer.

Amendment of the operating terms for an imprest account shall also be the subject of a decision by the accounting officer on a duly substantiated proposal from the authorising officer responsible.

## Article 67

**Conditions governing creation and payment**

(Article 63 of the Financial Regulation)

1. The decision setting up an imprest account and appointing an imprest administrator and the decision amending the operating terms for an imprest account shall specify in particular:

- (a) the maximum amount which may be initially provided as an imprest, and its purpose;
- (b) whether a bank account or post office giro account is to be opened in the name of the institution;
- (c) the nature and maximum amount of each item of expenditure which may be paid by the imprest administrator to third parties or collected from them;
- (d) the frequency with which supporting documents must be produced, the procedure for producing them and the arrangements for transmitting them to the authorising officer for settlement;
- (e) the procedure to be followed if the imprest has to be replenished;
- (f) that imprest transactions will be settled by the authorising officer by no later than the end of the following month, so that the accounting balance and the bank balance can be reconciled;

- (g) the period of validity of the authorisation given to the imprest administrator by the accounting officer;
- (h) the identity of the appointed imprest administrator.

2. In proposals for decisions setting up imprest accounts the authorising officer responsible shall ensure that:

- (a) priority is given to the use of budgetary procedures where there is access to the central computerised accounting system;
- (b) imprest accounts are used only in substantiated cases.

With the exception of specific imprests in the field of humanitarian aid and the management of crisis situations within the meaning of Article 168(2), the maximum amount referred to in point (c) of paragraph 1 may not exceed EUR 30 000 for each item of expenditure.

3. The imprest administrator may make payments to third parties on the basis and within the limits of:

- (a) prior budget and legal commitments signed by the authorising officer responsible;
- (b) the positive residual balance of the imprest account, in cash or at the bank.

4. Payments from imprest accounts may be made by bank credit transfer, cheque or other means of payment.

5. Payments made shall be followed by formal final validation decisions and/or payment orders signed by the authorising officer responsible

#### Article 68

#### Choice of imprest administrators

(Article 63 of the Financial Regulation)

Imprest administrators shall be chosen from category A, B or C officials. Should the need arise, imprest administrators may be chosen from staff subject to the Conditions of Employment of Other Servants of a level equivalent to those categories. Imprest administrators shall be chosen on the grounds of their knowledge, skills and particular qualifications as evidenced by diplomas or by appropriate professional experience, or after an appropriate training programme.

#### Article 69

#### Endowment of imprest accounts

(Article 63 of the Financial Regulation)

1. The accounting officer shall make payments endowing imprest accounts and shall monitor those accounts from the point of view of opening of bank accounts and delegation of signatures and controls on the spot and in the centralised

accounts. The accounting officer shall endow the imprest accounts. Imprests shall be paid to the bank account opened for the imprest.

Imprest accounts may also be endowed directly by miscellaneous local revenue such as that arising from:

- (a) sales of equipment;
- (b) publications;
- (c) miscellaneous repayments;
- (d) interest.

The imprest shall be settled, in terms of expenditure or miscellaneous or assigned revenue, in accordance with the decision setting up the imprest account referred to in Article 67 and the provisions of the Financial Regulation. The amounts in question shall be deducted by the authorising officer when he subsequently replenishes the imprest accounts concerned.

2. In order, in particular, to avoid any exchange losses, the imprest administrator may make transfers between different bank accounts relating to the same imprest.

#### Article 70

#### Checks by authorising officers and accounting officers

(Article 63 of the Financial Regulation)

1. The imprest administrator shall keep an account of the funds at his disposal, in cash and at the bank, and of payments made and amounts received, in accordance with the rules and on the instructions given by the accounting officer. Statements of that account shall be accessible at all times to the authorising officer responsible and a monthly list of transactions together with supporting documents shall be sent in the following month by the imprest administrator to the authorising officer for settlement of the imprest operations.

2. The accounting officer shall carry out, or have carried out by an official or other servant in his own department or in the authorising department specially empowered for that purpose, checks, which should normally be effected on the spot and without warning, to verify the existence of the funds allocated to the imprest administrators and the bookkeeping and to check that imprest transactions are settled within the time-limit set. The accounting officer shall communicate the findings of those checks to the authorising officer responsible.

#### Article 71

#### Procurement procedure

(Article 63 of the Financial Regulation)

Payments made from imprest accounts may, within the limits laid down in Article 129(4), consist simply in the payment of costs against invoices, without prior acceptance of a tender.

## CHAPTER 4

**Liability of the financial actors**

## Section 1

**General rules**

## Article 72

**Bodies responsible in matters of fraud**

(Articles 60(6) and 65(2) of the Financial Regulation)

The authorities and bodies referred to in Articles 60(6) and 65(2) of the Financial Regulation shall be understood to mean the bodies designated by the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities (hereinafter 'the Staff Regulations') and the decisions of the Community institutions concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any other illegal activity detrimental to the Communities' interests.

## Section 2

**Rules applicable to authorising officers by delegation and subdelegation**

## Article 73

**Confirmation of instructions**

(Article 66(2) of the Financial Regulation)

1. An authorising officer by delegation or subdelegation who receives a binding instruction which he considers to be irregular or contrary to the principle of sound financial management, in particular because the instruction cannot be carried out with the resources allocated to him, shall, in writing, so inform the authority from which he received the delegation or subdelegation. If the instruction is confirmed in writing and that confirmation is received in good time and is sufficiently clear, in that it refers explicitly to the points which the authorising officer by delegation or subdelegation has challenged, he may not be held liable; he shall carry out the instruction, unless it constitutes a breach of criminal law or of the relevant safety standards.

2. Paragraph 1 shall also apply in cases where an authorising officer learns, in the course of acting on a binding instruction, that the circumstances of the case may give rise to an irregular situation.

3. Any instructions confirmed in the circumstances described in Article 66(2) of the Financial Regulation shall be recorded by the authorising officer by delegation responsible and mentioned in his annual activity report.

## Article 74

**Financial irregularities**

(Articles 60(6) and 66(4) of the Financial Regulation)

Without prejudice to the powers of the European Anti-Fraud Office (OLAF), the specialised financial irregularities panel shall be competent in respect of any infringement of a provision of the Financial Regulation or of a provision relating to financial management or the checking of operations resulting from an act or omission of an official or other servant.

## Article 75

**Financial irregularities panel**

(Articles 60(6) and 66(4) of the Financial Regulation)

1. Cases of financial irregularities, as referred to in Article 74 shall be referred by the appointing authority or, where appropriate, by the authority authorised to conclude contracts of employment to the panel referred to in Article 66(4) of the Financial Regulation for an opinion.

Where a case is referred to it by the appointing authority or the authority authorised to conclude contracts of employment, the panel shall deliver an opinion evaluating whether irregularities within the meaning of Article 74 have occurred, how serious they are and what their consequences might be. Should the panel's analysis suggest that the case referred to it is a matter for OLAF, it shall without delay return the case-file to the appointing authority or to the authority authorised to conclude contracts of employment and shall inform OLAF at once.

When the panel referred to in the first subparagraph is directly informed of a matter by a member of staff in accordance with Article 60(6) of the Financial Regulation, it shall transmit the file to the appointing authority or, where appropriate, to the authority authorised to conclude contracts of employment and shall inform the member of staff accordingly.

2. Each institution shall, depending on its own internal organisation, specify the operating arrangements of the panel referred to in Article 66(4) of the Financial Regulation and its composition, which shall include an outside personality with the required qualifications and expertise.



## CHAPTER 5

## Section 3

**Revenue operations****Establishment of amounts receivable**

## Section 1

## Article 78

**Own resources****Procedure**

## Article 76

(Article 71 of the Financial Regulation)

**Rules applying to own resources**

(Article 69 of the Financial Regulation)

The authorising officer shall draw up a schedule indicating when the own resources defined in the Decision on the system of the European Communities' own resources will be made available to the Commission.

Own resources shall be established and recovered in accordance with the rules adopted pursuant to the Decision referred to in the first paragraph.

## Section 2

**Estimate of amounts receivable**

## Article 77

**Estimate of amounts receivable**

(Article 70 of the Financial Regulation)

1. Estimates of amounts receivable shall specify the type of revenue and the budget item to which they are to be booked and, as far as possible, the particulars of the debtor and the estimated amount.

When drawing up an estimate of amounts receivable, the authorising officer responsible shall check in particular that:

- (a) the revenue is booked to the correct budget item;
- (b) the estimate is in order and complies with the provisions applicable and the principle of sound financial management.

2. Subject to Article 161(2) of the Financial Regulation, an estimate of amounts receivable shall not have the effect of making commitment available. In the cases referred to in Article 18 of the Financial Regulation, appropriations may be made available only after the sums due have actually been recovered by the Communities.

1. The establishment by the authorising officer responsible of an amount receivable shall constitute recognition of the right of the Communities in respect of a debtor and establishment of entitlement to demand that the debtor pay the debt.

2. The recovery order shall be the operation by which the authorising officer responsible instructs the accounting officer to recover the amount established.

3. The debit note shall be to inform the debtor that:

- (a) the Communities have established the amount receivable;
- (b) payment of the debt to the Communities is due on a certain date (hereinafter 'the due date');
- (c) failing payment by the due date the debt shall bear interest at the rate referred to in Article 86, without prejudice to any specific regulations applicable;
- (d) wherever possible the institution shall effect recovery by offsetting after the debtor has been informed;
- (e) failing payment by the due date the institution shall effect recovery by enforcement of any guarantee lodged in advance;
- (f) if, after all those steps have been taken, the amount has not been recovered in full, the institution shall effect recovery by enforcement of a decision secured either in accordance with Article 72(2) of the Financial Regulation or by legal action.

The authorising officer shall send the debit note to the debtor with a copy to the accounting officer.

## Article 79

**Establishment of amounts receivable**

(Article 71 of the Financial Regulation)

To establish an amount receivable the authorising officer responsible shall ensure that:

- (a) the receivable is certain and not subject to any condition;
- (b) the receivable is of fixed amount, expressed precisely in cash terms;

- (c) the receivable is due and is not subject to any payment time;
- (d) the particulars of the debtor are correct;
- (e) the amount to be recovered is booked to the correct budget item;
- (f) the supporting documents are in order; and
- (g) the principle of sound financial management is complied with, in particular with regard to the criteria referred to in point (a) of Article 87(1).

#### Article 80

### Supporting documents for the establishment of amounts receivable

(Article 71 of the Financial Regulation)

1. The establishment of an amount receivable shall be based on supporting documents certifying the Communities' entitlement.
2. Before establishing an amount receivable the authorising officer responsible shall personally check the supporting documents or, on his own responsibility, shall ascertain that this has been done.
3. The supporting documents shall be kept by the authorising officer in accordance with Articles 48 and 49.

#### Section 4

### Authorisation of recovery

#### Article 81

### Establishment of the recovery order

(Article 72 of the Financial Regulation)

1. The recovery order shall specify:
  - (a) the financial year to which the revenue is to be booked;
  - (b) the references of the act or legal commitment which is the source of the debt and gives rise to the entitlement to recovery;
  - (c) the budget article and any other subdivision that may apply, including, where appropriate, the references of the corresponding budget commitment;
  - (d) the amount to be recovered, expressed in euro;
  - (e) the name and address of the debtor;
  - (f) the due date; and
  - (g) the possible method of recovery, including in particular recovery by offsetting or enforcement of any guarantee lodged.
2. The recovery order shall be dated and signed by the authorising officer responsible, then sent to the accounting officer.

#### Section 5

### Recovery

#### Article 82

### Collection formalities

(Article 73 of the Financial Regulation)

1. Upon the recovery of an amount receivable, the accounting officer shall make an entry in the accounts and shall inform the authorising officer responsible.
2. A receipt shall be issued in respect of any cash payments made to the accounting officer or imprest administrator.

#### Article 83

### Recovery by offsetting

(Article 73 of the Financial Regulation)

At any point in the procedure the accounting officer shall, after informing the authorising officer responsible and the debtor, recover established amounts receivable by offsetting in cases where the debtor also has a claim on the Communities that is certain, of a fixed amount and due relating to a sum established by a payment order.

#### Article 84

### Recovery procedure failing voluntary payment

(Articles 72 and 73 of the Financial Regulation)

1. Without prejudice to Article 83, if the full amount has not been recovered by the due date specified in the debit note, the accounting officer shall inform the authorising officer responsible and shall without delay launch the procedure for effecting recovery by any means offered by the law, including, where appropriate, by enforcement of any guarantee lodged in advance.
2. Without prejudice to Article 83, where the recovery method referred to in paragraph 1 cannot be used and the debtor has failed to pay in response to the letter of formal notice sent by the accounting officer, the accounting officer shall enforce a recovery decision secured either in accordance with Article 72(2) of the Financial Regulation or by legal action.

#### Article 85

### Additional time for payment

(Article 73 of the Financial Regulation)

The accounting officer, in collaboration with the authorising officer responsible, may allow additional time for payment only at the written request of the debtor, with due indication of the reasons, and provided that the following two conditions are fulfilled:

- (a) the debtor undertakes to pay interest at the rate specified in Article 86 for the entire additional period allowed, starting from the date on which the payment was originally due; and

- (b) in order to safeguard the Community's rights, the debtor lodges a financial guarantee covering the debt outstanding in both the principal sum and the interest, which is accepted by the institution's accounting officer.

The guarantee referred to in point (b) of the first paragraph may be replaced by a joint and several guarantee by a third party approved by the institution's accounting officer.

#### Article 86

##### Default interest

(Article 71(4) of the Financial Regulation)

1. Without prejudice to any specific provisions deriving from the application of sectoral rules, any amount receivable not repaid on the due date shall bear interest in accordance with paragraphs 2 and 3.

2. The interest rate for amounts receivable not repaid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Communities*, in force on the first calendar day of the month in which the due date falls, increased by:

- (a) seven percentage points where the obligating event is a public supply and service contract referred to in Title V;
- (b) three and a half percentage points in all other cases.

3. Interest shall be calculated from the calendar day following the due date specified in the debit note up to the calendar day on which the debt is repaid in full.

4. Any partial payments shall first cover the interest determined in accordance with paragraphs 2 and 3.

5. In the case of fines, where the debtor provides a financial guarantee which is accepted by the accounting officer in lieu of provisional payment, the interest rate applicable from the due date shall be the rate referred to in paragraph 2 increased by only one and a half percentage points.

#### Article 87

##### Waiving of recovery of an established amount receivable

(Article 73 of the Financial Regulation)

1. The authorising officer responsible may waive recovery of all or part of an established amount receivable only in the following cases:

- (a) where the foreseeable cost of recovery would exceed the amount to be recovered and the waiver would not harm the Community's image;
- (b) where the amount receivable cannot be recovered in view of its age or the insolvency of the debtor;
- (c) where recovery is inconsistent with the principle of proportionality.

2. In the case referred to in point (c) of paragraph 1, the authorising officer responsible shall act in accordance with predetermined procedures established within each institution and shall apply the following criteria which are compulsory and applicable in all circumstances:

- (a) the facts, having regard to the gravity of the irregularity giving rise to the establishment of the amount receivable (fraud, repeat offence, intent, diligence, good faith, manifest error);
- (b) the impact that waiving recovery would have on the operation of the Communities and their financial interests (amount involved, risk of setting a precedent, undermining of the authority of the law).

Depending on the circumstances of the case, the authorising officer responsible may also have to take the following additional criteria into account:

- (a) any distortion of competition that would be caused by the waiving of recovery;
- (b) the economic and social damage that would be caused were the debt to be recovered in full.

3. The waiver decision referred to in Article 73(2) of the Financial Regulation shall be substantiated and shall refer to the diligence exercised to secure recovery and the points of law and fact on which the waiver is based. The authorising officer responsible shall waive recovery in accordance with the procedure provided for in Article 81.

4. The waiving of recovery of an established amount receivable may not be delegated by the institution where the amount to be waived:

- (a) is EUR 1 000 000 or more; or
- (b) is EUR 100 000 or more, where this represents 25 % or more of the established amount receivable.

Beneath the thresholds set out in the first subparagraph, each institution shall lay down in its internal rules the conditions and procedure for delegating the power to waive recovery of an established debt.

5. Each institution shall send to the budgetary authority each year a report on the waivers referred to in paragraphs 1 to 4 involving EUR 100 000 or more. In the case of the Commission, that report shall be annexed to the summary of the annual activity reports referred to in Article 60(7) of the Financial Regulation.

#### Article 88

##### Cancellation of an established amount receivable

(Article 73 of the Financial Regulation)

1. In the event of a mistake as to a point of law, the authorising officer responsible shall cancel the established amount receivable in accordance with Articles 80 and 81; cancellation shall be suitably substantiated.

2. Each institution shall lay down in its internal rules the conditions and procedure for delegating the power to cancel an established amount receivable.

#### *Article 89*

### **Technical and accounting adjustment of an established amount receivable**

(Article 73 of the Financial Regulation)

1. The authorising officer responsible shall adjust the established amount receivable upwards or downwards if the discovery of an error of fact necessitates the alteration of the amount, provided that the correction does not imply relinquishment of the Communities' established entitlement. Such adjustment shall be made in accordance with Articles 80 and 81 and shall be suitably substantiated.

2. Each institution shall lay down in its internal rules the conditions and procedure for delegating the power to make a technical and accounting adjustment of an established amount receivable.

#### *CHAPTER 6*

### ***Expenditure operations***

#### *Article 90*

### **Financing decision**

(Article 75 of the Financial Regulation)

The financing decision shall determine the essential elements of an action involving expenditure from the budget.

#### *Section 1*

### **Commitment of expenditure**

#### *Article 91*

### **Global and provisional commitments**

(Article 76(2) of the Financial Regulation)

1. The global budget commitment shall be implemented either by the conclusion of a financing agreement, itself providing for the subsequent conclusion of one or more legal commitments, or by the conclusion of one or more legal commitments.

Financing agreements in the field of financial assistance and budgetary support which constitute legal commitments may give rise to payments without the conclusion of other legal commitments.

2. The provisional budget commitment shall be implemented either by the conclusion of one or more legal commitments giving rise to an entitlement to subsequent payments or,

in cases relating to expenditure on staff management or on communications activities engaged in by the institutions for the coverage of Community events on communication activities performed by the Institutions and aimed at covering community events, directly by payments.

#### *Article 92*

### **Adoption of a global commitment**

(Article 76 of the Financial Regulation)

1. A global commitment shall be made on the basis of a financing decision.

The global commitment shall be made at the latest before the decision on the selection of beneficiaries is taken and, where implementation of the appropriations concerned involves the adoption of a work programme within the meaning of Article 166, at the earliest after that programme has been adopted.

2. Where the global commitment is implemented by the conclusion of a financing agreement, the second subparagraph of paragraph 1 shall not apply.

#### *Article 93*

### **Decommitment failing payment within three years**

(Article 77 of the Financial Regulation)

The amount of a budget commitment corresponding to a legal commitment for which no payment within the meaning of Article 81 of the Financial Regulation has been made in a period of three years following the signing of the legal commitment shall be decommitted.

#### *Article 94*

### **Single signature**

(Article 76 of the Financial Regulation)

1. The rule that there be a single signatory for the budget commitment and the corresponding legal commitment may be departed from in the following cases alone:

- (a) where the commitments are provisional;
- (b) where global commitments relate to financing agreements with third countries;
- (c) where the institution's decision constitutes the legal commitment;
- (d) where the global commitment is implemented by a number of legal commitments, for which different authorising officers by delegation are responsible;
- (e) where, in connection with imprest accounts available for external action, legal commitments must be signed by members of staff of the local units referred to in Article 254.

2. If the authorising officer responsible who signed the budget commitment is not available and remains unavailable for a period incompatible with the time-limits for concluding the legal commitment, that legal commitment shall be concluded by the person designated under the deputation rules adopted by each institution, provided that that person has the status of authorising officer in accordance with Article 59(2) of the Financial Regulation.

#### Article 95

### Registration of individual legal commitments

(Article 77 of the Financial Regulation)

In the case of a global budget commitment followed by several individual legal commitments, the authorising officer responsible shall register in the central accounts the amounts of these successive individual legal commitments. The authorising officer responsible shall check that the aggregate amount does not exceed the amount of the global commitment covering them.

The registration in the accounts shall indicate the references of the global commitment against which the individual commitments are being booked.

The authorising officer responsible shall register the amounts in the accounts before signing the corresponding individual legal commitment.

#### Article 96

### Administrative expenditure covered by provisional commitments

(Article 76 of the Financial Regulation)

Items regarded as routine administrative expenditure which may give rise to provisional commitments shall include the following:

- (a) expenditure on staff, whether or not covered by the Staff Regulations, on other human resources and pensions and on the remuneration of experts;
- (b) expenditure relating to Members of the institution;
- (c) training expenditure;
- (d) expenditure on competitions, selection and recruitment;
- (e) mission expenses;
- (f) representation expenses;
- (g) meeting expenses;
- (h) freelance interpreters and/or translators;
- (i) exchanges of officials;
- (j) recurring rentals of movable and immovable property;
- (k) miscellaneous insurance;
- (l) cleaning and maintenance;
- (m) welfare expenditure;

- (n) the use of telecommunications services;
- (o) financial charges;
- (p) legal expenses;
- (q) damages, including interest;
- (r) work equipment;
- (s) water, gas and electricity;
- (t) periodical publications on paper or in electronic versions.

#### Section 2

### Validation of expenditure

#### Article 97

### Validation and 'passing for payment'

(Article 79 of the Financial Regulation)

1. Validation of any expenditure shall be based on supporting documents within the meaning of Article 104 attesting the creditor's entitlement, on the basis of a statement of services actually rendered, supplies actually delivered or work actually carried out, or on the basis of other documents justifying payment.

2. The authorising officer responsible shall personally check the supporting documents or shall, on his own responsibility, ascertain that this has been done, before taking the decision validating the expenditure.

3. The validation decision shall be expressed by the signing of a 'passed for payment' voucher by the authorising officer responsible or by an official or other servant technically competent, empowered by formal decision of the authorising officer. Such empowerment decisions shall be kept for future reference.

#### Article 98

### Passing for payment of procurement contracts

(Article 79 of the Financial Regulation)

For payments corresponding to procurement contracts, the endorsement 'passed for payment' shall certify that:

- (a) the institution has received and formally registered an invoice drawn up by the contractor;
- (b) the invoice itself, or an internal document accompanying the invoice received, has been endorsed 'certified correct' and signed by an official or other servant technically competent and duly empowered by the authorising officer responsible;
- (c) all aspects of the invoice have been checked by the authorising officer responsible or on his responsibility with a view to determining in particular the amount to be paid and the validity of the payment as discharge of the debt.



The endorsement 'certified correct', referred to in point (b) of the first paragraph shall certify that the services provided for in the contract have been properly provided, or that the supplies provided for in the contract have been properly delivered, or that the work provided for in the contract has been properly carried out. For supplies and work, the official or other servant technically competent shall draw up a provisional acceptance certificate, then a final acceptance certificate at the end of the guarantee period laid down in the contract. Those two certificates shall count as the 'certified correct' endorsement.

#### Article 99

##### Passing for payment of grants

(Article 79 of the Financial Regulation)

For payments corresponding to grants, the endorsement 'passed for payment' shall certify that:

- (a) the institution has received and formally registered a payment request drawn up by the beneficiary;
- (b) the payment request itself, or an internal document accompanying the payment request received, has been endorsed 'certified correct' and signed by an official or other servant technically competent, empowered by the authorising officer responsible; by such endorsement, he certifies that the action or work programme carried out by the beneficiary is in all respects in compliance with the grant agreement;
- (c) all aspects of the payment request have been checked by the authorising officer responsible or on his responsibility with a view to determining in particular the amount to be paid and the validity of the payment as discharge of the debt.

#### Article 100

##### Passing for payment of staff expenditure

(Article 79 of the Financial Regulation)

For payments corresponding to staff expenditure, the endorsement 'passed for payment' shall certify that the following supporting documents exist:

- (a) in respect of monthly salary:
  - (i) the complete list of staff, giving all the components of remuneration;
  - (ii) a form (personal information sheet) based on decisions taken in each individual case, showing, whenever such change occurs, any change in any component of remuneration;
  - (iii) in the case of recruitments or appointments, a certified true copy of the recruitment or appointment decision which accompanies the validation of the first salary payment;
- (b) in respect of other remunerations (staff paid on an hourly or daily basis): a statement signed by the authorised official or other servant showing the days and hours worked;

- (c) in respect of overtime: a statement signed by the authorised official or other servant certifying the amount of overtime worked;
- (d) in respect of mission expenses:
  - (i) the travel order signed by the competent authority;
  - (ii) the statement of mission expenses, signed by the official on mission and by the administrative superior to whom the appropriate powers have been delegated, and 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 authorised on production of supporting documents;
- (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 101

##### Material form of 'passed for payment'

(Article 79 of the Financial Regulation)

In a non-computerised system, 'passed for payment' shall take the form of a stamp incorporating the signature of the authorising officer responsible or of an official or other servant technically competent, empowered by the authorising officer responsible in accordance with Article 97. In a computerised system, 'passed for payment' shall take the form of validation using the personal password of the authorising officer responsible or of an official or other servant technically competent, empowered by the authorising officer responsible.

#### Section 3

##### Authorisation of payments

#### Article 102

##### Checks on payments by the authorising officer

(Article 80 of the Financial Regulation)

When drawing up the payment order, the authorising officer responsible shall ensure that:

- (a) the payment order has been properly issued, meaning that a corresponding validation decision has been taken previously in the form of 'passed for payment', that the particulars of the payee are correct and that the amount is due;
- (b) the payment order corresponds to the budget commitment against which it is booked;
- (c) the expenditure is charged to the correct item in the budget;
- (d) appropriations are available.

## Article 103

**Mandatory details on payment orders and transmission to the accounting officer**

(Article 80 of the Financial Regulation)

1. The payment order shall state:
  - (a) the financial year to which the expenditure is to be booked;
  - (b) the budget article and any other subdivision that may apply;
  - (c) the references of the legal commitment giving rise to an entitlement to payment;
  - (d) the references of the budget commitment against which it is to be booked;
  - (e) the amount to be paid, expressed in euro;
  - (f) the name, address and bank account details of the payee;
  - (g) the object of the expenditure;
  - (h) the means of payment;
  - (i) the entry of items in the inventory in accordance with Article 222.
2. The payment order shall be dated and signed by the authorising officer responsible, then sent to the accounting officer.

## Section 4

**Payment of expenditure**

## Article 104

**Supporting documents**

(Article 81 of the Financial Regulation)

1. Pre-financing, including in cases where it is split into a number of payments, shall be paid either on the basis of the contract, the agreement or the basic act, or on the basis of supporting documents which make it possible to check the conformity of the actions financed with the terms of the contract or agreement in question. Interim payments and payments of balances shall be based on supporting documents which make it possible to check that the action financed has been carried out in accordance with the terms of the contract or agreement concluded with the beneficiary or of the basic act.
2. The authorising officer responsible shall lay down, in compliance with the principle of sound financial management, the nature of the supporting documents referred to in paragraph 1 in accordance with the basic act and the contracts and agreements concluded with the beneficiary. Interim and final technical and financial implementation reports, shall constitute supporting documents for the purposes of paragraph 1.
3. The supporting documents shall be kept by the authorising officer responsible in accordance with Articles 48 and 49.

## Article 105

**Booking of pre-financing and interim payments**

(Article 81 of the Financial Regulation)

1. Pre-financing is intended to provide the beneficiary with a float. It may be split into a number of payments.
2. An interim payment, which may be repeated, is intended to reimburse expenditure incurred by the beneficiary on the basis of a statement of expenditure when the action is in progress. It may clear pre-financing in whole or in part, without prejudice to the provisions of the basic act.
3. The closure of the expenditure shall take the form of the payment of the balance, which may not be repeated and clears all preceding payments, or a recovery order.

## Section 5

**Time limits for expenditure operations**

## Article 106

**Payment time limits and default interest**

(Article 83 of the Financial Regulation)

1. Sums due shall be paid within no more than forty-five calendar days from the date on which an admissible payment request is registered by the authorised department of the authorising officer responsible; the date of payment shall be understood to mean the date on which the institution's account is debited.

The payment request is not admissible if at least one essential requirement is not met.

2. The payment period referred to in paragraph 1 shall be thirty calendar days for payments relating to service or supply contracts, save where the contract provides otherwise.

3. For contracts or agreements under which payment depends on approval of a report, time for the purposes of the payment periods referred to in paragraphs 1 and 2 shall not begin to run until the report in question has been approved, either explicitly with the beneficiary being informed, or implicitly because the time allowed by the contract for approval has expired without being suspended by means of a formal document sent to the beneficiary.

The time allowed for approval may not exceed:

- (a) 20 calendar days for straightforward contracts relating to the supply of goods and services;
- (b) 45 calendar days for other contracts and grant agreements;
- (c) 60 calendar days for contracts involving technical services which are particularly complex to evaluate.

4. The authorising officer responsible may suspend the time limit for payment by informing creditors, at any time during the period referred to in paragraph 1, that the payment request cannot be met, either because the amount is not due or because the appropriate supporting documents have not been produced. If information comes to the notice of the authorising officer responsible which puts in doubt the eligibility of expenditure appearing in a payment request, the authorising officer may suspend the time limit for payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is indeed eligible. The authorising officer shall inform the beneficiary in question as soon as possible.

Time for the purposes of the remainder of the payment period shall begin to run again from the date on which the properly formulated payment request is first registered.

5. On expiry of the time limits laid down in paragraphs 1 and 2, the creditor may, within two months of receiving late payment, demand interest in accordance with the following provisions:

- (a) the interest rates shall be those referred to in the first subparagraph of Article 86(2);
- (b) the interest shall be payable for the period elapsing from the calendar day following expiry of the time-limit for payment up to the day of payment.

The first subparagraph shall not apply to Member States.

#### CHAPTER 7

### IT Systems

#### Article 107

### Description of IT systems

(Article 84 of the Financial Regulation)

Where computer systems and subsystems are used to process budget implementation operations, a full and up-to-date description of each system or subsystem shall be required.

Each description shall define the content of all data fields and describe how the system treats each individual operation. It shall show in detail how the system guarantees the existence of a complete audit trail for each operation.

#### Article 108

### Periodical save

(Article 84 of the Financial Regulation)

The data in computer systems and subsystems shall be saved periodically and kept in a safe place.

#### CHAPTER 8

### Internal auditor

#### Article 109

### Appointment of the internal auditor

(Article 85 of the Financial Regulation)

1. Each institution shall appoint its internal auditor in accordance with arrangements adapted to its specific features and requirements. The institution shall inform the budgetary authority of the appointment of the internal auditor.

2. Each institution shall determine, in accordance with its specific features and its requirements, the scope of the mission of the internal auditor and shall lay down in detail the objectives and procedures for the exercise of the internal audit function with due respect for international internal audit standards.

3. The institution may appoint as internal auditor, by virtue of their particular competence, an official or other servant covered by the Staff Regulations chosen from nationals of the Member States.

4. If two or more institutions appoint the same internal auditor they shall make the necessary arrangements for him to be declared liable for his actions as laid down in Article 114.

5. The institution shall inform the budgetary authority when the duties of the internal auditor are terminated.

#### Article 110

### Operational resources

(Article 86 of the Financial Regulation)

The institution shall provide the internal auditor with the resources required for the proper performance of his audit function and a mission charter detailing his tasks, duties and obligations.

#### Article 111

### Work programme

(Article 86 of the Financial Regulation)

1. The internal auditor shall adopt his work programme and shall submit it to the institution.

2. The institution may ask the internal auditor to carry out audits not included in the work programme referred to in paragraph 1.

*Article 112***Reports of the internal auditor**

(Article 86 of the Financial Regulation)

1. The internal auditor shall submit to the institution the annual internal audit report provided for in Article 86(3) of the Financial Regulation, indicating the number and type of internal audits carried out, the principal recommendations made and the action taken on those recommendations.

That annual report shall also mention any systemic problems detected by the specialised panel set up pursuant to Article 66(4) of the Financial Regulation.

2. Each institution shall consider whether the recommendations made in the reports of its internal auditor are suitable for an exchange of best practices with the other institutions.

*Article 113***Independence**

(Article 87 of the Financial Regulation)

The internal auditor shall enjoy complete independence in the conduct of his audits. He may not be given any instructions nor be restricted in any way as regards the performance of the functions which, by virtue of his appointment, are assigned to him under the Financial Regulation.

*Article 114***Liability of the internal auditor**

(Article 87 of the Financial Regulation)

The institution alone, proceeding in accordance with this Article, may act to have the internal auditor, as an official or other servant subject to the Staff Regulations, declared liable for his actions.

The institution shall take a reasoned decision to open an investigation. That decision shall be communicated to the interested party. The institution may put in charge of the investigation, under its direct responsibility, one or more officials of a grade equal to or higher than that of the member of staff concerned. In the course of the investigation, the views of the interested party shall be heard.

The investigation report shall be communicated to the interested party, who shall then be heard by the institution on the subject of that report.

On the basis of the report and the hearing, the institution shall adopt either a reasoned decision terminating the proceedings or a reasoned decision in accordance with Articles 22 and 86 to 89 of the Staff Regulations. Decisions imposing disciplinary measures or financial penalties shall be notified to the interested party and communicated, for information purposes, to the other institutions and the Court of Auditors.

The interested party may bring an action in respect of such decisions before the Court of Justice of the European Communities, as provided for in the Staff Regulations.

*Article 115***Action before the Court of Justice of the European Communities**

(Article 87 of the Financial Regulation)

Without prejudice to the remedies allowed by the Staff Regulations, the internal auditor may bring an action directly before the Court of Justice of the European Communities in respect of any act relating to the performance of his duties as internal auditor. Such an action must be lodged within three months running from the calendar day on which the act in question is notified.

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

## TITLE V

## PROCUREMENT

## CHAPTER 1

**General provisions**

## Section 1

**Scope and award principles***Article 116***Definitions and scope**

(Article 88 of the Financial Regulation)

1. Building contracts cover the purchase, long lease, leasing, rental or hire purchase, with or without option to buy, of land, existing buildings or other real estate.

2. Supply contracts cover the purchase, leasing, rental or hire purchase, with or without option to buy, of products. The

delivery of products may in addition include siting, installation and maintenance.

3. Works contracts cover either the execution, or both the execution and design, of works or the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority. A 'work' means the outcome of building or civil engineering works taken as a whole that is sufficient of itself to fulfil an economic or technical function.

4. Service contracts cover all intellectual and non-intellectual services other than those covered by supply contracts, works contracts and building contracts. These services are listed in Annexes IA and IB to Council Directive 92/50/EEC.

5. A contract covering both products and services shall be considered a service contract where the value of the services in question exceeds that of the products included in the contract.

6. The terms 'supplier', 'contractor' and 'service provider' refer to three categories of economic operator, natural or legal persons, who supply products, execute works and provide services respectively. Economic operators who have submitted a tender are referred to as 'tenderers'. Those who have asked to be allowed to take part in a restricted or negotiated procedure are referred to as 'candidates'.

7. Departments of the Community institutions shall be considered to be contracting authorities.

#### Article 117

### Framework contracts and specific contracts

(Article 88 of the Financial Regulation)

1. A framework contract is a contract concluded between a contracting authority and an economic operator for the purpose of laying down the essential terms governing a series of specific contracts to be awarded during a given period, in particular as regards the duration, subject, prices, conditions of performance and the quantities envisaged.

The contracting authority may also conclude multiple framework contracts, which are separate contracts with identical terms awarded to a number of suppliers or service providers. The specifications referred to in Article 130 shall then specify the maximum number of operators with whom the contracting authority will conclude contracts.

The duration of framework contracts may not exceed four years, save in exceptional cases justified in particular by the subject of the framework contract.

Contracting authorities may not make undue use of framework contracts or use them in such a way that the purpose or effect is to prevent, restrict or distort competition.

2. Specific contracts based on the framework contracts referred to in paragraph 1 shall be awarded in accordance with the terms laid down in the framework contract.

3. Only specific contracts concluded under framework contracts shall be preceded by a budget commitment.

#### Section 2

#### Publication

#### Article 118

### Advertising of contracts covered by the public procurement directives

(Article 90 of the Financial Regulation)

1. Publication shall consist in a pre-information notice, a contract notice and an award notice.

2. The pre-information notice shall be the notice by which the contracting authorities make known, by way of indication, the estimated total value of contracts, by category of service or groups of products, and the essential characteristics of works contracts which they intend to award during a budgetary year, where the estimated total value is equal to or greater than the thresholds laid down in Article 157.

The pre-information notice shall be sent to the Office for Official Publications of the European Communities as soon as possible and by no later than 31 March of each budgetary year in the case of supply and service contracts and, in the case of works contracts, as soon as possible after the decision approving the programme for those contracts.

3. The contract notice shall be the means by which the contracting authorities make known their intention to launch a procurement procedure. It shall be compulsory for contracts of an estimated value equal to or greater than the thresholds laid down in points (a) and (c) of Article 158(1).

In an open procedure the contract notice shall specify the date, time and place of the meeting of the opening committee, which shall be open to the tenderers.

Contracting authorities wishing to organise a contest shall issue a notice announcing their intention.

4. The award notice shall give the outcome of the procurement procedure. In the case of contracts the value of which is equal to or greater than the thresholds laid down in Article 158, the award notice shall be compulsory. It shall not be compulsory for specific contracts awarded under a framework contract.

The award notice shall be sent to the Office for Official Publications of the European Communities no later than forty-eight calendar days after the procedure is closed, that is to say, from the date on which the contract is signed.

5. The notices shall be drawn up in accordance with the models annexed to Directive 2001/78/EC.

#### Article 119

### Advertising of contracts not covered by the public procurement directives

(Article 90 of the Financial Regulation)

1. Contracts with a value below the thresholds provided for in Articles 157 and 158 and the service contracts referred to in Annex IB to Council Directive 92/50/EEC shall be advertised by appropriate means in order to ensure competitive tendering and impartiality of the procurement procedure. Such advertising shall involve:

(a) if no contract notice as referred to in Article 118(3) has been published, notice of a call for expressions of interest for contracts covering a similar subject with a value equal to or greater than the amount referred to in Article 128(1);



- (b) the annual publication of a list of contractors, specifying the subject and the value of the contract awarded.

## Section 3

**Procurement procedures**

## Article 122

**Types of procurement procedure**

(Article 91 of the Financial Regulation)

1. Contracts shall be awarded by call for tender, using the open, restricted or negotiated procedure after publication of a contract notice or by negotiated procedure without prior publication of a contract notice, where appropriate following a contest.

2. Calls for tender shall be open where all interested economic operators may submit a tender.

Calls for tender are restricted where all economic operators may ask to take part but only candidates satisfying the selection criteria referred to in Article 135 and invited simultaneously and in writing by the contracting authorities may submit a tender.

The selection phase may be repeated for each individual contract or may involve drawing up a list of potential candidates under the procedure referred to in Article 128.

3. In a negotiated procedure, the contracting authorities shall consult tenderers of their choice who satisfy the selection criteria laid down in Article 135, and negotiate the terms of the contract with one or more of them.

In negotiated procedures where a contract notice is published, as referred to in Article 127, the contracting authorities shall simultaneously and in writing invite the selected candidates to negotiate.

4. Contests are procedures which enable the contracting authority to acquire, mainly in the fields of architecture and civil engineering or data processing, a plan or design proposed by a selection board after being put out to competitive tender with or without the award of prizes.

## Article 123

**Number of candidates in restricted or negotiated procedures**

(Article 91 of the Financial Regulation)

1. In a restricted procedure, including the procedure referred to in Article 128, the number of candidates invited to submit a tender may not be less than five, provided that a sufficient number of candidates satisfy the selection criteria.

2. A list of contractors to whom building contracts are awarded shall be published annually, with an indication of the subject and value of the contracts awarded. That list shall be sent to the budgetary authority; in the case of the Commission, it shall be annexed to the summary of the annual activity reports referred to in Article 60(7) of the Financial Regulation.

3. Information relating to contracts with a value equal to or greater than the amount referred to in Article 128(1) shall be sent to the Office for Official Publications of the European Communities; the annual lists of contractors shall be sent by no later than 31 March following the end of the financial year.

*Ex ante* advertising and the annual publication of the list of contractors for the other contracts shall be on the Internet site of the institutions; *ex post* publication shall take place by no later than 31 March of the following financial year. Publication may also be in the *Official Journal of the European Communities*.

## Article 120

**Publication of notices**

(Article 90 of the Financial Regulation)

1. The Office for Official Publications of the European Communities shall publish the notices referred to in Articles 118 and 119 in the *Official Journal of the European Communities* no later than twelve calendar days after their dispatch.

That period shall be reduced to five calendar days in the case of the fast-track procedures referred to in Article 142 and if the notices have been prepared and sent electronically.

2. The contracting authorities must be able to provide evidence of the date of dispatch.

## Article 121

**Other forms of advertising**

(Article 90 of the Financial Regulation)

In addition to the advertising provided for in Articles 118, 119 and 120, contracts may be advertised in any other way, notably in electronic form. Any such advertising shall refer to the notice published in the *Official Journal of the European Communities*, as provided for in Article 120, if one has been published, and may not precede the publication of that notice, which alone is authentic.

Such advertising may not introduce any discrimination between candidates or tenderers nor contain details other than those contained in the contract notice, if one has been published.

The contracting authority may also provide for a maximum number of twenty candidates, depending on the subject of the contract and on the basis of objective and non-discriminatory selection criteria. In such cases, the range and criteria shall be indicated in the contract notice or the call for expressions of interest referred to in Articles 118 and 119.

In any event, the number of candidates invited to tender must be sufficient to ensure genuine competition.

2. In negotiated procedures the number of candidates invited to negotiate may not be less than three, provided that a sufficient number of candidates satisfy the selection criteria.

In any event, the number of candidates invited to tender must be sufficient to ensure genuine competition.

The second subparagraph shall not apply to contracts involving very small amounts, as referred to in Article 129(3).

#### Article 124

### Arrangements for negotiated procedures

(Article 91 of the Financial Regulation)

Contracting authorities shall negotiate with tenderers the tenders they have submitted in order to adapt them to the requirements set out in the contract notice referred to in Article 118 or in the specifications and in any additional documents and in order to find the tender offering best value for money.

During the negotiation, the contracting authorities shall ensure equal treatment for all tenderers.

#### Article 125

### Contests

(Article 91 of the Financial Regulation)

1. The rules for the organisation of a contest shall be communicated to those interested in taking part.

The number of candidates invited to take part must be sufficient to ensure genuine competition.

2. The selection board shall be appointed by the authorising officer responsible. It shall be made up exclusively of natural persons who are independent of participants in the contest. Where a particular professional qualification is required for participation in a contest, at least one third of the members of the selection board must have the same or an equivalent qualification.

The selection board shall be autonomous in its opinions. Its opinions shall be adopted on the basis of projects submitted to it anonymously by the candidates and solely in the light of the criteria set out in the contest notice.

3. The proposals of the selection board, based on the merits of each project, and its observations, shall be recorded in a report signed by its members.

Candidates shall remain anonymous until the selection board has given its opinion.

4. The contracting authority shall then take a decision giving the name and address of the candidate selected and the reasons for the choice by reference to the criteria announced in the contest notice, especially if it departs from the proposals made in the selection board's opinion.

#### Article 126

### Use of a negotiated procedure without prior publication of a contract notice

(Article 91 of the Financial Regulation)

1. Contracting authorities may use the negotiated procedure without prior publication of a contract notice in the following cases:

- (a) where no tenders or no suitable tenders have been submitted in response to an open procedure or restricted procedure after the initial procedure has been completed, provided that the original terms of the contract as specified in the documents relating to the invitation to tender referred to in Article 130 are not substantially altered;
- (b) where, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract can be awarded only to a particular economic operator;
- (c) in so far as is strictly necessary where, for reasons of extreme urgency brought about by unforeseeable events not attributable to the contracting authorities and likely to jeopardise the Communities' interests, it is impossible to comply with the time-limits set for the other procedures and laid down in Articles 140, 141 and 142;
- (d) where a service contract follows a contest and must, under the rules applying, be awarded to the successful candidate or to one of the successful candidates; in the latter case, all successful candidates shall be invited to participate in the negotiations;
- (e) for additional services and works not included in the project initially considered nor in the contract first concluded but which, through unforeseen circumstances independent of the contracting authority, have become necessary for the performance of the services or works, subject to the conditions set out in paragraph 2;
- (f) for additional contracts consisting in the repetition of similar services or works entrusted to the contractor awarded an earlier contract by the same contracting authorities, provided that the subject of the contract conforms to a basic project and that the first contract was awarded under the open or restricted procedure;

- (g) for supply contracts:
  - (i) in the case of additional deliveries which are intended either as a partial replacement of normal supplies or installations or as the extension of existing supplies or installations, where a change of supplier would oblige the contracting authority to acquire equipment having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance; the length of such contracts may not exceed three years;
  - (ii) where the products are manufactured purely for the purpose of research, experiment, study or development, with the exception of commercial viability tests and large-scale production aimed at recovering research and development costs;
- (h) for building contracts, after prospecting the local market;
- (i) for contracts with a value below the threshold laid down in Article 129(2).

2. For the additional services and works referred to in point (e) of paragraph 1, the contracting authority may make use of the negotiated procedure without prior publication of a contract notice on condition that the award is made to the contractor performing the contract:

- (a) where such additional contracts cannot be technically or economically separated from the main contract without serious inconvenience for the contracting authority; or
- (b) where such services or works, although separable from the performance of the original contract, are strictly necessary for its completion.

The aggregate value of additional contracts may not exceed 50 % of the amount of the initial contract.

3. In the cases referred to in point (f) of paragraph 1, the option of using the negotiated procedure shall be pointed out as soon as the first contract is put out to competitive tender, and the total estimated cost of the additional contracts shall be taken into consideration in calculating the thresholds referred to in Article 158. That procedure may be used only during the three years following conclusion of the original contract.

#### Article 127

#### Use of a negotiated procedure after prior publication of a contract notice

(Article 91 of the Financial Regulation)

1. Contracting authorities may use the negotiated procedure after having published a contract notice in the following cases:

- (a) in the event of the submission of tenders which are irregular or unacceptable, by reference in particular to the selection or award criteria, in response to an open or

restricted procedure which has been completed, provided that the original terms of the contract as specified in the documents relating to the invitation to tender referred to in Article 130 are not substantially altered;

- (b) for service and works contracts, in exceptional cases where the nature of the services or works or the risks attaching thereto do not permit prior overall pricing by the tenderer;
- (c) where the nature of the service to be procured, in particular in the case of financial services and intellectual services, is such that contract specifications cannot be established with sufficient precision to permit the award of the contract by selecting the best tender in accordance with the rules governing open or restricted procedures;
- (d) for works contracts, where the works are performed solely for purposes of research, testing or development and not with the aim of ensuring profitability or recovering research and development costs;
- (e) for the service contracts referred to in Annex 1B to Council Directive 92/50/EEC, subject to point (i) of Article 126(1).

2. In the cases referred to in point (a) of paragraph 1, contracting authorities may refrain from publishing a contract notice if they include in the negotiated procedure all the tenderers who satisfy the selection criteria and who, during the previous procedure, submitted tenders in accordance with the formal requirements of the procurement procedure.

#### Article 128

#### Restricted procedure involving a call for expressions of interest

(Article 91 of the Financial Regulation)

1. A call for expressions of interest shall constitute a means of preselecting candidates who will be invited to submit tenders in response to future restricted invitations to tender for contracts of a value of EUR 50 000 or more, subject to Articles 126 and 127.

2. The list drawn up following a call for expressions of interest shall be valid for no more than three years from the date on which the notice referred to in point (a) of Article 119(1) is sent to the Office for Official Publications of the European Communities.

Any interested person may submit an application at any time during the period of validity of the list, with the exception of the last three months of that period.

3. Where a specific contract is to be awarded, the contracting authority shall invite either all candidates entered on the list or only some of them, on the basis of objective and non-discriminatory selection criteria specific to that contract, to submit a tender.

*Article 129***Low-value contracts**

(Article 91 of the Financial Regulation)

1. A restricted procedure with at least five candidates being consulted but without a call for expressions of interest may be used for contracts with a value of less than EUR 50 000, subject to Articles 126 and 127.
2. The negotiated procedure with at least three candidates may be used for contracts with a value of less than EUR 13 800.
3. Contracts with a value of less than EUR 1 050 may be awarded on the basis of a single tender by a negotiated procedure.
4. Payments made from imprest accounts or for expenditure related to communications activities engaged in by the institutions for the coverage of Community events may consist simply in the payment of costs against invoices, without prior acceptance of a tender, where the expenditure is less than EUR 200.

*Article 130***Documents relating to the invitation to tender**

(Article 92 of the Financial Regulation)

1. The documents relating to the invitation to tender shall include at least:
  - (a) the invitation to submit a tender or to negotiate;
  - (b) the attached specifications, to which shall be annexed the general terms and conditions applicable to contracts;
  - (c) the model contract.

The documents relating to the invitation to tender shall contain a reference to the advertising measures taken under Articles 118 to 121.

2. The invitation to tender shall at least:
  - (a) specify the rules governing the lodging and presentation of tenders, including in particular the closing date and time for submission, any requirement as to the use of a standard reply form, the documents to be attached, including those in evidence of financial, economic, technical and professional capacity referred to in Article 135, and the address to which they must be sent;
  - (b) state that submission of the tender implies acceptance of the specifications and of the general terms and conditions referred to in paragraph 1 to which the tender relates and that this submission binds the contractor to whom the contract is awarded during performance of the contract;
  - (c) specify the period during which a tender will remain valid and may not be varied in any respect;

- (d) forbid any contact between the contracting authority and the tenderer during the procedure, save, exceptionally, under the conditions laid down in Article 148, and, where provision is made for an on-the-spot visit, specify the arrangements for such a visit.

3. The specifications shall at least:

- (a) specify the exclusion and selection criteria applying to the contract, save in the restricted procedure and in the negotiated procedures following publication of a notice referred to in Article 127; in such cases those criteria shall appear solely in the contract notice or the call for expressions of interest;
- (b) specify the award criteria and their relative weighting, if this is not specified in the contract notice;
- (c) set out the technical specifications referred to in Article 131;
- (d) state the minimum requirements which variants must meet in the procedures provided for in Article 138(2) under which the contract is awarded to the tender offering best value for money, where the contracting authority has not stated in the contract notice that such variants are not permitted;
- (e) state that the Protocol on Privileges and Immunities or, where appropriate, the Vienna Convention on Diplomatic Relations or Consular Relations applies;
- (f) specify the evidence of access to contracts, as set out in Article 159.

4. The model contract shall in particular:

- (a) specify the penalties for failure to comply with its clauses;
- (b) specify the details which must be contained in invoices or in the relevant supporting documents in accordance with Article 98;
- (c) specify the law applicable to the contract and the competent court for hearing disputes.

5. The contracting authorities may demand information from the tenderer on any part of the contract that the tenderer may intend to subcontract to third parties and on the identity of any subcontractors.

*Article 131***Technical specifications**

(Article 92 of the Financial Regulation)

1. Technical specifications must afford equal access for candidates and tenderers and not have the effect of creating unjustified obstacles to competitive tendering.

They shall define the characteristics required of a product, service or material or work with regard to the purpose for which they are intended by the contracting authority.



2. The characteristics referred to in paragraph 1 shall include:

- (a) the quality levels;
- (b) environmental performance;
- (c) design for all requirements (including accessibility for disabled people);
- (d) the levels and procedures of conformity assessment;
- (e) fitness for use;
- (f) safety or dimensions, including, for supplies, the sales name and user instructions, and, for all contracts, terminology, symbols, testing and test methods, packaging, marking and labelling, production procedures and methods;
- (g) for works contracts, the procedures relating to quality assurance and the rules relating to design and costing, the test, inspection and acceptance conditions for works and methods or techniques of construction and all the other technical conditions which the contracting authority may impose under general or specific regulations in relation to the finished works and to the materials or parts which they involve.

3. The technical specifications shall be formulated as follows:

- (a) by reference to European standards, or to European technical approvals or common technical specifications, where such exist, to international standards or to other technical reference material produced by European standards bodies or, failing this, their national equivalents. Every reference shall be followed by the expression 'or equivalent'; or
- (b) in terms of performance or of functional requirements; they shall be sufficiently detailed to enable tenderers to determine the purpose of the contract and the contracting authorities to award the contract; or
- (c) by a mixture of those two formulation methods.

4. Where the contracting authorities make use of the possibility of referring to the specifications referred to in point (a) of paragraph 3, they may not reject a tender on the grounds that it does not comply with those specifications if the tenderer or candidate proves, to the satisfaction of the contracting authority, by any appropriate means, that the tender meets in equivalent manner the requirements set.

5. Where the contracting authorities make use of the possibility provided for in point (b) of paragraph 3, of prescribing specifications in terms of performance or of functional requirements, they may not reject a tender which complies with a national standard transposing a European standard, a European technical approval or common technical specifications, an international standard or technical reference material produced by a European standards body, if those specifications relate to the necessary performance or functional requirements.

6. Save in exceptional cases, duly warranted by the subject of the contract, those specifications may not refer to a specific make or source, or a particular process, or to trade marks,

patents, types or a specific origin or production which would have the effect of favouring or eliminating certain products or economic operators.

Where it is not possible to provide a sufficiently detailed and intelligible description of the subject of the contract, the reference shall be followed by the expression 'or equivalent'.

#### Article 132

##### Price revision

(Article 92 of the Financial Regulation)

1. The documents relating to the invitation to tender shall clearly state whether a firm, non-revisable price must be quoted.

2. If that is not the case, the documents relating to the invitation to tender shall lay down the conditions and/or formulas for revision of prices during the lifetime of the contract. In such cases the contracting authority shall take particular account of:

- (a) the object of the procurement procedure and the economic situation in which it is taking place;
- (b) the type of tasks and contract and their duration;
- (c) its financial interests.

#### Article 133

##### Administrative and financial penalties

(Articles 93 to 96 and 114 of the Financial Regulation)

1. Without prejudice to the application of penalties laid down in the contract, candidates or tenderers and contractors who have been guilty of making false declarations or have been found to have seriously failed to meet their contractual obligations in an earlier procurement procedure shall be excluded from all contracts and grants financed by the Community budget for a maximum of two years from the time when the infringement is established, as confirmed after an adversarial procedure with the contractor.

That period may be extended to three years in the event of a repeat offence within five years of the first infringement.

Tenderers or candidates who have been guilty of making false declarations shall also receive financial penalties representing 2 % to 10 % of the total value of the contract being awarded.

Contractors who have been found to have seriously failed to meet their contractual obligations shall receive financial penalties representing 2 % to 10 % of the total value of the contract in question.

That rate may be increased to 4 % to 20 % in the event of a repeat offence within five years of the first infringement.



2. In the cases referred to in points (a), (c) and (d) of Article 93(1) of the Financial Regulation, the candidates or tenderers shall be excluded from all contracts and grants for a maximum of two years from the time when the infringement is established, as confirmed after an adversarial procedure with the contractor.

In the cases referred to in points (b) and (e) of Article 93(1) of the Financial Regulation, the candidates or tenderers shall be excluded from all contracts and grants for a minimum of one year and a maximum of four years from the date of notification of the judgment.

Those periods may be extended to five years in the event of a repeat offence within five years of the first infringement or the first judgment.

3. The cases referred to in point (e) of Article 93(1) of the Financial Regulation shall be the following:

- (a) cases of fraud as referred to in Article 1 of the Convention on the protection of the European Communities' financial interests drawn up by the Council Act of 26 July 1995 <sup>(1)</sup>;
- (b) cases of corruption as referred to in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the Council Act of 26 May 1997 <sup>(2)</sup>;
- (c) cases of participation in a criminal organisation, as defined in Article 2(1) of Joint Action 98/733/JHA of the Council <sup>(3)</sup>;
- (d) cases of money laundering as defined in Article 1 of Council Directive 91/308/EEC <sup>(4)</sup>.

#### Article 134

##### Evidence

(Article 96 of the Financial Regulation)

1. The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in one of the situations described in point (a), (b) or (e) of Article 93(1) of the Financial Regulation, production of a recent extract from the judicial record or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied.

2. The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in the situation described in point (d) of Article 93(1) of the Financial Regulation, a recent certificate issued by the competent authority of the State concerned.

Where no such certificate is issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

<sup>(1)</sup> OJ C 316, 27.11.1995, p. 48.

<sup>(2)</sup> OJ C 195, 25.6.1997, p. 1.

<sup>(3)</sup> OJ L 315, 29.12.1998, p. 1.

<sup>(4)</sup> OJ L 166, 28.6.1991, p. 77.

3. Depending on the national legislation of the country in which the tenderer or candidate is established, the documents referred to in paragraphs 1 and 2 shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

#### Article 135

##### Selection criteria

(Article 97(1) of the Financial Regulation)

1. The contracting authorities shall draw up clear and non-discriminatory selection criteria.

2. The following selection criteria shall apply in every procurement procedure:

- (a) the eligibility of the tenderer or candidate to take part in the procedure, checks having been carried out on the possible grounds for exclusion referred to in Articles 93 and 94 of the Financial Regulation;
- (b) criteria for assessing his financial, economic, technical and professional capacity.

The contracting authority may lay down minimum capacity levels below which it cannot select candidates.

3. Any tenderer or candidate may be asked to prove that he is authorised to perform the contract under national law, as evidenced by inclusion in a trade or professional register, or a sworn declaration or certificate, membership of a specific organisation, express authorisation, or entry in the VAT register.

4. The contracting authorities shall specify in the contract notice or in the call for expressions of interest or the invitation to submit a tender, the references chosen to test the status and the legal capacity of tenderers or candidates.

5. The information requested by the contracting authority as proof of the financial, economic, technical and professional capacity of the candidate or tenderer may not go beyond the subject of the contract and shall take account of the legitimate interests of the economic operators as regards in particular the protection of the firm's technical and business secrets.

#### Article 136

##### Economic and financial capacity

(Article 97(1) of the Financial Regulation)

1. Proof of economic and financial capacity may be furnished by one or more of the following documents:

- (a) appropriate statements from banks or evidence of professional risk indemnity insurance;

- (b) the presentation of balance sheets or extracts from balance sheets for at least the last two years for which accounts have been closed, where publication of the balance sheet is required under the company law of the country in which the economic operator is established;
- (c) a statement of overall turnover and turnover concerning the works, supplies or services covered by the contract during a period which may be no more than the last three financial years.

2. If, for some exceptional reason which the contracting authority considers justified, the tenderer or candidate is unable to provide the references requested by the contracting authority, he may prove his economic and financial capacity by any other means which the contracting authority considers appropriate.

3. An economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. It must in that case prove to the contracting authority that it will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal.

#### Article 137

### Technical and professional capacity

(Article 97(1) of the Financial Regulation)

1. Technical and professional capacity of economic operators shall be evaluated and verified in accordance with paragraphs 2 and 3. In procurement procedures for supplies requiring siting or installation operations, services and/or works, such capacity shall be assessed with regard in particular to their know-how, efficiency, experience and reliability.

2. Evidence of the technical and professional capacity of economic operators may, depending on the nature, quantity or scale and purpose of the supplies, services or works to be provided, be furnished on the basis of the following documents:

- (a) the educational and professional qualifications of the service provider or contractor and/or those of the firm's managerial staff and, in particular, those of the person or persons responsible for providing the services or carrying out the works;
- (b) a list:
  - (i) of the principal services provided and supplies delivered in the past three years, with the sums, dates and recipients, public or private;
  - (ii) of the works carried out in the last five years, with the sums, dates and place. The list of the most important works shall be accompanied by certificates of satisfactory execution, specifying whether they have been carried out in a professional manner and have been fully completed;

- (c) a description of the technical equipment, tools and plant to be employed by the firm for performing a service or works contract;
- (d) a description of the measures employed to ensure the quality of supplies and services, and a description of the firm's study and research facilities;
- (e) an indication of the technicians or technical bodies involved, whether or not belonging directly to the firm, especially those responsible for quality control;
- (f) in respect of supplies: samples, descriptions and/or authentic photographs and/or certificates drawn up by official quality control institutes or agencies of recognised competence attesting the conformity of the products with the specifications or standards in force;
- (g) a statement of the average annual manpower and the number of managerial staff of the service provider or contractor in the last three years;
- (h) an indication of the proportion of the contract which the service provider may intend to subcontract.

Where the services or supplies referred to in point (b)(i) of the first subparagraph are provided to contracting authorities, evidence of performance shall be in the form of certificates issued or countersigned by the competent authority.

3. Where the services or products to be supplied are complex or, exceptionally, are required for a special purpose, evidence of technical and professional capacity may be secured by means of a check carried out by the contracting authority or on its behalf by a competent official body of the country in which the service provider or supplier is established, subject to that body's agreement. Such checks shall concern the supplier's technical capacity and production capacity and, if necessary, its study and research facilities and quality control measures.

4. An economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. It must in that case prove to the contracting authority that it will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal.

#### Article 138

### Award arrangements and criteria

(Article 97(2) of the Financial Regulation)

1. Contracts shall be awarded in one of the following two ways:

- (a) under the automatic award procedure, in which case the contract is awarded to the tender which, while being in order and satisfying the conditions laid down, quotes the lowest price;
- (b) under the best-value-for-money procedure.

2. The tender offering the best value for money shall be the one with the best price-quality ratio, taking into account criteria justified by the subject of the contract such as the price quoted, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, profitability completion or delivery times, after-sales service and technical assistance.

3. The contracting authority shall specify, in the contract notice or in the specifications, the weighting it will apply to each of the criteria for determining best value for money.

The weighting applied to price in relation to the other criteria must not result in the neutralisation of price in the choice of contractor.

If, in exceptional cases, weighting is technically impossible, particularly on account of the subject of the contract, the contracting authority shall merely specify the decreasing order of importance in which the criteria are to be applied.

#### Article 139

#### Abnormally low tenders

(Article 97(2) of the Financial Regulation)

1. If, for a given contract, tenders appear to be abnormally low, the contracting authority shall, before rejecting such tenders on that ground alone, request in writing details of the constituent elements of the tender which it considers relevant and shall verify those constituent elements, after due hearing of the parties, taking account of the explanations received.

The contracting authority may, in particular, take into consideration explanations relating to:

- (a) the economics of the manufacturing process, of the provision of services or of the construction method;
- (b) the technical solutions chosen or the exceptionally favourable conditions available to the tenderer;
- (c) the originality of the tender.

2. Where the contracting authority establishes that a tender is abnormally low as a result of State aid provided, it may reject the tender on that ground alone only if the tenderer is unable to prove, within a reasonable time determined by the contracting authority, that the aid in question has been awarded definitively and in accordance with the procedures and decisions specified in the Community rules on State aid.

#### Article 140

#### Time limits for receipt of tenders and requests to participate

(Article 98(1) of the Financial Regulation)

1. The time limits for the receipt of tenders and requests to participate, laid down in calendar days by the contracting authorities, shall be long enough to allow interested parties a

reasonable and appropriate period to prepare and submit their tenders, taking particular account of the complexity of the contract or the need to visit the site or consult on the spot the documents annexed to the specifications.

2. In open procedures, the time limit for receipt of tenders shall be no less than fifty-two days from the date on which the contract notice is dispatched.

3. In restricted and negotiated procedures where a contract notice is published, the time limit for receipt of requests to participate shall be no less than thirty-seven days from the date on which the contract notice is dispatched.

In restricted procedures for contracts above the thresholds set in Article 158, the time limit for receipt of tenders shall be no less than forty days from the date on which the invitation to tender is dispatched.

In the restricted procedures referred to in Article 128, the time-limit for receipt of tenders shall be no less than twenty-one days from the date on which the invitation to tender is dispatched.

4. Where the contracting authorities, in accordance with Article 118, have sent for publication a pre-information notice containing all the information required in the contract notice no less than fifty-two days and no more than twelve months before the date on which the contract notice is dispatched, the time-limit for the receipt of tenders may generally be reduced to thirty-six days but shall in no circumstances be less than twenty-two days from the date of dispatch of the contract notice, in the case of open procedures, or may be reduced to twenty-six days from the date of dispatch of the invitation to submit a tender, in the case of restricted procedures.

#### Article 141

#### Time allowed for access to invitation to tender documents

(Article 98(1) of the Financial Regulation)

1. Provided that the request was made in good time before the deadline for submission of tenders, the specifications and additional documents shall be sent, within six calendar days of the receipt of the request, to all economic operators who have requested the specifications or expressed interest in submitting a tender.

2. Provided it has been requested in good time, additional information relating to the specifications shall be supplied simultaneously to all economic operators who have requested the specifications or expressed interest in submitting a tender no later than six days before the deadline for the receipt of tenders or, in the case of requests for information received less than eight calendar days before the deadline for receipt of tenders, as soon as possible after receipt of the request.

3. If, for whatever reason, the specifications and the additional documents or information cannot be supplied within the time-limits set in paragraphs 1 and 2, or where tenders can be made only after a visit to the site or after on-the-spot consultation of the documents annexed to the specifications, the time-limits for receipt of tenders referred to in Article 140 shall be extended to enable all economic operators to acquaint themselves with all the requisite information for preparing tenders, subject to the provisions of Article 240. That extension shall be advertised in appropriate manner, in accordance with the arrangements set out in Articles 118 to 121.

4. If all the invitation to tender documents are freely, fully and directly accessible by electronic means, the contract notice referred to in Article 118(3) shall give the Internet address at which those documents can be consulted.

In such cases any additional documents and information shall also be made freely, fully and directly accessible as soon as they are supplied to all the economic operators who have requested the specifications or expressed interest in submitting a tender.

#### Article 142

##### Time limits in urgent cases

(Article 98(1) of the Financial Regulation)

1. Where duly substantiated urgency renders impracticable the time-limits laid down in Article 140(3), contracting authorities may set the following time limits, expressed in calendar days:

- (a) a time limit for the receipt of requests to participate which may not be less than fifteen days from the date on which the contract notice was dispatched;
- (b) a time limit for the receipt of tenders which may not be less than ten days from the date of the invitation to tender.

2. Provided it has been requested in good time, additional information on the specifications shall be communicated to all candidates no later than four calendar days before the deadline for receipt of tenders.

#### Article 143

##### Methods of communication

(Article 98(1) of the Financial Regulation)

1. Requests to participate shall be submitted by letter, fax or electronic mail; requests submitted by fax or electronic mail shall be confirmed by letter before expiry of the time-limits set in Articles 140 and 251.

2. Tenderers may submit tenders:

- (a) by post, for which purposes the invitation to tender documents shall specify that the relevant date is to be the date of despatch by registered post, as evidenced by the postmark; or

- (b) by hand-delivery to the premises of the institution by the tenderer in person or by an agent, including courier service; for which purposes the invitation to tender documents shall specify, in addition to the information referred to in point (a) of Article 130(2), the department to which tenders are to be delivered against a signed and dated receipt.

3. In order to maintain secrecy and to avoid any difficulties where tenders are sent by letter, the invitation to tender must include the following provision:

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

#### Article 144

##### Tender guarantees

(Article 98(2) of the Financial Regulation)

The contracting authority may require a tender guarantee, lodged in accordance with Article 150, representing 1 % to 2 % of the total value of the contract.

A tender guarantee shall be released when the contract is awarded. If no tender is submitted by the deadline set or if the tender is subsequently withdrawn, the guarantee shall be retained.

#### Article 145

##### Opening of tenders and requests to participate

(Article 98(3) of the Financial Regulation)

1. All requests to participate and tenders that satisfy the requirements of Article 143(1) and (2) shall be opened.

2. Where the value of a contract exceeds the threshold laid down in Article 129(2), the authorising officer responsible shall appoint a committee to open the tenders.

The committee shall be made up of at least three persons representing at least two organisational entities of the institution concerned with no hierarchical link between them. To avoid any conflict of interests, those persons shall be subject to the obligations laid down in Article 52 of the Financial Regulation.

In the representations and local units referred to in Article 252, if there are no separate entities, the requirement of organisational entities with no hierarchical link between them shall not apply.



3. One or more members of the opening committee shall initial the documents proving the date and time of despatch of each tender.

They shall also initial:

- (a) either each page of each tender; or
- (b) the cover page and the pages containing the financial details of each tender, the integrity of the initial tender being guaranteed by any appropriate technique employed by a department that is independent of the authorising department, save in the cases referred to in the third subparagraph of paragraph 2.

Where the contract is awarded under the automatic award procedure in accordance with point (a) of Article 138(1), the prices quoted in tenders satisfying the requirements shall be made public.

The members of the committee shall sign the written record of the opening of the tenders received, which shall identify those tenders which satisfy the requirements and those which do not, and which shall give the grounds on which tenders were rejected for non-compliance, by reference to the methods of submitting tenders referred to in Article 143.

#### Article 146

##### **Committee for the evaluation of tenders and requests to participate**

(Article 98(4) of the Financial Regulation)

1. All requests to participate and tenders declared as satisfying the requirements shall be evaluated and ranked by an evaluation committee on the basis of the exclusion, selection and award criteria announced in advance.

That committee shall be appointed by the authorising officer responsible to give an advisory opinion for contracts with a value above the threshold referred to in Article 129(2).

2. The evaluation committee shall be made up of at least three persons representing at least two organisational entities of the institution concerned with no hierarchical link between them. To avoid any conflict of interests, those persons shall be subject to the obligations laid down in Article 52 of the Financial Regulation.

In the representations and local units referred to in Article 254, if there are no separate entities, the requirement of organisational entities with no hierarchical link between them shall not apply.

The evaluation committee may be composed of the same members as the committee opening the tenders.

3. Requests to participate and tenders which do not satisfy all the essential requirements set out in the supporting documentation for invitations to tender or the specific requirements laid down therein shall be eliminated.

However, the evaluation committee may ask candidates or tenderers to supply additional material or to clarify the supporting documents submitted in connection with the exclusion and selection criteria, within a specified time-limit.

4. In the case of abnormally low tenders as referred to in Article 139 of this Regulation, the evaluation committee shall request any relevant information concerning the composition of the tender.

#### Article 147

##### **Results of the evaluation**

(Articles 99 and 100 of the Financial Regulation)

1. A written record of the evaluation and ranking of requests to participate and tenders declared to satisfy the requirements shall be drawn up and dated. It shall be signed by all the members of the evaluation committee. It shall be kept for future reference.

2. That written record shall contain at least the following:

- (a) the name and address of the contracting authority, and the subject and value of the contract or of the framework contract;
- (b) the names of the candidates or tenderers rejected and the reasons for their rejection;
- (c) the names of the candidates or tenderers to be examined and the reasons for their selection;
- (d) the reasons for the rejection of tenders found to be abnormally low;
- (e) the names of the candidates or contractor proposed and the reasons for that choice and, if known, the proportion of the contract or the framework contract which the contractor intends to subcontract to third parties.

3. The contracting authority shall then take its decision giving at least the following:

- (a) the name and address of the contracting authority, and the subject and value of the contract or of the framework contract;
- (b) the names of the candidates or tenderers rejected and the reasons for their rejection;
- (c) the names of the candidates or tenderers to be examined and the reasons for their selection;
- (d) the reasons for the rejection of tenders found to be abnormally low;
- (e) the names of the candidates or contractor selected and the reasons for that choice by reference to the selection and award criteria announced in advance and, if known, the proportion of the contract or the framework contract which the contractor intends to subcontract to third parties;
- (f) in the case of negotiated procedures, the circumstances referred to in Articles 126, 127, 242, 244, 246 and 247 which justify their use;
- (g) where appropriate, the reasons why the contracting authority has decided not to award a contract.

#### Article 148

##### **Contacts between contracting authorities and tenderers**

(Article 99 of the Financial Regulation)

1. Contact between the contracting authority and tenderers during the contract award procedure may take place, by way of exception, under the conditions set out in paragraphs 2 and 3.



2. Before the closing date for the submission of tenders, in respect of the additional documents and information referred to in Article 141, the contracting authority may:

- (a) at the instance of tenderers, communicate additional information solely for the purpose of clarifying the nature of the contract, such information to be communicated on the same date to all tenderers who have asked for the specifications;
- (b) at its own instance, if it discovers an error, a lack of precision, an omission or any other type of clerical defect in the text of the contract notice, invitation to tender or specifications, inform the persons concerned on the same date and in a manner identical with that applicable in respect of the original invitation to tender.

3. If, after the tenders have been opened, some clarification is required in connection with a tender, or if obvious clerical errors in the tender must be corrected, the contracting authority may contact the tenderer, although such contact may not lead to any alteration of the terms of the tender.

4. In every case where contact has been made, a 'note for the file' shall be drawn up.

#### Article 149

#### Information for candidates and tenderers

(Articles 100(2) and 101 of the Financial Regulation)

1. The contracting authorities shall as soon as possible inform candidates and tenderers of decisions reached concerning the award of the contract, including the grounds for any decision not to award a contract for which there has been competitive tendering or to recommence the procedure.

2. The contracting authority shall, within not more than fifteen calendar days from the date on which a written request is received, communicate the information provided for in Article 100(2) of the Financial Regulation.

#### Section 4

#### Guarantees and control

#### Article 150

#### Advance guarantee

(Article 102 of the Financial Regulation)

1. Where suppliers, contractors or service providers are required to lodge a guarantee in advance, it must be for an amount and a period that are sufficient for it to be activated.

2. The guarantee shall be supplied by a bank or an authorised financial institution. It may be replaced by a joint and several guarantee by a third party.

The guarantee shall be denominated in euro.

It shall have the effect of making the bank or financial institution or the third party stand as irrevocable collateral security, or first-call guarantor of the contractor's obligations.

#### Article 151

#### Performance guarantee

(Article 102 of the Financial Regulation)

1. Subject to Article 250, a performance guarantee may be demanded by the authorising officer in accordance with the usual commercial terms for supply and service contracts and in accordance with the special specifications for works contracts.

This guarantee shall be mandatory above EUR 345 000 for works contracts.

2. A guarantee corresponding to 10 % of the total value of the contract may be constituted by deductions from payments as and when they are made.

It may be replaced by an amount withheld from the final payment in order to constitute a guarantee until final acceptance of the services, supplies or works.

3. Guarantees shall be released in accordance with the terms of the contract, save where the contract has not been performed or has been performed incorrectly or completion is late. In such cases a proportion of the guarantee shall be retained in proportion to the seriousness of the damage suffered.

#### Article 152

#### Guarantee for pre-financing

(Article 102 of the Financial Regulation)

A guarantee shall be required in return for the payment of pre-financing exceeding EUR 150 000.

The guarantee shall be released as and when the pre-financing is deducted from interim payments or payments of balances to the contractor in accordance with the terms of the contract.

#### Article 153

#### Suspension in the event of errors or irregularities

(Article 103 of the Financial Regulation)

1. Contracts shall be suspended under Article 103 of the Financial Regulation in order to verify whether presumed substantial errors or irregularities or fraud have actually occurred. If they are not confirmed, performance of the contract shall resume as soon as possible.

2. A substantial error or irregularity shall be any infringement of a provision of a contract or regulation resulting from an act or an omission which causes or might cause a loss to the Community budget.

## CHAPTER 2

**Provisions applicable to contracts awarded by the Community institutions on their own account**

## Article 154

**Identification of the appropriate level for the calculation of thresholds**

(Article 104 of the Financial Regulation)

It shall be for each authorising officer by delegation or subdelegation within each institution to assess whether the thresholds laid down in Article 105 of the Financial Regulation have been reached.

## Article 155

**Separate contracts and contracts with lots**

(Article 105 of the Financial Regulation)

1. The estimated value of a contract may not be determined with a view to evading the requirements laid down in this Regulation, nor may a contract be split up for that purpose.

2. Where the subject of a service or works contract is subdivided into several lots, each one the subject of an individual contract, the value of each lot shall be taken into account for the overall evaluation of the applicable threshold.

Where the overall value of lots is equal to or exceeds the thresholds laid down in Article 158 the provisions of Articles 90(1) and 91(1) and (2) of the Financial Regulation shall apply to each of the lots, save those with an estimated value of less than EUR 80 000 in the case of service contracts, or less than EUR 1 000 000 in the case of works contracts, provided that the aggregate amount of those lots does not exceed 20 % of the aggregate value of all the lots making up the contract in question.

3. Where the planned purchase of standard supplies may give rise to simultaneous contracts in separate lots, the estimated value of all those lots shall be taken as the basis for determining the applicable threshold.

## Article 156

**Arrangements for estimating the value of certain contracts**

(Article 105 of the Financial Regulation)

1. For the purposes of calculating the estimated amount of a contract, the contracting authority shall include the contractor's total estimated remuneration.

Where a contract provides for options, the basis for calculation shall be the maximum amount authorised, including the use of option clauses.

2. For service contracts, account shall be taken of:

- (a) in the case of insurance services, the premium payable;
- (b) in the case of banking or financial services, the fees, commissions, interest and other types of remuneration;
- (c) in the case of design contracts, the fees, prizes or commissions payable.

3. In the case of service contracts which do not specify a total price or of supply contracts for leasing, rental or hire purchase of products, the value to be taken as the basis for calculating the estimated value shall be:

- (a) in the case of fixed-term contracts:
  - (i) where their term is forty-eight months or less in the case of services or twelve months or less in the case of supplies, the total contract value for their duration;
  - (ii) where their term is more than twelve months in the case of supplies, the total value including the estimated residual value;
- (b) in the case of contracts for an indefinite period or, in the case of services, for a period exceeding forty-eight months, the monthly value multiplied by forty-eight.

4. In the case of service or supply contracts which are awarded regularly or are to be renewed within a given time, the contract value shall be established on the basis of:

- (a) either the actual aggregate cost of similar contracts for the same categories of services or products awarded over the previous financial year or twelve months, adjusted, where possible, for anticipated changes in quantity or value over the twelve months following the initial contract;
- (b) or the estimated aggregate cost of successive contracts during the twelve months following the first service performed or first delivery or during the term of the contract, where this is greater than twelve months.

5. In the case of works contracts, account shall be taken not only of the value of the works but also of the estimated total value of the supplies needed to carry out the works and made available to the contractor by the contracting authority.

## Article 157

**Thresholds for pre-information notices**

(Article 105 of the Financial Regulation)

The thresholds provided for in Article 118 for publication of a pre-information notice shall be:

- (a) EUR 750 000 for the supply and service contracts listed in Annex IA to Directive 92/50/EEC;
- (b) EUR 6 242 028 for works contracts.

*Article 158***Thresholds for application of the procedures under the public procurement directives***(Article 105 of the Financial Regulation)*

1. The thresholds referred to in Article 105 of the Financial Regulation shall be:

- (a) EUR 162 293 for the supply and service contracts listed in Annex IA to Directive 92/50/EEC, with the exception of the research and development contracts listed in category 8 of that Annex;
- (b) EUR 200 000 for the service contracts listed in Annex IB to Directive 92/50/EEC and for the research and development service contracts listed in category 8 of Annex IA to that Regulation;

(c) EUR 6 242 028 for works contracts.

2. The time limits referred to in Article 105 of the Financial Regulation shall be those specified in Articles 140, 141 and 142.

*Article 159***Evidence of access to contracts***(Articles 106 and 107 of the Financial Regulation)*

The specifications shall require tenderers to indicate in which State they have their headquarters or domicile and to present the supporting evidence normally acceptable under their own law.

## TITLE VI

**GRANTS**

## CHAPTER 1

**Scope***Article 160***Scope***(Article 108 of the Financial Regulation)*

1. The procedure for the award of grants and the conclusion of agreements by the Commission with the bodies referred to in Article 54 of the Financial Regulation, in respect of the co-financing of their administrative expenditure and for the purposes of making available the operating appropriations which they are delegated to manage, and with the beneficiaries of financing agreements as referred to in Article 166 of that Regulation are not subject to the provisions of this Title.

On the other hand, the grants paid by these beneficiaries pursuant to these agreements are governed by this Title.

2. The provisions of this Title also govern:

- (a) the benefit deriving from an interest subsidy on certain loans;
- (b) equity holdings, with the exception of those for international financial institutions such as the European Bank for Reconstruction and Development (EBRD), and grants which are reimbursable in certain circumstances.

3. Contributions paid by the Communities as subscriptions to bodies of which they are members are not governed by the provisions of this Title.

*Article 161***Actions which may receive grants***(Article 108 of the Financial Regulation)*

An action which may receive a grant within the meaning of Article 108 of the Financial Regulation must be clearly identified.

No action may be split for the purpose of evading the financing rules laid down in this Regulation.

*Article 162***Bodies pursuing an aim of general European interest***(Article 108 of the Financial Regulation)*

A body pursuing an aim of general European interest is:

- (a) a European body involved in education, training, information or research and study in European policies or a European standards body; or
- (b) a European network representing non-profit bodies active in the Member States or in the candidate countries and promoting principles and policies consistent with the objectives of the Treaties.

*Article 163***Partnerships***(Article 108 of the Financial Regulation)*

1. Specific grant agreements may form part of framework partnership agreements.

2. A framework partnership agreement may be concluded with beneficiaries with a view to establishing long-term cooperation with the Commission.

The framework agreement shall specify the common objectives, the nature of actions planned on a one-off basis or as part of an approved annual work programme, the procedure for awarding specific grants, in compliance with the principles and procedural rules in this Title, and the general rights and obligations of each party under the specific agreements.

The duration of such agreements may not exceed four years, save in exceptional cases, justified in particular by the subject of the framework agreement.

Authorising officers may not make undue use of framework agreements or use them in such a way that the purpose or effect is to contrary to the principles of transparency or equal treatment of applicants.

3. Partnership framework agreements shall be treated as grants for the purposes of the award procedure; they shall be subject to the *ex ante* advertising procedures referred to in Article 167.

4. Specific grants based on the framework partnership agreements shall be awarded in accordance with the procedures laid down in those agreements, in compliance with the principles of this Title.

They shall be subject to the *ex post* publication procedures laid down in Article 169.

5. Only the specific agreements based on the framework agreements shall be preceded by a budget commitment.

#### Article 164

##### Content of grant agreements

(Article 108 of the Financial Regulation)

1. The agreement shall in particular lay down:

- (a) the subject;
- (b) the beneficiary;
- (c) the duration, namely:
  - (i) the date of its entry into force and its termination;
  - (ii) the starting date and the duration of the action or financial year being funded;
- (d) the maximum possible funding, in the form of:
  - (i) the maximum amount of the grant; and
  - (ii) the maximum rate of funding of the eligible costs of the action or approved work programme, save in the case of the flat-rate amounts referred to in Article 181(1);
- (e) a detailed description of the action or, for an operating grant, of the work programme approved for that financial year by the authorising officer;
- (f) the general terms and conditions applicable to all agreements of this type, such as determination of the applicable law, the court competent to hear disputes and acceptance by the beneficiary of audits by the Commission, OLAF and the Court of Auditors and of the *ex post* publication rules referred to in Article 169, in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>(1)</sup>. The agreement may lay down the arrangements and time-limits for suspension in accordance with Article 183;

- (g) the estimated overall budget and details of the eligible costs of the action or approved work programme, save in the case of the flat-rate amounts referred to in Article 181(1);
- (h) where implementation of the action involves procurement, the principles referred to in Article 184 or the procurement rules which the beneficiary must comply with;
- (i) the responsibilities of the beneficiary, in particular in terms of sound financial management and submission of activity and financial reports;
- (j) the arrangements and time-limits for approving those reports and for payment by the Commission.

2. In the cases referred to in Article 163, the framework agreement shall specify the information referred to in points (a), (b), (c)(i), (d)(ii), (f), (h), (i) and (j) of paragraph 1 of this Article.

The specific agreement shall contain the information referred to in points (a), (b) (c), (d), (e), and (g) of paragraph 1 and, where necessary, point (i) thereof.

3. Grant agreements may be amended only by written additional agreements. Such additional agreements shall not have the purpose or the effect of making such changes to agreements as would call into question the grant award decision or be contrary to the equal treatment of applicants.

#### CHAPTER 2

##### Award principles

#### Article 165

##### No-profit rule

(Article 109(2) of the Financial Regulation)

1. The grant may not have the purpose or effect of producing a profit for the beneficiary. Profit shall be defined as:

- (a) a surplus of receipts over the costs of the action in question when the request is made for final payment of a grant for an action, subject to the second subparagraph;
- (b) a surplus balance on the operating budget of a body in receipt of an operating grant.

In the case of actions designed specifically to strengthen the financial capacity of a beneficiary, in the field of external action, the distribution to the members making up the beneficiary body of a grant for an action of the surplus revenue resulting from its activity, leading to their personal enrichment, shall also be considered as profit.

<sup>(1)</sup> OJ L 8, 12.1.2001, p. 1.

2. The provisions of paragraph 1 shall not apply to study, research or training scholarships paid to natural persons, nor to prizes awarded following contests, nor in the case of the flat-rate amounts referred to in Article 181(1).

#### Article 166

### Annual programming

(Article 110(1) of the Financial Regulation)

1. The annual work programme for grants shall be adopted by the Commission. It shall be published on the grants Internet site of the Commission by no later than 31 January each financial year.

The work programme shall specify the basic act, the objectives, the schedule of calls for proposals with the indicative amount and the results expected.

2. Any substantial change in the grants programme shall also be published as specified in paragraph 1.

#### Article 167

### Content of calls for proposals

(Article 110(1) of the Financial Regulation)

1. Calls for proposals shall specify:

- (a) the objectives pursued;
- (b) the eligibility, selection and award criteria as referred to in Articles 114 and 115 of the Financial Regulation, and the relevant supporting documents;
- (c) the arrangements for Community financing;
- (d) the arrangements and final date for the submission of proposals and the possible start-up date for the actions and the planned date for closing the award procedure.

2. Calls for proposals shall be published on the Internet site of the European institutions and by any other appropriate medium, including the *Official Journal of the European Communities*, in order to provide maximum publicity among potential beneficiaries.

#### Article 168

### Exceptions to calls for proposals

(Article 110(1) of the Financial Regulation)

1. Grants may be awarded without a call for proposals only in the following cases:

- (a) for the purposes of humanitarian aid, within the meaning of Council Regulation No 1257/96 <sup>(1)</sup> and aid for crisis situations within the meaning of paragraph 2;
- (b) in other exceptional and duly substantiated emergencies;
- (c) to bodies with a *de jure* or *de facto* monopoly, duly substantiated in the Commission's award decision;
- (d) to bodies identified by a basic act as recipients of a grant.

2. Crisis situations shall be understood to mean, for third countries, situations posing a threat to law and order, the security and safety of individuals, threatening to escalate into armed conflict or to destabilise the country, and which could seriously harm:

- (a) the safeguarding of the common values, fundamental interests, independence and integrity of the European Union;
- (b) the security of the European Union, peace-keeping and international security, promotion of international cooperation or development and strengthening of democracy, the rule of law, respect for human rights and fundamental freedoms, in accordance with Article 11 of the Treaty on European Union and Article 3 of Council Regulation (EC) No 381/2001 <sup>(2)</sup>.

#### Article 169

### Ex post publication

(Article 110(2) of the Financial Regulation)

1. All grants awarded in the course of a financial year, except scholarships paid to natural persons, shall be published on the Internet site of the Community institutions during the first half of the year following the closure of the budget year in respect of which they were awarded.

In cases where management is delegated to the bodies referred to in Article 54 of the Financial Regulation, reference shall be made at least to the address of the website where this information can be found if it is not published directly on the Internet site of the Community institutions.

The information may also be published by any other appropriate medium, including the *Official Journal of the European Communities*.

<sup>(1)</sup> OJ L 163, 2.7.1996, p. 1.

<sup>(2)</sup> OJ L 57, 27.2.2001, p. 5.



2. The following shall be published with the agreement of the beneficiary in accordance with point (f) of Article 164(1):

- (a) the name and address of the beneficiaries;
- (b) the subject of the grant;
- (c) the amount awarded and, save in the case of the flat-rate amounts referred to in Article 181(1), the rate of funding of the costs of the action or approved work programme.

The obligation laid down in the first subparagraph may be waived if publication of the information may threaten the safety of the beneficiaries or harm their business interests.

#### Article 170

##### **Joint financing**

(Article 111 of the Financial Regulation)

An action may be financed jointly from separate budget lines by a number of authorising officers.

#### Article 171

##### **Retroactive effect for management of humanitarian aid and crisis situations**

(Article 112 of the Financial Regulation)

In order to ensure that humanitarian aid operations and operations in crisis situations within the meaning of Article 168(2) are conducted efficiently, expenditure incurred by a beneficiary before the date of submission of the application shall be eligible for Community financing solely in the following cases:

- (a) where the expenditure relates to the constitution of stocks by the applicant for use in connection with the action for which the grant is awarded;
- (b) by way of exception and for properly substantiated reasons, where the financing decision and the grant agreement explicitly provide for this by setting an eligibility date earlier than the date for submission of applications.

#### Article 172

##### **External co-financing**

(Article 113 of the Financial Regulation)

1. The beneficiary shall supply evidence of the co-financing provided, either by way of own resources, or in the form of financial transfers from third parties, or in kind, save in the case of the flat-rate amounts referred to in Article 181(1).

2. The authorising officer may, in duly substantiated exceptional cases, accept co-financing in kind. In such cases the value of such contributions must not exceed:

- (a) either the costs actually borne and duly supported by accounting documents;

- (b) or the costs generally accepted on the market in question.

Contributions involving real estate as referred to in Article 116(1) shall be excluded from the calculation of the amount of co-financing.

#### CHAPTER 3

##### **Award procedure**

#### Article 173

##### **Financing applications**

(Article 114 of the Financial Regulation)

1. Applications shall be made on the form distributed by the authorising officers responsible and in accordance with the criteria laid down in the basic act and the call for proposals.

2. The application shall show that the applicant exists as a legal person and has the financial and operational capacity to complete the proposed action or work programme, subject to Article 176(4).

For that purpose the authorising officer shall request a declaration from potential beneficiaries on their honour. The profit and loss account, the balance sheet for the last financial year for which the accounts have been closed and any other supporting document requested in the call for proposals shall, depending on the analysis of management risks conducted by the authorising officer responsible on his own responsibility, also be attached to the application.

3. The budget for the action or the operating budget attached to the application must have revenue and expenditure in balance and show clearly the costs which are eligible for financing from the Community budget, save in the case of the flat-rate amounts referred to in Article 181(1).

4. For actions where the cost to be financed exceeds EUR 300 000 and for operating grants of over EUR 75 000, the application shall be accompanied by an external audit report produced by an approved auditor. That report shall certify the accounts for the last financial year available and give an assessment of the financial viability of the applicant within the meaning of Article 176(2).

The provisions of the first subparagraph shall apply only to the first application made by a beneficiary to an authorising officer in any one budget year.

In the case of agreements linking the Commission and a number of beneficiaries, those thresholds shall apply to each beneficiary.

In the case of partnerships as referred to in Article 163, an external audit covering the last two financial years available must be produced before the framework agreement is concluded.

The authorising officer responsible may, depending on his analysis of management risks, waive that obligation for public bodies, secondary and higher education establishments, the international organisations referred to in Article 43, and beneficiaries who have accepted joint and several liability in the case of agreements with a number of beneficiaries.

5. The applicant shall indicate the sources and amounts of any other funding received or applied for in the same financial year for the same action or for any other action and for routine activities.

#### *Article 174*

### **Proof of applicants' eligibility**

(Article 114 of the Financial Regulation)

Applicants shall declare on their honour that they are not in one of the situations listed in Article 93(1) of the Financial Regulation. The authorising officer responsible may, depending on the analysis of management risks, request the evidence referred to in Article 134. Applicants shall be bound to supply such proof, unless there is a material impossibility recognised by the authorising officer responsible.

#### *Article 175*

### **Financial and administrative penalties**

(Article 114 of the Financial Regulation)

1. Applicants who are found guilty of false declarations may receive financial penalties in accordance with the conditions laid down in Article 133 in proportion to the value of the grants in question.

Beneficiaries who have been found to have seriously failed to meet their contractual obligations may receive financial penalties in accordance with the same conditions.

2. Applicants and beneficiaries who are in one of the situations referred to in Articles 93 to 96 of the Financial Regulation may also be excluded from Community grants and contracts in accordance with the conditions laid down in Article 133.

#### *Article 176*

### **Selection criteria**

(Article 115(1) of the Financial Regulation)

1. The selection criteria shall be published in the call for proposals and shall be such as to make it possible to assess the applicant's financial and operational capacity to complete the proposed action or work programme.

2. The applicant must have stable and sufficient sources of funding to maintain his activity throughout the period during which the action is being carried out or the year for which the grant is awarded and to participate in its funding. The applicant must have the professional competencies and qualifications required to complete the proposed action or work programme unless specifically provided otherwise in the basic act.

3. Financial and operational capacity shall be verified in particular on the basis of an analysis of the supporting documents referred to in Article 173.

4. The verification of financial capacity shall not apply to natural persons in receipt of scholarships nor to public bodies, nor to the international organisations referred to in Article 43.

In the case of the partnerships referred to in Article 163, that verification shall be performed before the framework agreement is concluded.

#### *Article 177*

### **Award criteria**

(Article 115(2) of the Financial Regulation)

1. The award criteria shall be published in the call for proposals.

2. The award criteria shall be such as to enable grants to be awarded either to the actions which maximise the overall effectiveness of the Community programme which they implement or to the bodies whose work programme is designed to attain the same result. Those criteria shall be defined in such a way as to ensure also that the Community funds are properly managed.

These criteria shall be applied in such a way as to enable the selection of planned actions or work programmes which the Commission can be confident will comply with its objectives and priorities and guarantee the visibility of the Community financing.

3. The award criteria shall be defined in such a way that it will be possible subsequently to carry out an evaluation.

#### *Article 178*

### **Evaluation of applications and award**

(Article 116 of the Financial Regulation)

1. The authorising officer responsible shall appoint a committee to evaluate the proposals, save in the case of a Commission decision on a specific sectoral programme.

The committee shall be made up of at least three persons representing at least two organisational entities of the Commission with no hierarchical link between them. To avoid any conflict of interests, those persons shall be subject to the obligations laid down in Article 52 of the Financial Regulation.

In the representations and local units referred to in Article 254 and the delegated bodies referred to in Article 160(1), if there are no separate entities, the requirement of organisational entities with no hierarchical link between them shall not apply.

Outside experts may assist the committee by decision of the authorising officer responsible.

2. The evaluation committee may ask an applicant to provide additional proof or to clarify the supporting documents establishing financial and operational capacity, within a specified time limit.

3. Upon completion of its work, the members of the evaluation committee shall sign a record of all the proposals examined, containing an assessment of their quality and identifying those which may receive funding. Where necessary that record shall rank the proposals examined.

The record shall be kept for future reference.

4. The authorising officer responsible shall then take his decision giving at least:

- (a) the subject and the overall amount of the decision;
- (b) the name of the beneficiaries, the title of the actions, the amounts accepted and the reasons for that choice, including where it is inconsistent with the opinion of the evaluation committee;
- (c) the names of any applicants rejected and the reasons for that rejection.

5. The provisions of paragraphs 1 to 4 shall not apply to beneficiaries of grants who are identified in the basic act.

#### Article 179

### Information for applicants

(Article 116 of the Financial Regulation)

Applicants shall be informed within fifteen calendar days after the award decision has been sent to the beneficiaries.

#### CHAPTER 4

### Payment and control

#### Article 180

### Supporting documents for requests for payments

(Article 117 of the Financial Regulation)

1. For each grant, where pre-financing is split, each new payment shall be subject to consumption of at least 70 % of the total amount of any earlier pre-financing. The statement of the beneficiary's outlay shall be produced in support of any request for a new payment.

2. An external audit of the accounts produced by an approved auditor may be demanded by the authorising officer responsible in support of any payment on the basis of his analysis of management risks. In the case of a grant for an action or of an operating grant, the audit report shall be attached to the request for payment. Its purpose is to certify that the submitted accounts are sincere, reliable and substantiated by adequate supporting documents.

An external audit shall be compulsory:

- (a) in the case of grants for an action, in respect of the following payments:
  - (i) pre-financing or interim payments the sum of which exceeds EUR 750 000 per financial year and per agreement;
  - (ii) payments, of balances, which exceed EUR 150 000;
- (b) in the case of operating grants, in respect of payments which exceed EUR 75 000 per financial year.

However, in the cases referred to in points (a) and (b), an audit shall not be necessary in respect of the first pre-financing payment.

Depending on his analysis of management risks, the authorising officer responsible may waive the audit obligation in the case of:

- (a) public bodies and the international organisations referred to in Article 43;
- (b) the beneficiaries of grants in connection with humanitarian aid and the management of crisis situations, save in respect of payments of balances.

In the case of an agreement linking the Commission and a number of beneficiaries, the thresholds referred to in points (a) and (b) of the second subparagraph shall apply to each beneficiary.

#### Article 181

### Flat-rate financing

(Article 117 of the Financial Regulation)

1. In addition to cases of scholarships and prizes, the basic act may authorise flat-rate financing for contributions of less than EUR 5 000 or the use of scales of unit costs.

In order to ensure compliance with the principles of co-financing, no-profit and sound financial management, those flat-rate amounts and scales shall be reviewed at least every two years by the authorising officer responsible. The amounts shall be approved by the Commission.

2. The grant agreement may authorise flat-rate cover:
  - (a) of the beneficiary's overheads up to a maximum of 7 % of total eligible costs for the action, save where the beneficiary is in receipt of an operating grant financed from the Community budget;
  - (b) of certain mission expenses on the basis of a per diem scale approved annually by the Commission.

The ceiling provided for in point (a) of the first subparagraph may be exceeded by reasoned decision of the Commission.

#### Article 182

#### Advance guarantee

(Article 118 of the Financial Regulation)

1. The authorising officer responsible may require the beneficiary to lodge a guarantee in advance in order to limit the financial risks connected with the payment of pre-financing.
2. Where pre-financing represents over 80 % of the total amount of the grant, payment may not be made until after the beneficiary has lodged a guarantee subject to the assessment and acceptance of the authorising officer responsible.

For NGOs operating in the field of external action, that guarantee shall be demanded in respect of pre-financing exceeding EUR 1 000 000 or representing over 90 % of the total amount of the grant.

The guarantee shall be valid for a period sufficiently long to allow it to be activated.

3. The guarantee shall be provided by an approved bank or financial institution established in one of the Member States.

The guarantee may be replaced by a joint and several guarantee by a third party or by the joint guarantee of the beneficiaries of an action who are parties to the same grant agreement.

The guarantee shall be denominated in euro.

It shall have the effect of making the bank or financial institution, third party or the other beneficiaries stand as irrevocable collateral security, or first-call guarantor of the grant beneficiary's obligations.

4. The guarantee shall be released as the pre-financing is gradually cleared against interim payments or payments of balances to the beneficiary in accordance with the conditions laid down in the grant agreement.
5. The authorising officer responsible may waive the obligation laid down in paragraph 2 for public-sector bodies and the international organisations referred to in Article 43.

The authorising officer responsible may also exempt from that obligation beneficiaries who have concluded a framework partnership agreement under Article 163.

#### Article 183

#### Suspension and reduction of grants

(Article 119 of the Financial Regulation)

1. The authorising officer responsible shall suspend payments and, depending on the stage reached in the procedure, either reduce the grant or demand reimbursement pro rata by the beneficiary or beneficiaries:
  - (a) where the agreed action or work programme is not carried out at all, or is not carried out properly, in full or on time;
  - (b) where amounts exceeding the financing ceilings set in the agreement have been paid, in particular if the agreed action or work programme has been carried out at a lower cost than initially forecast;
  - (c) where the budget for the action or the operating budget reveals a surplus ex post.
2. Payments may also be suspended following presumed infringements of other clauses of the agreement. The purpose of such suspension shall be to give time to check whether the presumed infringements have in fact occurred and, where appropriate, to rectify them.

#### CHAPTER 5

#### Implementation

#### Article 184

#### Implementation contracts

(Article 120 of the Financial Regulation)

1. Where implementation of the assisted actions requires the award of procurement contracts, beneficiaries of grants shall award the contract to the tender offering best value for money, that is to say, to the tender offering the best price-quality ratio, in compliance with the principles of transparency and equal treatment for potential contractors, care being taken to avoid any conflict of interests.
  2. For the purposes of paragraph 1, the authorising officer responsible may require beneficiaries to abide by special rules, determined with due respect for the value of the contracts concerned, the relative size of the Community contribution in relation to the total cost of the action and the management risk.
- In that case such rules shall be included in the grant agreement.

## TITLE VII

## PRESENTATION OF THE ACCOUNTS AND ACCOUNTING

## CHAPTER 1

## Article 189

**Presentation of the accounts****Principle of consistent accounting methods**

## Article 185

(Article 124 of the Financial Regulation)

**Report on budgetary and financial management during the year**

(Article 122 of the Financial Regulation)

The report on budgetary and financial management during the year shall give an accurate description of:

- (a) the achievement of the objectives for the year, in accordance with the principle of sound financial management;
- (b) the financial situation and the events which have had a significant influence on activities during the year.

1. The principle of consistent accounting methods means that the structure of the components of the financial statements and the accounting methods and valuation rules may not be changed from one year to the next.

2. The Commission's accounting officer may not depart from the principle of consistent accounting methods other than in exceptional circumstances, in particular:

- (a) in the event of a significant change in the nature of the entity's operations;
- (b) where the change made is for the sake of a more appropriate presentation of the accounting operations.

## Article 186

**Exception to the accounting principles**

## Article 190

(Article 124 of the Financial Regulation)

Where, in a specific case, the accounting officers consider that an exception should be made to the content of one of the accounting principles defined in Articles 187 to 1941, that exception shall be duly substantiated and reported in the annex to the financial statements referred to in Article 203.

**Principle of comparability of information**

(Article 124 of the Financial Regulation)

## Article 187

**Going-concern principle**

(Article 124 of the Financial Regulation)

1. The going-concern principle means that for the purposes of preparing the financial statements, the institutions and the bodies referred to in Article 185 of the Financial Regulation shall be deemed to be established for an indefinite duration.

2. Where there are objective indications that an institution or a body referred to in Article 185 of the Financial Regulation is to cease its activities, the accounting officer shall present that information in the annex, indicating the reasons. The accounting officer shall apply the accounting rules with a view to determining the liquidation value of the institution or body concerned.

1. The principle of comparability of information means that for each item the financial statements shall also show the amount of the corresponding item the previous year.

2. Where, pursuant to paragraph 1, the presentation or the classification of one of the components of the financial statements is changed, the corresponding amounts for the previous year shall be made comparable and reclassified.

Where it is impossible to reclassify items, this shall be explained in the annex referred to in Article 203.

## Article 191

**Materiality principle**

(Article 124 of the Financial Regulation)

## Article 188

**Principle of prudence**

(Article 124 of the Financial Regulation)

The principle of prudence means that assets and income shall not be overstated and liabilities and charges shall not be understated. However, the principle of prudence does not allow the creation of hidden reserves or undue provisions.

1. The materiality principle means that all operations which are of significance for the information sought shall be taken into account in the financial statements. Materiality shall be assessed in particular by reference to the nature of the transaction or the amount.

2. Transactions may be aggregated where:

- (a) the transactions are identical in nature, even if the amounts are large;
- (b) the amounts are negligible;
- (c) aggregation makes for clarity in the financial statements.



*Article 192***No-netting principle**

(Article 124 of the Financial Regulation)

The no-netting principle means that receivables and debts may not be offset against each other, nor may charges and income, save where charges and income derive from the same transaction, from similar transactions or from hedging operations and provided that they are not individually material.

*Article 193***Principle of reality over appearance**

(Article 124 of the Financial Regulation)

The principle of reality over appearance means that accounting events recorded in the financial statements shall be presented by reference to their economic nature.

*Article 194***Accrual-based accounting principle**

(Article 125 of the Financial Regulation)

1. The accrual-based accounting principle means that transactions and events shall be entered in the accounts when they occur and not when amounts are actually paid or recovered. They shall be booked to the financial years to which they relate.

2. The accounting methods provided for in Article 133 of the Financial Regulation shall specify the obligating event for the entry of each transaction in the accounts.

*Article 195***Valuation of assets and liabilities**

(Article 125 of the Financial Regulation)

1. Assets and liabilities shall be valued at purchase price or production cost. However, the value of non-financial fixed assets and formation expenses shall be written down for depreciation. In addition a write-down may be applied where the value of an asset decreases and an increase in the value of a liability may be covered by a provision.

2. The accounting rules and methods referred to in Article 133 of the Financial Regulation may lay down that all items or only some of them are to be valued at a value other than their purchase price.

*Article 196***Provisions**

(Article 125 of the Financial Regulation)

A provision shall be made only if the following conditions are satisfied:

- (a) a current obligation exists as a result of a past event;
- (b) resources representing economic benefits will probably have to be used to extinguish the obligation;
- (c) the amount of the obligation can be reliably estimated.

*Article 197***Structure of the balance sheet**

(Article 126 of the Financial Regulation)

1. The balance sheet shall be made up of the various items classified by titles and sub-titles.
2. Assets items shall be classified by increasing degree of liquidity, and liability items by increasing degree of callability.

*Article 198***Presentation of the balance sheet**

(Article 126 of the Financial Regulation)

For the presentation of the balance sheet, the accounting officer shall use at least the following headings:

*Assets*

- Formation expenses
- Intangible fixed assets
- Tangible fixed assets
- Financial fixed assets
- Debtors: due in over one year
- Stocks
- Debtors: due in one year or less
- Cash and cash equivalents
- Prepayments and accrued income

*Liabilities*

- Capital (made up of the economic result for the year, the result brought forward from earlier years and reserves)
- Provisions
- Creditors: due in over one year
- Creditors: due in one year or less
- Accruals and deferred income.

*Article 199***Economic outturn account**

(Article 126 of the Financial Regulation)

The economic outturn account shall show the income and charges for the year, classified according to their nature.

*Article 200***Presentation of the economic outturn account**

(Article 126 of the Financial Regulation)

For the presentation of the economic outturn account, the accounting officer shall apply the following minimum layout:

Operating income

- Operating charges

= Operating result

+/- Financial result

= Result from ordinary activities

+/- Exceptional result

= Result for the year

*Article 201***Cash flow table**

(Article 126 of the Financial Regulation)

The cash flow table shall show treasury movements.

The treasury shall be made up of the following:

(a) cash in hand;

(b) bank accounts and deposits payable on demand; and

(c) other disposable assets which can quickly be converted to cash and whose value is stable.

*Article 202***Cash flow classification**

(Article 126 of the Financial Regulation)

1. The cash flow table shall show treasury movements broken down into operating flows, investment flows and financial flows.

2. The operating cash flow shall show treasury movements resulting from ordinary activities.

3. The investment cash flow shall show treasury movements resulting from the acquisition or sale of fixed assets.

4. The financial cash flow shall show the treasury movements resulting from borrowing and lending and any other financial source.

*Article 203***Annex to the financial statements**

(Article 126 of the Financial Regulation)

The annex referred to in Article 126 of the Financial Regulation shall form an integral part of the financial statements. It shall contain at least the following information:

- (a) accounting principles, rules and methods;
- (b) explanatory notes, supplying additional information not contained in the body of the financial statements which is necessary for an accurate picture;
- (c) off-balance-sheet commitments showing entitlements and obligations not included in the balance sheet which could have a material impact on the assets and liabilities, the financial situation or the result of the entity concerned.

*Article 204***Explanatory notes**

(Article 126 of the Financial Regulation)

The explanatory notes shall be presented with cross references to the items in the financial statements to which they relate and in the same order of presentation.

*Article 205***Budgetary outturn account**

(Article 127 of the Financial Regulation)

1. The budgetary outturn account shall contain:

- (a) information on revenue comprising:
  - (i) changes in the revenue estimates in the budget;
  - (ii) the revenue outturn;
  - (iii) entitlements established;
- (b) information showing changes in the total commitment and payment appropriations available;
- (c) information showing the use made of the total commitment and payment appropriations available;
- (d) information showing commitments outstanding, those carried over from the previous year and those made during the year.

2. As regards information on revenue, a statement shall also be attached showing, for each Member State, the breakdown of amounts of own resources still to be recovered at the end of the financial year and covered by a recovery order.

*Article 206***Annex to the budgetary outturn account**

(Article 127 of the Financial Regulation)

The annex to the budgetary outturn account referred to in Article 127 of the Financial Regulation shall contain at least:

- (a) information on the budget principles, types of appropriation and the structure of the budget;
- (b) information on commitments outstanding;
- (c) the information required for a proper understanding of the budget outturn.

*CHAPTER 2***(Chapter 3 of the Financial Regulation)****Accounting***Section 1***Organisation of the accounts***Article 207***Organisation of the accounts**

(Article 132 of the Financial Regulation)

1. The accounting officer of each institution and body referred to in Article 185 of the Financial Regulation shall draw up and keep updated documents describing the organisation of the accounts and accounting procedures of his institution.
2. In drawing up the financial statements, as little use as possible shall be made of information from outside the accounts.
3. Budget revenue and expenditure shall be recorded in the computerised system referred to in Article 208, according to the economic nature of the operation, as current revenue or expenditure or as capital.

*Article 208***Computerised systems**

(Article 132 of the Financial Regulation)

1. The accounts shall be kept with the help of an integrated computerised system.
2. Where accounts are kept using computerised systems and subsystems, such systems and subsystems shall be described in full.

That description shall define the content of all data fields and specify how the system treats individual operations. It shall state how the system guarantees the existence of a complete audit trail for each operation and for any change made to the

computerised systems and subsystems so that it is possible at any time to identify the nature of the change and the person who made it.

The description of computerised accounting systems and subsystems shall indicate any links between those systems and the central accounting system, particularly as regards the transfer of data and the reconciliation of balances.

3. Access to the computerised systems and subsystems shall be confined to persons included on a list of authorised users which is kept and updated by each institution.

*Section 2***Accounting ledgers***Article 209***Accounting ledgers**

(Article 135 of the Financial Regulation)

1. Each institution and each body referred to in Article 185 of the Financial Regulation shall keep a journal, a general ledger and an inventory.
2. The accounting ledgers shall consist of electronic documents which are identified by the accounting officer and offer full guarantees for use as evidence.
3. Entries in the journal shall be transferred to the general ledger, itemised according to the chart of accounts referred to in Article 212.
4. The journal and the general ledger may be split into as many special journals and special ledgers as are necessary to meet requirements.
5. Entries recorded in special journals and special ledgers shall be centralised at least every month in the journal and in the general ledger.

*Article 210***Trial balance**

(Article 135 of the Financial Regulation)

Each institution and body referred to in Article 185 of the Financial Regulation shall establish a trial balance covering all the accounts of the general accounts, including the accounts cleared during the year, with, in each case:

- (a) account number;
- (b) description;
- (c) total debits;
- (d) total credits;
- (e) balance.

*Article 211***Inventory**

(Article 135 of the Financial Regulation)

1. The inventory is a statement of all assets and liabilities and commitments of all kinds, indicating for each item the quantity and value on the inventory date.
2. The data in the inventory shall be kept and organised in such a way as to justify the content of each of the accounts included in the trial balance.
3. As regards the inventory of fixed assets, the provisions of Articles 220 to 227 shall apply.

*Section 3***Chart of accounts***Article 212***Chart of accounts**

(Article 135 of the Financial Regulation)

1. The chart of accounts shall be adopted by the Commission's accounting officer.
2. The chart of accounts shall divide the accounts into classes.

Each class may be subdivided into groups or subgroups, as required.

3. The chart of accounts must contain at least the following classes:

- (a) for the balance-sheet accounts:
  - (i) class 1: accounts for capital, provisions and creditors due in over one year;
  - (ii) class 2: accounts for formation expenses, fixed assets and debtors due in over one year;
  - (iii) class 3: stock accounts;
  - (iv) class 4: accounts for debtors and creditors due in one year or less;
  - (v) class 5: financial accounts;
- (b) for the revenue and expenditure accounts:
  - (i) class 6: charges accounts;
  - (ii) class 7: income accounts;
- (c) for the special accounts:
 

classes 8 and 9: special accounts;
- (d) for off-balance-sheet transactions:
 

class 0: off-balance-sheet transactions.

4. The contents of each account and class and its operation shall be laid down in the chart of accounts.

*Section 4***Registration***Article 213***Entries in the accounts**

(Article 135 of the Financial Regulation)

1. Entries shall be made using the double entry method, whereby any movement or variation recorded in the accounts shall be represented by an entry establishing an equivalence between the amount debited and the amount credited in the various accounts affected by that entry.

2. The euro counterpart of a transaction denominated in a currency other than the euro shall be calculated and entered in the accounts.

Transactions in foreign currencies in accounts which can be revalued shall be revalued at least each time the accounts are closed.

That revaluation shall be based on the rates laid down in accordance with Article 8.

The rate to be used for conversion between the euro and another currency to draw up the balance sheet at 31 December of year N shall be that of the last working day of year N-1.

*Article 214***Accounting records**

(Article 135 of the Financial Regulation)

All accounting records shall specify the origin, content and booking reference of each data item and the references of the relevant supporting documents.

*Article 215***Supporting documents**

(Article 135 of the Financial Regulation)

1. Each entry shall be based on a dated and numbered supporting document, produced on paper or on a medium which guarantees the reliability and safeguarding of its content for the periods laid down in Article 49.

2. Operations of the same type, carried out in the same place and on the same day may be summarised in a single supporting document.

*Article 216***Recording in the journal**

(Article 135 of the Financial Regulation)

Accounting operations shall be recorded in the journal by one of the following methods, which are not mutually exclusive:

- (a) day by day, operation by operation;
- (b) in the form of a monthly summary of the total amounts involved in operations, provided that all documents allowing verification of individual operations day by day are kept.

*Article 217***Validation of entries**

(Article 135 of the Financial Regulation)

1. Entries in the journal and in an inventory ledger shall be made final by means of a validation procedure prohibiting any change to or deletion of the entry.
2. A closure procedure designed to freeze the chronology of records and guarantee their inviolability shall be implemented at the latest before the final financial statements are presented.

*Section 5***Reconciliation and verification***Article 218***Reconciliation of accounts**

(Article 135 of the Financial Regulation)

1. The balance of accounts in the trial balance shall be reconciled periodically, and at least at the annual closure, with the data from the management systems used by authorising officers for the management of assets and liabilities and for the daily input into the accounting system.
2. Periodically, and at least whenever the accounts are closed, the accounting officer shall check that the data in the inventory ledger referred to in Article 209 correspond to the actual situation, in particular as regards:
  - (a) cash at bank, by reconciliation of the statements of account from financial institutions;
  - (b) cash in cash offices, by reconciliation with the data in the cash book.

The fixed assets accounts shall be reviewed in accordance with Article 224.

3. The interinstitutional liaison accounts shall be reconciled and cleared monthly.

4. The suspense accounts shall be reviewed annually by the accounting officer so that they can be cleared as soon as possible.

*Section 6***Budget accounts***Article 219***Content and keeping of budget accounts**

(Article 137 of the Financial Regulation)

1. The budget accounts shall show, for each subdivision of the budget:
  - (a) in the case of expenditure:
    - (i) the appropriations authorised in the initial budget, the appropriations entered in amending budgets, the appropriations carried over, the appropriations available following collection of assigned revenue, transfers of appropriations and the total appropriations thus available;
    - (ii) the commitments and payments in respect of the financial year;
  - (b) in the case of revenue:
    - (i) the estimates entered in the initial budget, the estimates entered in amending budgets, assigned revenue and the total amount of estimates thus determined;
    - (ii) the entitlements established and the amounts recovered in respect of the financial year in question;
  - (c) the commitments still to be paid and revenue still to be recovered carried forward from previous financial years.

The commitment appropriations and payment appropriations referred to in point (a) of the first subparagraph shall be entered and shown separately.

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

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

2. The budget accounts shall show separately:
  - (a) the use of appropriations carried over and the appropriations for the year;
  - (b) the clearance of outstanding commitments.

On the revenue side, amounts still to be recovered from previous financial years shall be shown separately.

3. The budget accounts may be organised in such a way as to develop a cost accounting system.
4. The budget accounts shall be kept using computer systems, in books or on file cards.



## CHAPTER 3

## Article 225

**(Chapter 4 of the Financial Regulation)****Resale of property****Property inventories**

(Article 138 of the Financial Regulation)

## Article 220

**Property inventories**

(Article 138 of the Financial Regulation)

The system of property inventories shall be established by the authorising officer with technical assistance from the accounting officer. That inventory system must supply all the information required for keeping the accounts and safeguarding assets.

Members, officials or other servants and any other staff of the institutions and bodies referred to in Article 185 of the Financial Regulation may not acquire items that are resold by these institutions and bodies, save where those items are resold by public tender procedure.

## Article 226

**Procedure for sale of fixed assets**

(Article 138 of the Financial Regulation)

## Article 221

**Safeguarding property**

(Article 138 of the Financial Regulation)

Each of the institutions shall adopt provisions on safeguarding the property included in their respective balance sheets and decide which administrative departments are responsible for the inventory system.

1. Sales of fixed assets shall be advertised locally in appropriate fashion, if the unit purchase value is EUR 8 100 or more. The period between publication of the last announcement and conclusion of the sales contract shall be no less than fourteen calendar days.

## Article 222

**Entry of items in the inventory**

(Article 138 of the Financial Regulation)

All items acquired whose purchase price or production cost is EUR 420 or more, with a period of use greater than one year, and which are not consumables shall be entered in the inventory and recorded in the fixed assets accounts.

Those sales shall be the subject of a notice of sale published in the *Official Journal of the European Communities*, if the unit purchase value is EUR 391 100 or more. Appropriate advertising may also be placed in the Member States' press. The period between the date of publication of the notice in the *Official Journal of the European Communities* and conclusion of the sales contract shall be no less than one month.

2. The institutions may forgo advertising where the cost of advertising exceeds the expected return from the operation.

3. The institutions shall always endeavour to obtain the best price for sales of fixed assets.

## Article 223

**Content of the inventory for each item**

(Article 138 of the Financial Regulation)

The inventory shall contain an appropriate description of each item and specify its location, the date of acquisition and its unit cost.

## Article 227

**Procedure for disposing of fixed assets**

(Article 138 of the Financial Regulation)

## Article 224

**Inventory checks**

(Article 138 of the Financial Regulation)

Inventory checks carried out by the institutions shall be performed in such a way as to ensure that each item physically exists and matches the relevant entry in the inventory. Such checks shall be carried out under an annual verification programme, save for tangible and intangible fixed assets, which shall be checked at least on a three-year basis.

A statement or record shall be drawn up by the authorising officer whenever any property in the inventory is sold, given away free of charge, scrapped, hired out or missing on account of loss, theft or any other reason.

The statement or record shall indicate in particular whether the item must be replaced at the expense of an official or other servant of the Communities or any other person.

Where immovable property or major installations are made available free of charge, a contract must be drawn up and the case notified in an annual report sent to the European Parliament and the Council when the preliminary draft budget is presented.

PART TWO  
**SPECIAL PROVISIONS**

TITLE I  
**(TITLE II OF THE FINANCIAL REGULATION)**

**STRUCTURAL FUNDS**

*Article 228*

**Repayment of payments on account**

(Article 157 of the Financial Regulation)

In accordance with the regulations on the Structural Funds and the Cohesion Fund, the repayment in full or in part of payments on account in respect of a given operation shall not have the effect of reducing the contribution from the Fund to the operation concerned.

Amounts repaid shall constitute assigned revenue in accordance with point (f) of Article 18(1) of the Financial Regulation.

TITLE II  
**(TITLE III OF THE FINANCIAL REGULATION)**

**RESEARCH**

*Article 229*

**Types of operations**

(Article 160 of the Financial Regulation)

1. The research and technological development appropriations shall be used to carry out direct action, indirect action under the framework programme for research referred to in Article 166 of the EC Treaty, and the action referred to in Article 165 of that Treaty by participation in programmes and competitive activities conducted by the Joint Research Centre (JRC).

2. Direct action shall be carried out by the establishments of the JRC and shall in principle be entirely financed from the budget. It shall consist of:

- (a) research programmes;
- (b) exploratory research activities;
- (c) scientific and technical support activities of an institutional nature.

3. Indirect action shall consist of programmes carried out under contracts to be concluded with third parties. The JRC may participate in those activities on the same basis as third parties.

4. To ensure that national research policies and Community research policy are mutually consistent, the Commission may take initiatives in accordance with Article 165 of the EC Treaty and charge exclusively administrative expenditure to the budget.

5. In addition to the specific programmes referred to in Article 166(3) of the EC Treaty, the Community may adopt:

- (a) supplementary programmes in which only certain Member States take part, in accordance with Article 168 of the EC Treaty;
- (b) programmes undertaken by several Member States, including participation in the structures created for the execution of those programmes, in accordance with Article 169 of the EC Treaty;
- (c) cooperation with third countries or international organisations in accordance with Article 170 of the EC Treaty;
- (d) joint undertakings, in accordance with Article 171 of the EC Treaty.

6. The activities of a competitive nature conducted by the JRC shall consist of:

- (a) scientific and technical support activities under the research and technological development framework programmes, in principle entirely financed from the budget;
- (b) services for third parties.

*Article 230*

**Rules applicable to the JRC**

(Article 161 of the Financial Regulation)

1. The estimates of amounts receivable referred to in Article 161(2) of the Financial Regulation shall be sent to the accounting officer for registration.

2. Where the activities conducted by the JRC for third parties involve procurement, the procurement procedure shall comply with the principles of transparency and equal treatment.

## TITLE III

## (TITLE IV OF THE FINANCIAL REGULATION)

## EXTERNAL ACTIONS

## CHAPTER I

## Article 233

**GENERAL PROVISIONS****Special loans**

(Article 166 of the Financial Regulation)

## Article 231

**Actions which may be financed**

A loan contract shall be drawn up between the Commission, acting for the Community, and the borrower in respect of any investment project financed by a special loan.

(Article 162 of the Financial Regulation)

Appropriations for the actions referred to in Title IV, Chapter 1 of Part Two of the Financial Regulation may, in particular, finance procurement contracts, grants, including interest rate subsidies, special loans, loan guarantees and financial assistance, budgetary support and other specific forms of budgetary aid.

## Article 234

**Bank accounts**

(Article 166 of the Financial Regulation)

1. For payments in the currency of the recipient State, accounts denominated in euro shall be opened with a financial institution in the recipient State in the name of the Commission or, by common agreement, of the recipient. The titles of those accounts shall make it possible to identify the funds in question.

2. The accounts referred to in paragraph 1 shall be endowed to meet actual cash requirements. Transfers shall be made in euro and converted, where necessary, into the currency of the recipient State as and when payments fall due, in accordance with Articles 7 and 8.

## CHAPTER 2

**Implementation of actions**

## Article 232

**Financing agreement in centralised management**

(Article 166 of the Financial Regulation)

1. Before a financing agreement is concluded for an action which is to be the subject of decentralised management, the authorising officer responsible shall ensure, by means of document and on-the-spot checks, that the management system set up by the beneficiary third country to manage the Community funds complies with Article 164(1) of the Financial Regulation.

2. Each financing agreement concluded in the context of decentralised management shall explicitly, in full or in part depending on the degree of decentralisation agreed, lay down provisions:

- (a) ensuring compliance with the criteria laid down in Article 164(1) of the Financial Regulation;
- (b) stating that, should the minimum criteria laid down in Article 164(1) of the Financial Regulation cease to be met, the Commission may suspend implementation of the agreement;
- (c) defining the adversarial clearance of accounts procedure, as provided for in Article 53(5) of the Financial Regulation, which may be used to identify the liability of the third country;
- (d) setting up the financial correction mechanisms referred to in Article 53(5) of the Financial Regulation and specified in Article 42, in particular as regards recovery by means of offsetting.

## CHAPTER 3

**Procurement**

## Article 235

**Renting of buildings**

(Article 167 of the Financial Regulation)

The only buildings contracts which may be financed from operating appropriations for external action shall be those relating to the renting of buildings already constructed at the time the lease is signed. These contracts shall be published as laid down in Article 119.

## Article 236

**Definitions**

(Article 167 of the Financial Regulation)

1. Service contracts shall comprise study and technical assistance contracts.

A study contract is a service contract concluded between a supplier and the contracting authority which includes studies for the identification and preparation of projects, feasibility studies, economic and market studies, technical studies and audits.

A technical assistance contract is where the supplier is called on to play an advisory role, to manage or supervise a project or to provide the consultants specified in the contract.

2. Where a third country has qualified management staff in its departments or entities with public-sector participation, the contracts may be performed directly by these departments or entities by direct labour.

#### Article 237

### Special provisions relating to thresholds and the arrangements for awarding external contracts

(Article 167(1)(a) and (b) of the Financial Regulation)

1. Articles 118 to 121, with the exception of the definitions, Article 122 (3) and (4), Articles 123, 126 to 129, 131 (3) to (6), Article 139 (2), Articles 140 to 146, Article 148 and Articles 151 and 152 shall not apply to procurement contracts concluded or on behalf of the contracting authorities referred to in points (a) and (b) of Article 167(1) of the Financial Regulation.

Implementation of the procurement provisions under this Chapter shall be decided by the Commission.

2. In the event of failure to comply with the procedures referred to in paragraph 1, expenditure on the operations in question shall not be eligible for Community financing.

3. Contracts awarded for food aid shall be covered by the specific arrangements of Commission Regulation (EC) No 2519/97 <sup>(1)</sup>.

4. This Chapter shall not apply to the contracting authorities referred to in point (b) of Article 167(1) of the Financial Regulation where, following the checks referred to in Article 35, the Commission has authorised them to use their own procurement procedures under decentralised management.

#### Article 238

### Procurement by the contracting authorities referred to in Article 167(1)(c) of the Financial Regulation

(Article 167(1)(c) of the Financial Regulation)

1. The provisions of this Chapter shall not apply to procurement by the contracting authorities referred to in point (c) of Article 167(1) of the Financial Regulation.

2. The provisions of this Chapter shall not apply to actions under Regulation (EC) No 1257/96.

3. The specific procurement procedures to be used in the cases referred to in paragraphs 1 and 2 shall be decided by the Commission in accordance with the principles referred to in Article 184.

<sup>(1)</sup> OJ L 346, 17.12.1997, p. 23.

4. In the event of failure to comply with the procedures referred to in paragraph 3, expenditure on the operations in question shall not be eligible for Community financing.

#### Article 239

### Advertising and non-discrimination

(Articles 167 and 168 of the Financial Regulation)

The Commission shall take the necessary implementing measures to guarantee as wide a participation as possible, on equal terms, in competitive tendering for the award of contracts financed by the Community. To that end, care shall be taken in particular to:

- (a) ensure adequate advance publication, in reasonable time, of the pre-information notices, contract notices and award notices;
- (b) eliminate any discriminatory practice or technical specifications liable to hamper wide participation on equal terms by all natural or legal persons referred to in Article 168 of the Financial Regulation.

#### Article 240

### Advertising

(Article 167 of the Financial Regulation)

1. The pre-information notice for international calls for tender shall be sent to the Office for Official Publications of the European Communities as early as possible, and in any event before 31 March each year for supply and service contracts and as quickly as possible after the decision authorising the programme for works contracts.

2. For the purposes of this Chapter, the contract notice shall be published:

- (a) at least in the *Official Journal of the European Communities* and on the Internet for international calls for tender;
- (b) at least in the official gazette of the recipient State or in any equivalent publication for local invitations to tender.

Where the contract notice is also published locally, it must be identical to the one published in the *Official Journal of the European Communities* and on the Internet and it must be published simultaneously. The Commission shall be responsible for publication in the *Official Journal of the European Communities* and on the Internet. If the notice is published locally, this may be done by the beneficiary.

3. The award notice shall be sent when the contract is signed.

## Article 241

**Thresholds and procedures for awarding service contracts**

(Article 167 of the Financial Regulation)

1. The thresholds and procedures referred to in Article 167 of the Financial Regulation shall be as follows for service contracts:

- (a) for contracts with a value of EUR 200 000 or more: an international restricted invitation to tender within the meaning of point (b) of Article 122(2) and point (a) of Article 240(2);
- (b) for contracts with a value of less than EUR 200 000: competitive negotiated procedure within the meaning of paragraph 3, provided that the use of an existing framework contract is impossible or has been unsuccessful.

Contracts with a value of less than EUR 5 000 may be awarded on the basis of a single tender.

2. In the international restricted procedure referred to in point (a) of paragraph 1, the contract notice shall state the number of candidates who will be invited to submit tenders. For service contracts the number of tenderers shall be within a range of four to eight. The number of candidates allowed to submit tenders must be sufficient to ensure genuine competition.

The list of selected candidates shall be published on the Commission's Internet site.

3. Under the negotiated procedure referred to in point (b) of paragraph 1, the contracting authority shall draw up a list of at least three suppliers of its choice. The procedure involves limited competitive tendering, without publication of a notice and shall be known as a competitive negotiated procedure not covered by Article 124.

Tenders shall be opened and evaluated by a selection board with the necessary technical and administrative expertise. The members of the selection board must sign a declaration of impartiality.

If the contracting authority does not receive at least three valid tenders, the procedure must be cancelled and started again.

4. The bids shall be sent in a package or outer envelope containing two separate sealed envelopes, one bearing the words Envelope A — Technical bid and the other the words Envelope B — Financial bid. The outer envelope shall bear:

- (a) the address indicated in the tender documents for the submission of tenders;
- (b) the reference to the call for tenders to which the tenderer is responding;
- (c) where appropriate, the numbers of the lots for which a tender is being submitted;

- (d) the phrase 'Not to be opened before the tender-opening session', in the language of the tender documents.

If interviews were envisaged in the tender documents, the selection board may interview the principal members of the team of experts proposed in the technically acceptable bids, after establishing its written provisional conclusions and before definitively concluding the evaluation of the technical bids. In such cases the experts shall be interviewed by the selection board, preferably collectively if they form a team, and at intervals close enough to allow comparisons to be made. Interviews shall be conducted in accordance with a standard model agreed in advance by the selection board and applied to all the experts or teams called for interview. The date and time of the interview must be communicated to the tenderers at least ten calendar days in advance. In cases of *force majeure*, preventing the tenderer from attending the interview, a new date and time must be sent to the tenderer.

5. The contract award criteria shall serve to identify the tender offering best value for money.

The tender offering best value for money shall be selected using an 80/20 weighting distribution between technical quality and price. For that purpose:

- (a) the score awarded to the technical bids shall be multiplied by 0,80;
- (b) the score awarded to the price bids shall be multiplied by 0,20.

## Article 242

**Use of the negotiated procedure for service contracts**

(Article 167 of the Financial Regulation)

1. For service contracts, contracting authorities may use the negotiated procedure with a single tender, after the Commission has given its agreement if it is not the contracting authority, in the following cases:

- (a) where, for reasons of extreme urgency brought about by events which the contracting authorities could not have foreseen and which can in no way be attributed to them, the time limit for the procedures referred to in points (a), (b) and (c) of Article 91(1) of the Financial Regulation cannot be kept;
- (b) where the services are entrusted to public-sector bodies or to non-profit institutions or associations and relate to activities of an institutional nature or designed to provide assistance to peoples in the social field;
- (c) for services which are an extension of services already started, subject to the conditions laid down in paragraph 2;



- (d) where the tender procedure has been unsuccessful, that is to say, where no qualitatively and/or financially worthwhile tender has been received, in which case, after cancelling the tender procedure, the contracting authority may negotiate with one or more tenderers of its choice, from among those that took part in the invitation to tender, provided that the original terms of the contract are not substantially altered;
- (e) where the contract concerned follows a contest and must, under the rules applying, be awarded to the successful candidate or to one of the successful candidates, in which case, all successful candidates shall be invited to participate in the negotiations;
- (f) where, for technical reasons, or for reasons connected with the protection of exclusive rights, the contract can be awarded only to a particular service provider.

For the purposes of point (a) of the first subparagraph, operations carried out in crisis situations as referred to in Article 168(2) shall be considered to satisfy the test of extreme urgency. The authorising officer by delegation, where appropriate in concertation with the other authorising officers by delegation concerned, shall establish that a situation of extreme urgency exists and shall review his decision regularly with regard to the principle of sound financial management.

2. Services which are an extension of services already started, as referred to in point (c) of paragraph 1, are as follows:

- (a) additional services not covered by the principal contract but which, as a result of unforeseen circumstances, have become necessary for the performance of the contract, provided that the additional service cannot be technically and economically separated from the principal contract without serious inconvenience for the contracting authority and the aggregate amount of additional services does not exceed 50 % of the value of the principal contract;
- (b) additional services consisting in the repetition of similar services entrusted to the contractor providing services under a first contract, provided that a contract notice was published for the supply of the first service and the possibility of using the negotiated procedure for new services for the project and the estimated cost were clearly indicated in the contract notice published for the first service.

A single extension of the contract shall be possible for a value and duration equal to no more than the value and the duration of the initial contract.

#### Article 243

### Thresholds and procedures for awarding supply contracts

(Article 167 of the Financial Regulation)

1. The thresholds and procedures referred to in Article 167 of the Financial Regulation shall be as follows for supply contracts:

- (a) for contracts with a value of EUR 150 000 or more: an international open invitation to tender within the meaning of point (a) of Article 122(2) and point (a) of Article 240(2);

- (b) for contracts with a value of EUR 30 000 or more but less than EUR 150 000: a local open invitation to tender within the meaning of point (a) of Article 122(2) and point (b) of Article 240(2);

- (c) for contracts with a value of less than EUR 30 000: competitive negotiated procedure within the meaning of paragraph 2.

Contracts with a value of less than EUR 5 000 may be awarded on the basis of a single tender.

2. Under the negotiated procedure referred to in point (c) of paragraph 1, the contracting authority shall draw up a list of at least three suppliers of its choice. The procedure involves limited competitive tendering, without publication of a notice, and shall be known as a competitive negotiated procedure not covered by Article 124.

Tenders shall be opened and evaluated by a selection board with the necessary technical and administrative expertise. The members of the selection board must sign a declaration of impartiality.

If the contracting authority does not receive at least three valid tenders, the procedure must be cancelled and started again.

3. Each technical and financial bid must be placed in a single sealed envelope, itself placed in a package or outer envelope. The inner envelope shall bear:

- (a) the address indicated in the tender documents for the submission of tenders;
- (b) the reference to the call for tenders to which the tenderer is responding;
- (c) where appropriate, the numbers of the lots for which a tender is being submitted;
- (d) the phrase 'Not to be opened before the tender-opening session', in the language of the tender documents.

At the place and time set in the tender documents, the tenders shall be opened in public by the evaluation committee. At the public tender-opening session, the names of the tenderers, the prices quoted, the provision of the necessary tender guarantee and any other formality which the contracting authority considers appropriate must be announced.

4. In the case of a supply contract not involving after-sales service, the sole award criterion shall be price.

Where proposals for after-sales service or for training are particularly significant, the tender offering best value for money shall be chosen, with due account for the technical quality of the service offered and the price quoted.

## Article 244

**Use of the negotiated procedure for supply contracts**

(Article 167 of the Financial Regulation)

1. Supply contracts may be awarded by negotiated procedure with a single tender, after the Commission has given its agreement if it is not the contracting authority, in the following cases:

- (a) where, for reasons of extreme urgency brought about by events which the contracting authorities could not have foreseen and which can in no way be attributed to them, the time-limit for the procedures referred to in points (a), (b) and (c) of Article 91(1) of the Financial Regulation cannot be kept;
- (b) where warranted by the nature or particular characteristics of the supplies, for example, where performance of the contract is exclusively reserved for the holders of patents or licences to use patents;
- (c) for additional deliveries by the original supplier intended either as a partial replacement of normal supplies or installations or as the extension of existing supplies or installations, where a change of supplier would oblige the contracting authority to acquire equipment having different technical characteristics which would result in either incompatibility or disproportionate technical difficulties in operation and maintenance;
- (d) where the tender procedure has been unsuccessful, that is where no qualitatively and/or financially worthwhile tender has been received. In such cases, after cancelling the tender procedure, the contracting authority may negotiate with one or more tenderers of its choice, from among those that took part in the invitation to tender, provided that the original terms of the contract are not substantially altered.

2. For the purposes of point (a) of paragraph 1, operations carried out in crisis situations as referred to in Article 168(2) shall be considered to satisfy the test of extreme urgency. The authorising officer by delegation, where appropriate in concertation with the other authorising officers by delegation concerned, shall establish that a situation of extreme urgency exists and shall review his decision regularly with regard to the principle of sound financial management.

## Article 245

**Thresholds and procedures for awarding works contracts**

(Article 167 of the Financial Regulation)

1. The thresholds and procedures referred to in Article 167 of the Financial Regulation shall be as follows for works contracts:

- (a) for contracts with a value of EUR 5 000 000 or more:
  - (i) in principle an international open invitation to tender within the meaning of point (a) of Article 122(2) and point (a) of Article 240(2);

- (ii) exceptionally, in view of the characteristics of certain works and after the agreement of the Commission, an international restricted invitation to tender within the meaning of point (b) of Article 122(2) and point (a) of Article 240(2);

- (b) for contracts with a value of EUR 300 000 or more but less than EUR 5 000 000: a local open invitation to tender within the meaning of point (b) of Article 122(2) and point (a) of Article 240(2);

- (c) for contracts with a value of less than EUR 300 000: a competitive negotiated procedure within the meaning of paragraph 2;

Contracts with a value of less than EUR 5 000 may be awarded on the basis of a single tender.

2. Under the negotiated procedure referred to in point (c) of paragraph 1, the contracting authority shall draw up a list of at least three contractors of its choice. The procedure shall involve limited competitive tendering, without publication of a notice, and shall be known as a competitive negotiated procedure not covered by Article 124.

Tenders shall be opened and evaluated by a selection board with the necessary technical and administrative expertise. The members of the selection board must sign a declaration of impartiality.

If the contracting authority does not receive at least three valid tenders, the procedure must be cancelled and started again.

3. The selection criteria shall cover the capacity of the tenderer to carry out similar contracts, in particular by reference to works carried out in recent years. With selection being made in this way and since inadmissible tenders have already been eliminated, the only award criterion shall be the price.

4. Each technical and financial bid must be placed in a single sealed envelope, itself placed in a package or outer envelope. The inner envelope shall bear:

- (a) the address indicated in the tender documents for the submission of tenders;
- (b) the reference to the call for tenders to which the tenderer is responding;
- (c) where appropriate, the numbers of the lots for which a tender is being submitted;
- (d) the phrase 'Not to be opened before the tender-opening session', in the language of the tender documents.

At the place and time set in the tender documents, the tenders shall be opened in public by the evaluation committee. At the public tender-opening session, the names of the tenderers, the prices quoted, the provision of the necessary tender guarantee and any other formality which the contracting authority thinks appropriate must be announced.

## Article 246

**Use of the negotiated procedure for works contracts**

(Article 167 of the Financial Regulation)

1. Works contracts may be awarded by negotiated procedure with a single tender, after the Commission has given its agreement if it is not the contracting authority, in the following cases:

- (a) where, for reasons of extreme urgency brought about by events which the contracting authorities could not have foreseen and which can in no way be attributed to them, the time-limit for the procedures referred to in points (a), (b) and (c) of Article 91(1) of the Financial Regulation cannot be kept.
- (b) for additional works not included in the initial contract concluded but which have, through unforeseen circumstances, become necessary for carrying out the work described therein, subject to the conditions laid down in paragraph 2;
- (c) where the tender procedure has been unsuccessful, that is where no qualitatively and/or financially worthwhile tender has been received. In such cases, after cancelling the tender procedure, the contracting authority may negotiate with one or more tenderers of its choice, from among those that took part in the invitation to tender, provided that the original terms of the contract are not substantially altered.

For the purposes of point (a) of the first subparagraph, operations carried out in crisis situations as referred to in Article 168(2) shall be considered to satisfy the test of extreme urgency. The authorising officer by delegation, where appropriate in concertation with the other authorising officers by delegation concerned, shall establish that a situation of extreme urgency exists and shall review his decision regularly with regard to the principle of sound financial management.

2. The additional works referred to in point (b) of paragraph 1 shall be awarded to the contractor already carrying out the work:

- (a) where such works cannot be technically or economically separated from the main contract without serious inconvenience for the contracting authority;
- (b) where such works, although separable from the performance of the original contract, are strictly necessary for its completion;
- (c) where the aggregate value of contracts awarded for additional works does not exceed 50 % of the value of the principal contract.

## Article 247

**Use of the negotiated procedure for buildings contracts**

(Article 167 of the Financial Regulation)

Buildings contracts as referred to in Article 235 may be awarded by negotiated procedure after the local market has been prospected and after the Commission has given its agreement if it is not the contracting authority.

## Article 248

**Choice of procurement procedure for mixed contracts**

(Article 167 of the Financial Regulation)

In the case of contracts involving both supplies of services and supplies of goods or execution of works, the contracting authority, after the Commission has given its agreement if it is not the contracting authority, shall determine the thresholds and procedures applicable by reference to the predominant aspect assessed on the basis of the relative value and the operational significance of the various components of the contract.

## Article 249

**Tender documents**

(Article 167 of the Financial Regulation)

1. The tender documents referred to in Article 130 shall be drawn up on the basis of best international practices and in accordance with the provisions of this Chapter regarding advertising and contacts between the contracting authority and tenderers.

2. For service contracts, the tender file must contain the following documents:

- (a) instructions to tenderers, which must include:
  - (i) the type of contract;
  - (ii) the award criteria and their weightings;
  - (iii) the possibility of interviews and the timetable for them;
  - (iv) whether variants are permitted;
  - (v) the proportion of sub-contracting which may be authorised;
  - (vi) the maximum budget available for the contract;
  - (vii) the currency of tenders;
- (b) shortlist of candidates selected (mentioning the ban on association);
- (c) general conditions for service contracts;
- (d) specific conditions which amplify, supplement or derogate from the general conditions;
- (e) terms of reference indicating the planned timetable for the project and dates from which it is planned that the principal experts must be available;
- (f) price schedule (for completion by the tenderer);
- (g) tender form;
- (h) contract form;
- (i) bank (or similar) guarantee forms for the payment of pre-financing.

3. For supply contracts, the tender file must contain the following documents:

- (a) instructions to tenderers, which must include:
  - (i) the selection and award criteria;
  - (ii) whether variants are authorised;
  - (iii) the currency of tenders;
- (b) general conditions for supply contracts;
- (c) specific conditions which amplify, supplement or derogate from the general conditions;
- (d) technical annex containing any plans, technical specifications and the planned timetable for performance of the contract;
- (e) price schedule (for completion by the tenderer);
- (f) tender form;
- (g) contract form;
- (h) bank (or similar) guarantee forms for:
  - (i) the tender;
  - (ii) payment of advances, and
  - (iii) proper performance.

4. For works contracts, the tender file must contain the following documents:

- (a) instructions to tenderers, which must include:
  - (i) the selection and award criteria;
  - (ii) whether variants are authorised; and
  - (iii) the currency of tenders;
- (b) general conditions for works contracts;
- (c) specific conditions which amplify, supplement or derogate from the general conditions;
- (d) technical annexes containing plans, technical specifications and the planned timetable for performance of the contract;
- (e) price schedule (for completion by the tenderer) and the breakdown of prices;
- (f) tender form;
- (g) contract form;
- (h) bank (or similar) guarantee forms for:
  - (i) the tender;
  - (ii) payment of advances;
  - (iii) proper performance.

5. In the event of contradiction, the specific conditions referred to in point (d) of paragraph 2, point (c) of paragraph 3 and point (c) of paragraph 4 shall override the general conditions.

#### Article 250

#### Guarantees

(Articles 102 and 167 of the Financial Regulation)

1. By way of derogation from Article 150, advance guarantees shall be denominated in euro or in the currency of the contract they cover.

2. The contracting authority may demand a tender guarantee, within the meaning of this Chapter, representing 1 % to 2 % of the overall value of the contract for supply and works contracts; it shall comply with the provisions of Article 150. It shall be released when the contract is awarded. It shall be retained if a tender submitted by the final date for submission is subsequently withdrawn.

3. A guarantee shall be required in return for the payment of pre-financing exceeding EUR 150 000. It shall be released as and when the pre-financing is deducted from interim payments or payments of balances made to the contractor in accordance with the terms of the contract.

4. A performance guarantee shall be provided by the tenderer upon signing contracts for supplies and works for an amount set in the tender file and corresponding at the most to 10 % of the total value of the contract. This shall remain valid at least until final acceptance of the supplies and works. If the contract is not properly performed the entire guarantee shall be retained.

#### Article 251

#### Time limits for procedures

(Article 167 of the Financial Regulation)

1. Tenders must reach the contracting authority at the address and by no later than the date and time shown in the invitation to tender. The time-limit for receipt of tenders and requests to participate, laid down by the contracting authorities, shall be long enough to allow interested parties a reasonable and appropriate period to prepare and submit their tenders.

For service contracts, the minimum time between the date of dispatch of the letter of invitation to tender and the final date for receipt of tenders shall be fifty days. However, in urgent cases and with the prior authorisation of the Commission, other time limits may be authorised.

2. Tenderers may put questions in writing no later than twenty-one days before the closing date for receipt of tenders. The contracting authority shall provide the answers to the questions no later than eleven days before the closing date for submission of tenders.

3. In international restricted procedures, the time-limit for receipt of tenders shall be no less than thirty days from the date on which the contract notice is published. The period between the date on which the letter of invitation is sent and the final date for the receipt of tenders shall be no less than fifty days. However, in certain exceptional cases and with the prior authorisation of the Commission, other time limits may be authorised.



4. In international open procedures, the time limits for receipt of tenders, running from the date on which the contract notice is sent, shall be at least:

- (a) 90 days for works contracts,
- (b) 60 days for supply contracts.

However, in certain exceptional cases and with the prior authorisation of the Commission, other time-limits may be authorised.

5. In local open procedures, the time-limits for receipt of tenders, running from the date when the contract notice is published, shall be at least:

- (a) 60 days for works contracts;
- (b) 30 days for supply contracts.

However, in certain exceptional cases and with the prior authorisation of the Commission, other time-limits may be authorised.

6. For the competitive negotiated procedures referred to in point (b) of Article 241(1), point (c) of Article 243(1) and point (c) of Article 245(1), candidates shall be allowed at least thirty days from the date of dispatch of the letter of invitation to tender in which to submit their tenders.

7. For service contracts, the period of validity of the tenders shall be ninety calendar days from the final date for submission of tenders. In exceptional cases, before the period of validity expires, the contracting authority may ask the tenderers to extend the period for a specific number of days up to no more than forty calendar days. The tenderer whose tender is selected must maintain the validity of the tender for a further sixty calendar days from the date of notification of the award of the contract.

8. For supply contracts, the period of validity of the tenders shall be ninety calendar days from the final date for submission of tenders. In exceptional cases, before the period of validity expires, the contracting authority may ask the tenderers to extend the period for a specific number of days up to no more than forty calendar days. The tenderer whose tender is selected must maintain the validity of the tender for a further sixty calendar days from the date of notification of the award of the contract.

9. For works contracts, the period of validity of the tenders shall be ninety calendar days from the final date for submission of tenders. In exceptional cases, before the period of validity expires, the contracting authority may ask the tenderers to extend the period for a specific number of days up to no more than forty calendar days. The tenderer whose tender is selected must maintain the validity of the tender for a further sixty calendar days from the date of notification of the award of the contract.

10. The time-limits specified in paragraphs 1 to 9 are expressed in calendar days.

#### Article 252

### Evaluation committee

(Article 167 of the Financial Regulation)

1. All requests to participate and tenders declared as satisfying the requirements shall be evaluated and ranked by an evaluation committee on the basis of the exclusion, selection and award criteria announced in advance. This committee shall have an odd number of members, at least three, with all the necessary technical and administrative expertise to assess the tenders.

2. If the Commission is not the contracting authority, it must be kept systematically informed. It shall always be invited as an observer to the opening and assessment of tenders and shall receive a copy of each of them. The contracting authority shall send to the Commission, for its agreement, the results of evaluation of the tenders and a proposal for the award of the contract. Once it has received this agreement, it shall sign the contracts and send them to the Commission.

3. Tenders which do not contain all the essential items demanded in the tender documents or which do not correspond to the specific requirements laid down shall be eliminated.

4. In the case of abnormally low tenders as referred to in Article 139, the committee shall ask for the necessary clarifications concerning the composition of the tender.

## CHAPTER 4

### Grants

#### Article 253

### Financing in full

(Article 169 of the Financial Regulation)

1. By way of derogation from the co-financing requirement in connection with grants, referred to in Article 109 of the Financial Regulation, the financing of an action in full may be authorised in the following cases, save where prohibited by the basic act:

- (a) humanitarian aid, including assistance for refugees, uprooted persons, rehabilitation and mine disposal;
- (b) aid in crisis situations within the meaning of Article 168(2);



- (c) actions for the protection of the health or fundamental rights of peoples;
- (d) actions resulting from the implementation of financing agreements with third countries or actions with international organisations within the meaning of Article 43.

2. Grounds shall be provided in the award decision relating to the action in question in the case of any derogation from the co-financing requirement, as provided for in paragraph 1.

The authorising officer must be in a position to show that financing in full is essential to carry out the action in question.

#### CHAPTER 5

#### **Imprest accounts and inventories**

##### Article 254

#### **Creation of imprest accounts**

(Article 63 of the Financial Regulation)

For the payment of certain categories of expenditure, one or more imprest accounts may be set up in each local unit outside the Community in accordance with Article 63 of the Financial Regulation. A local unit shall be, for instance, a Community delegation, office or branch office in a third country.

The decision setting up such an imprest account shall lay down its operating terms in accordance with Article 67 and on the basis of the specific needs of each local unit.

#### TITLE IV

#### (TITLE V OF THE FINANCIAL REGULATION)

#### EUROPEAN OFFICES

##### Article 257

#### **Scope**

(Article 171 of the Financial Regulation)

The offices referred to in Article 171 of the Financial Regulation are as follows:

- (a) the Office for Official Publications;
- (b) the European Anti-Fraud Office;
- (c) the European Communities Personnel Selection Office;
- (d) the Office for the Administration and Payment of Individual Entitlements;
- (e) the Office for Infrastructure and Logistics in Brussels and the Office for Infrastructure and Logistics in Luxembourg.

One or more institutions may set up additional offices provided that this can be justified by a cost-benefit study and guarantees the visibility of the Community action.

##### Article 255

#### **Persons empowered to administer accounts**

(Article 62 of the Financial Regulation)

Each institution shall lay down the conditions in accordance with which the staff it designates and empowers to administer accounts in the local units referred to in Article 254 are authorised to communicate the names and specimen signatures to local financial institutions.

##### Article 256

#### **Inventory and advertising of sales**

(Article 138 of the Financial Regulation)

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

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

2. The advertising arrangements for sales of delegations' movable property shall be in accordance with local usage.

##### Article 258

#### **Specific rules for the Office for Official Publications**

(Article 171 of the Financial Regulation)

With regard to the Office for Official Publications, each institution shall retain the powers of authorisation for expenditure charged to the appropriations for the publication of all work entrusted to outside bodies by the Office. The net proceeds from the sale of publications shall be re-used as assigned revenue by the institution which is the author of those publications, in accordance with Article 18 of the Financial Regulation.

##### Article 259

#### **Delegation of certain tasks by the accounting officer**

(Article 172 of the Financial Regulation)

The Commission accounting officer, acting on a proposal from the management committee of the Office in question, may delegate to a member of the staff of the Office certain of his tasks relating to the collection of revenue and the payment of expenditure effected directly by the Office in question.

*Article 260***Treasury — bank accounts**

(Article 172 of the Financial Regulation)

To meet the cash requirements of an interinstitutional Office, bank accounts or post office giro accounts may be opened in its name by the Commission, acting on a proposal from the management committee.

The accounts shall be replenished regularly by payments made by the Commission upon receipt of calls for funds from the Office in question. Such payments may not exceed the total amount of the appropriations entered for that purpose in the Commission budget for the current year.

The final cash position for each year shall be reconciled and adjusted between the Office in question and the Commission at the end of the financial year.

*Article 261***Implementing rules**

(Article 175(1) of the Financial Regulation)

The implementing rules laid down by the management committee of each office in accordance with Article 175(1) of the Financial Regulation shall comply entirely with this Regulation.

## TITLE V

## (TITLE VI OF THE FINANCIAL REGULATION)

## ADMINISTRATIVE APPROPRIATIONS

*Article 262***Scope**

(Article 177 of the Financial Regulation)

The administrative appropriations covered by this Title shall be those defined in Article 27.

The institution concerned shall at the same time inform the budgetary authority of its schedule for building projects.

*Article 264***Rent guarantees**

(Article 177 of the Financial Regulation)

Rent guarantees provided by the Commission shall take the form of a bank guarantee or a deposit on a blocked bank account in the name of the Commission and of the lessor, denominated in euro, save in duly substantiated cases.

*Article 263***Buildings**

(Article 179(3) of the Financial Regulation)

Before concluding the contracts referred to in Article 179(3) of the Financial Regulation, each institution shall submit a communication to the budgetary authority presenting all relevant information on the operation planned, the cost to the budget for the current financial year and for future years, its justification as regards the principle of sound financial management and its impact on the financial perspective.

*Article 265***Advances to staff and members of the institutions**

(Article 177 of the Financial Regulation)

Advances may be paid, in accordance with the conditions laid down in the Staff Regulations, to staff and to the members of the institutions.

## PART THREE

## TRANSITIONAL AND FINAL PROVISIONS

## TITLE I

## TRANSITIONAL PROVISIONS

*Article 266***Transfers of research appropriations**

(Article 160 of the Financial Regulation)

For direct and indirect action in the field of research, referred to in Article 229(2) to (5), the procedure for transfers of appropriations for the financial year 2003 shall be governed by the first and second paragraphs of Article 95 of the Financial Regulation of 21 December 1977.

*Article 267***Liquidation of the guarantee account**

1. The credit balance of the guarantee account kept in the general accounts in the name of each accounting officer or assistant accounting officer and credited with the special allowances granted pursuant to Article 75 of the Financial Regulation of 21 December 1977 shall be paid to the persons concerned or to those entitled under them by decision of the institutions, after they have been granted discharge in respect of the financial years 2001 and 2002 in accordance with the opinion of the accounting officer where he is not personally concerned.

2. The credit balance of the guarantee account kept in the general accounts in the name of each imprest administrator and credited with the special allowances granted pursuant to Article 75 of the Financial Regulation of 21 December 1977 shall be paid to the persons concerned or those entitled under them with the agreement of, and after verification by, the accounting officer and the authorising officer concerned.

3. The guarantee account shall be credited with interest corresponding to the annual average of the monthly rates applied by the European Central Bank to its principal refinancing operations, in euro, as published in the C series of the *Official Journal of the European Communities*, up to the date of liquidation.

#### Article 268

### **Conversion into euro of commitments or estimates of amounts receivable from before 1 January 2003**

(Article 16 of the Financial Regulation)

Budget commitments and the estimates of amounts receivable referred to in Article 161(2) of the Financial Regulation made

before 1 January 2003 in a currency other than the euro shall be calculated in euro by no later than 1 June 2003 at the rate referred to in Article 7, applicable on 1 January 2003.

#### Article 269

### **Decentralised management of pre-accession aid**

(Article 53 of the Financial Regulation)

In connection with the pre-accession aid referred to in Council Regulation (EEC) No 3906/89 <sup>(1)</sup> and Council Regulation (EC) No 555/2000 <sup>(2)</sup>, the rules concerning prior checks laid down in Article 35 shall not affect the decentralised management already in operation with the candidate countries in question.

## TITLE II

### **FINAL PROVISIONS**

#### Article 270

### **Bodies referred to in Article 185 of the Financial Regulation**

(Article 185 of the Financial Regulation)

Bodies which actually receive a grant charged to the Community budget and which are included in a list drawn up by the Commission and attached to the preliminary draft budget for each financial year shall be subject to the obligations referred to in Articles 14(2), point (3)(d) of Article 46(1) and Article 185 of the Financial Regulation.

(b) of Article 7(1) of Directive 92/50/EEC, point (a) of Article 6(2) of Directive 93/37/EEC and point (c) of Article 5(1) of Directive 93/36/EEC.

3. The Commission, which shall establish the new amounts and thresholds in accordance with the timetable and criteria set out in paragraphs 1 and 2, shall inform the other institutions and shall have those amounts and thresholds published in the *Official Journal of the European Communities*.

#### Article 272

### **Repeal**

Regulation (Euratom, ECSC, EC) No 3418/93 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation.

#### Article 271

### **Updating of thresholds and amounts**

1. The thresholds and amounts laid down in Articles 67, 128, 129, 151, 152, 173, 180, 181, 222 and 226 shall be updated every three years in line with movements in the consumer price index in the Community.

2. The thresholds referred to in point (b) of Article 157 and points (a) and (c) of Article 158(1) in respect of procurement contracts shall be adjusted every two years pursuant to point

#### Article 273

### **Entry into force**

This Regulation shall enter into force on 1 January 2003.

<sup>(1)</sup> OJ L 375, 23.12.1989, p. 11.

<sup>(2)</sup> OJ L 68, 16.3.2000, p. 3.

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

Done at Brussels, 23 December 2002.

*For the Commission*  
Michele SCHREYER  
*Member of the Commission*

---

## COMMISSION REGULATION (EC, Euratom) No 2343/2002

of 23 December 2002

**on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities**

TITLE I	SUBJECT MATTER .....	74
TITLE II	BUDGETARY PRINCIPLES .....	75
<b>Chapter 1</b>	<b>Principles of unity and of budget accuracy .....</b>	<b>75</b>
<b>Chapter 2</b>	<b>Principle of annuality .....</b>	<b>75</b>
<b>Chapter 3</b>	<b>Principle of equilibrium .....</b>	<b>76</b>
<b>Chapter 4</b>	<b>Principle of unit of account .....</b>	<b>77</b>
<b>Chapter 5</b>	<b>Principle of universality .....</b>	<b>77</b>
<b>Chapter 6</b>	<b>Principle of specification .....</b>	<b>77</b>
<b>Chapter 7</b>	<b>Principle of sound financial management .....</b>	<b>78</b>
<b>Chapter 8</b>	<b>Principle of transparency .....</b>	<b>78</b>
TITLE III	ESTABLISHMENT AND STRUCTURE OF THE BUDGET .....	78
<b>Chapter 1</b>	<b>ESTABLISHMENT OF THE BUDGET .....</b>	<b>78</b>
<b>Chapter 2</b>	<b>Structure and presentation of the budget .....</b>	<b>79</b>
TITLE IV	IMPLEMENTATION OF THE BUDGET .....	80
<b>Chapter 1</b>	<b>General provisions .....</b>	<b>80</b>
<b>Chapter 2</b>	<b>Financial actors .....</b>	<b>80</b>
Section 1	Principle of segregation of duties .....	80
Section 2	Authorising officer .....	80
Section 3	Accounting officer .....	81
Section 4	Imprest administrator .....	82
<b>Chapter 3</b>	<b>Liability of the financial actors .....</b>	<b>82</b>
Section 1	General rules .....	82
Section 2	Rules applicable to authorising officers by delegation and subdelegation .....	82
Section 3	Rules applicable to accounting officers and imprest administrators .....	83
<b>Chapter 4</b>	<b>Revenue operations .....</b>	<b>83</b>
Section 1	General provisions .....	83
Section 2	Estimate of amounts receivable .....	83
Section 3	Establishment of amounts receivable .....	83
Section 4	Authorisation of recovery .....	84
Section 5	Recovery .....	84
Section 6	Specific provisions applicable to fees and charges .....	84
<b>Chapter 5</b>	<b>Expenditure operations .....</b>	<b>85</b>
Section 1	Commitment of expenditure .....	85
Section 2	Validation of expenditure .....	85
Section 3	Authorisation of expenditure .....	86
Section 4	Payment of expenditure .....	86
Section 5	Time limits for expenditure operations .....	86
<b>Chapter 6</b>	<b>Information Technology Systems .....</b>	<b>86</b>
<b>Chapter 7</b>	<b>Internal auditor .....</b>	<b>86</b>



TITLE V	PROCUREMENT .....	87
TITLE VI	GRANTS AWARDED BY THE COMMUNITY BODY .....	87
TITLE VII	PRESENTATION OF THE ACCOUNTS AND ACCOUNTING .....	87
<b>Chapter 1</b>	<b>Presentation of the accounts</b> .....	87
<b>Chapter 2</b>	<b>Accounting</b> .....	88
Section 1	Common provisions .....	88
Section 2	General accounts .....	88
Section 3	Budgetary accounts .....	89
<b>Chapter 4</b>	<b>Property inventories</b> .....	89
TITLE VIII	EXTERNAL AUDIT AND DISCHARGE .....	89
<b>Chapter 1</b>	<b>External audit</b> .....	89
<b>Chapter 2</b>	<b>Discharge</b> .....	89
TITLE IX	TRANSITIONAL AND FINAL PROVISIONS .....	90

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, and in particular Article 185(1) thereof <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Council <sup>(3)</sup>,

Having regard to the opinion of the Court of Auditors <sup>(4)</sup>,

Whereas:

- (1) The Community bodies set up to assume the burden of carrying out certain Community activities have legal personality and hence their own budget governed by specific financial rules.
- (2) In order to guarantee a certain degree of consistency in these rules compared with Regulation (EC, Euratom) No 1605/2002 (hereinafter 'the general Financial Regulation') and pursuant to Article 185(1) of that Regulation, this framework Financial Regulation must lay down the rules governing the establishment, implementation and scrutiny of the budget of the said Community bodies which actually receive grants charged to the Community budget (hereinafter 'Community bodies'). It is on the basis of this framework Financial Regulation that each of those Community bodies will adopt its own financial rules, which, as indicated in the abovementioned Article 185, may depart from the framework Financial Regulation in accordance with the specific management needs of those bodies, but only with the Commission's consent.
- (3) Like the general Financial Regulation, this framework Financial Regulation confines itself to stating the broad principles and basic rules governing the whole of the

budgetary sector concerned, while detailed provisions may subsequently be adopted by these bodies in order to make their financial rules easier to read.

- (4) For the purposes of establishing and implementing the budget, the four fundamental principles of budgetary law (unity, universality, specification, annuality), and the principles of equilibrium, unit of account, sound financial management and transparency must be reasserted.
- (5) It is necessary to define the powers and responsibilities of the accounting officer, the internal auditor and authorising officers. The last mentioned are fully responsible for all revenue and expenditure operations executed under their authority and must be held accountable for their actions, including, where necessary, through disciplinary proceedings.
- (6) Like the institutions, these Community bodies must not be allowed to raise loans, in accordance with Article 14 of the general Financial Regulation.
- (7) The internal audit function within the Community bodies must be performed by the Commission's internal auditor, who will therefore act as the guarantor of the overall consistency of the system and its working methods in accordance with Article 185(3) of the general Financial Regulation.
- (8) The timetable for establishing the budget, presenting the accounts and granting discharge must be aligned on the equivalent provisions of the general Financial Regulation, and the authority responsible for granting the Community bodies discharge will now be the same as for the general budget (Article 185(2) of the general Financial Regulation).

<sup>(1)</sup> OJ L 248, 15.9.2002, p. 1.

<sup>(2)</sup> Not yet published in the Official Journal.

<sup>(3)</sup> Not yet published in the Official Journal.

<sup>(4)</sup> Not yet published in the Official Journal.

- (9) The accounting rules applied by the Community bodies must allow for consolidation with the accounts of the institutions, and to this end they must be adopted by the Commission's accounting officer in accordance with Article 133 of the new general Financial Regulation.
- (10) In accordance with Article 46 of the general Financial Regulation, the establishment plan must now be submitted to the budgetary authority for approval.
- (11) Each body could have access to the panel referred to in Article 66(4) of the general Financial Regulation set up by the Commission to examine irregularities so that a similar assessment can be made of identical cases.
- (12) Since they receive a grant charged to the Community budget, the Community bodies must strictly observe the same requirements as the institutions in the award of public contracts and grants, in so far as such contracts and grants are authorised by the Instruments setting up those bodies; in this respect a reference to the relevant provisions of the general Financial Regulation will suffice.
- (13) Like the institutions, the Community bodies may, for the performance of the tasks entrusted to them, employ external private sector bodies only where necessary and not for tasks involving any public service mission or any use of discretionary powers of judgement, in order to guarantee that each body is accountable for the implementation of its budget and adheres to the objectives assigned to it on its creation.
- (14) In support of their requests for payment of the Community subsidy, Community bodies must submit a cash-flow forecast, and the funds paid by the Communities in respect of that subsidy must bear interest for the benefit of the Communities.
- (15) There must be specific provisions organising the collection of fees and charges, which are one of the resources of these bodies.
- (16) In view of the statutory requirements arising from the instruments setting up Community bodies, the procedure for presenting the accounts should be adapted and provision made for the management board to give its opinion on the accounts.
- (17) The new budget structure adopted in the general financial regulation must also be used by the Community bodies in so far as this is justified by the nature of their activities.
- (18) The only provisions of the general Financial Regulation that must be included in this Regulation are those which are relevant to the Community bodies.
- In particular this Regulation must therefore not include the provisions relating to areas of activity that have no connection with the Community bodies, the various methods of implementation embodying the concept of externalisation and the information on the budget to be sent to the European Parliament and the Council. Additionally, only some of the categories of assigned revenue in the general Financial Regulation should be taken into consideration and, finally, the procedure for transfers of appropriations and establishment of the budget must be less detailed and less complex,
- HAS ADOPTED THIS DECISION:

## TITLE I

## SUBJECT MATTER

*Article 1*

This Regulation spells out the essential rules which the financial rules of each Community body may depart from only where their specific operating needs so require and with the Commission's prior consent in accordance with Article 185 of Council Regulation (EC, Euratom) No 1605/2002 (hereinafter 'the general Financial Regulation').

*Article 2*

For the purposes of this Regulation:

1. 'Community body' shall mean any body referred to in Article 185(1) of the general Financial Regulation;
2. 'Management board' shall mean the main internal body of the Community body that is responsible for taking decisions on financial and budgetary matters, irrespective of the name given to it in the constituent instrument of the Community body;
3. 'Director' shall mean the person responsible for implementing the decisions of the management board and the Community body's budget as authorising officer, irrespective of the title given to him/her in the constituent instrument of the Community body;
4. 'Constituent instrument' shall mean the instrument of Community law governing the main aspects of the creation and operation of the Community body;
5. 'Budgetary authority' shall mean the European Parliament and the Council of the European Union.

## TITLE II

## BUDGETARY PRINCIPLES

## Article 3

The establishment and implementation of the budget of the Community body (hereinafter referred to as 'the budget') shall comply with the principles of unity and budget accuracy, annuality, equilibrium, unit of account, universality, specification, sound financial management and transparency as provided for in this Regulation.

## CHAPTER 1

**Principles of unity and of budget accuracy**

## Article 4

The budget is the instrument which, for each financial year, forecasts and authorises the revenue and expenditure considered necessary for the Community body.

## Article 5

The budget shall comprise:

- (a) own revenue consisting of all fees and charges which the Community body is authorised to collect by virtue of the tasks entrusted to it, and any other revenue;
- (b) revenue made up of any financial contributions of the host Member States;
- (c) a subsidy granted by the European Communities;
- (d) revenue assigned to specific items of expenditure in accordance with Article 19(1);
- (e) the expenditure of the Community body, including administrative expenditure.

## Article 6

1. No revenue shall be collected and no expenditure effected unless booked to a heading in the budget.
2. An appropriation must not be entered in the budget if it is not for an item of expenditure considered necessary.
3. No expenditure may be committed or authorised in excess of the appropriations authorised by the budget.

## CHAPTER 2

**Principle of annuality**

## Article 7

The appropriations entered in the budget shall be authorised for one financial year which shall run from 1 January to 31 December.

## Article 8

1. The budget shall contain differentiated and non-differentiated appropriations, which shall consist of commitment appropriations and payment appropriations.

2. Commitment appropriations shall cover the total cost of the legal commitments entered into during the current financial year.

3. Payment appropriations shall cover payments made to honour the legal commitments entered into in the current financial year and/or earlier financial years.

4. Administrative appropriations shall be non-differentiated. Administrative expenditure arising from contracts covering periods that extend beyond the financial year, either in accordance with local practice or relating to the supply of equipment, shall be charged to the budget of the financial year in which it is effected.

## Article 9

1. The revenue of the Community body referred to in Article 5 shall be entered in the accounts for the financial year on the basis of the amounts collected during the financial year.

2. The revenue of the Community body shall give rise to an equivalent amount of payment appropriations.

3. The appropriations authorised in the budget for a given year may be used solely to cover expenditure committed and paid in that financial year, and to cover amounts due against commitments from preceding financial years.

4. Commitments shall be entered in the accounts on the basis of the legal commitments entered into up to 31 December.

5. Payments shall be entered in the accounts for a financial year on the basis of the payments effected by the accounting officer by 31 December of that year at the latest.

## Article 10

1. Appropriations which have not been used at the end of the financial year for which they were entered shall be cancelled.

However, they may, by decision of the management board taken not later than 15 February, be carried over to the next financial year only, in accordance with the paragraphs 2 to 8.

2. Appropriations relating to staff expenditure may not be carried over.

3. Appropriations for commitment of differentiated appropriations and non-differentiated appropriations not yet committed at the close of the financial year may be carried over in respect of amounts corresponding to commitment appropriations for which most of the preparatory stages of the commitment procedure, to be defined in the rules implementing the financial regulation of each Community body, have been completed by 31 December; these amounts may then be committed up to 31 March of the following year.

4. Appropriations for payment of differentiated appropriations may be carried over in respect of amounts needed to cover existing commitments or commitments linked to commitment appropriations carried over, when the appropriations provided for the relevant headings in the budget for the following financial year do not cover requirements. The Community body shall first use the appropriations authorised for the current financial year and shall not use the appropriations carried over until the former are exhausted.

5. Non-differentiated appropriations corresponding to obligations duly contracted at the close of the financial year shall be carried over automatically to the following financial year only.

6. Appropriations carried over which have not been committed by 31 March of year N+1 shall be automatically cancelled.

Appropriations carried over in this way shall be identified in the accounts.

7. The appropriations available at 31 December arising from the assigned revenue referred to in Article 19 shall be carried over automatically.

The appropriations available corresponding to assigned revenue carried over must be used first.

#### Article 11

Where amounts are decommitted, as a result of total or partial non-implementation of the actions for which they were earmarked, in any financial year after that in which the appropriations were committed, the appropriations concerned shall be cancelled.

#### Article 12

The appropriations entered in the budget may be committed with effect from 1 January, once the budget has become definitive.

#### Article 13

1. As from 15 November of each year, routine administrative expenditure may be committed in advance against the appropriations provided for the following financial year. Such commitments may not, however, exceed one quarter of the

appropriations on the corresponding budget heading for the current financial year. They may not apply to new expenditure of a kind not yet approved in principle in the last budget duly adopted.

2. Expenditure which must be paid in advance, for example rents, may give rise to payments from 1 December onwards to be charged to the appropriations for the following financial year.

#### Article 14

1. If the budget of the Community body has not been finally adopted at the beginning of the financial year, the following rules shall apply to commitment and payment of expenditure which it has been possible to book to a specific heading in the budget as part of implementation of the last budget duly adopted.

2. Commitments may be made per chapter up to a maximum of one quarter of the total appropriations authorised in the chapter in question for the previous financial year, plus one twelfth for each month which has elapsed.

Payments may be made monthly per chapter up to a maximum of one twelfth of the appropriations authorised in the chapter in question for the previous financial year.

The limit of the appropriations provided for in the statement of estimates of revenue and expenditure may not be exceeded.

3. At the request of the director, if the continuity of action by the Community body and management needs so require, the management board may simultaneously authorise two or more provisional twelfths for both commitments and payments over and above those automatically made available by the provisions of paragraphs 1 and 2.

The additional twelfths shall be authorised in full and shall not be divisible.

#### CHAPTER 3

### Principle of equilibrium

#### Article 15

1. The budget revenue and payment appropriations must be in balance.

2. Commitment appropriations may not exceed the amount of the Community subsidy, plus own revenue and any other revenue referred to in Article 5.

3. The Community body may not raise loans.

4. Funds paid to the Community body shall constitute for its budget a balancing subsidy which shall count as prefinancing within the meaning of Article 81(1)(b)(i) of the general Financial Regulation.

*Article 16*

1. If the balance of the outturn account within the meaning of Article 81 is positive, it shall be repaid to the Commission up to the amount of the Community subsidy paid during the year. The part of the balance exceeding the amount of the Community subsidy paid during the year shall be entered in the budget for the following financial year as revenue.

The difference between the Community subsidy entered in the general budget and that actually paid to the body shall be cancelled.

2. If the balance of the outturn account provided for in Article 81 is negative, it shall be entered in the budget for the following financial year.

3. The revenue or payment appropriations shall be entered in the budget during the budgetary procedure using the letter of amendment procedure or, while budget implementation is under way, by means of an amending budget.

*CHAPTER 4***Principle of unit of account***Article 17*

The budget shall be drawn up and implemented in euro and the accounts shall be presented in euro.

However, for cash-flow purposes, the accounting officer and, in the case of imprest accounts, imprest administrators, shall be authorised to carry out operations in national currencies as laid down in the financial rules of each Community body.

*CHAPTER 5***Principle of universality***Article 18*

Total revenue shall cover total payment appropriations, subject to Article 19. All revenue and expenditure shall be entered in full without any adjustment against each other, subject to Article 21.

*Article 19*

1. The following items of revenue shall be used to finance specific items of expenditure:

- (a) revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests;
- (b) contributions to the Community body's activities from Member States, non-member countries or miscellaneous bodies, in so far as this is provided for in the agreement concluded between the Community body and the Member States, non-member countries or bodies in question.

2. All items of revenue within the meaning of paragraph 1 shall cover all direct or indirect expenditure incurred by the activity or purpose in question.

3. The budget shall carry headings to accommodate the categories of assigned revenue referred to in paragraph 1 and wherever possible shall indicate the amount.

*Article 20*

1. The Director may accept any donation made to the Community body, such as foundations, subsidies, gifts and bequests.

2. Acceptance of donations which may involve some financial charge shall be subject to the prior authorisation of the management board, which shall take a decision within two months of the date on which the request is submitted to it. If the management board fails to take a decision within that period, the donation shall be deemed accepted.

*Article 21*

1. The financial regulation of each Community body shall specify the cases where certain amounts may be deducted from requests for payment, invoices or statements, which shall then be passed for payment of the net amount.

Discounts, refunds and rebates on invoices and payment requests shall not be recorded as revenue of the Community body.

2. The cost of products or services provided to the Community body shall be charged to the budget for the full ex-tax amount, where they incorporate taxes refunded:

- (a) either by the Member States pursuant to the Protocol on the Privileges and Immunities of the European Communities, provided that it applies to the Community body;
- (b) or by a Member State or non-member country on the basis of other relevant agreements.

Any national taxes temporarily borne by the Community body under the first subparagraph shall be entered in a suspense account until they are refunded by the State concerned.

3. Any negative balance shall be entered in the budget as expenditure.

4. Adjustments may be made in respect of exchange differences occurring in the implementation of the budget. The final gain or loss shall be included in the balance for the year.

*CHAPTER 6***Principle of specification***Article 22*

The appropriations in their entirety shall be earmarked for specific purposes by title and chapter; the chapters shall be further subdivided into articles and items.



*Article 23*

1. The director may make transfers from one article to another within each chapter.

He/she shall inform the management board as soon as possible of the transfers made pursuant to the first paragraph.

2. The director may make transfers from one title to another and from one chapter to another within a total limit of 10 % of the appropriations for the financial year. Beyond this limit, he/she may propose to the management board transfers of appropriations from one title to another or from one chapter to another within a title. The management board shall have one month in which to oppose such transfers; after this time limit they shall be deemed to be adopted.

3. Proposals for transfers and transfers carried out under this Article shall be accompanied by appropriate and detailed supporting documents showing the implementation of appropriations and estimates of requirements up to the end of the financial year, both for the headings to be credited and for those from which the appropriations are drawn.

*Article 24*

1. Appropriations may be transferred only to budget headings for which the budget has authorised appropriations or carries a token entry (p.m.).

2. Appropriations corresponding to assigned revenue may be transferred only if they are used for the purpose to which the revenue is assigned.

## CHAPTER 7

**Principle of sound financial management***Article 25*

1. Budget appropriations shall be used in accordance with the principle of sound financial management, that is to say, in accordance with the principles of economy, efficiency and effectiveness.

2. The principle of economy requires that the resources used by the Community body for the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price.

The principle of efficiency is concerned with the best relationship between resources employed and results achieved.

The principle of effectiveness is concerned with attaining the specific objectives set and achieving the intended results.

3. Specific, measurable, achievable, relevant and timed objectives shall be set for all sectors of activity covered by the budget. Achievement of those objectives shall be monitored by performance indicators for each activity and information shall be provided to the management board by the director. This information shall be provided annually and at the latest in the documents accompanying the preliminary draft budget.

4. In order to improve decision-making, the Community body shall regularly carry out ex ante and ex post evaluations of programmes or activities. Such evaluations shall be applied to all programmes and activities which entail significant spending and evaluation results shall be sent to the management board.

## CHAPTER 8

**Principle of transparency***Article 26*

1. The budget shall be drawn up and implemented and the accounts presented in compliance with the principle of transparency.

2. The budget and amending budgets, as finally adopted, shall be published in the *Official Journal of the European Communities* within two months of their adoption.

## TITLE III

**ESTABLISHMENT AND STRUCTURE OF THE BUDGET**

## CHAPTER 1

**Establishment of the budget***Article 27*

1. The budget shall be established in accordance with the provisions of the constituent instrument of that Community body.

2. In accordance with its constituent instrument, the Community body shall send the Commission an estimate of its revenue and expenditure and the general guidelines underlying that estimate, together with its work programme, by 31 March each year at the latest.

3. The estimate of revenue and expenditure of the Community body shall include:

(a) an establishment plan setting the number of permanent and temporary posts authorised within the limits of the budget appropriations, by grade and by category;

(b) where there is a change in the number of persons in post, a statement justifying the request for new posts;

(c) a quarterly estimate of cash payments and receipts;

- (d) information on the achievement of all previously set objectives for the various activities as well as new objectives measured by indicators; evaluation results shall be consulted and referred to as evidence of the likely merits of a proposed budget amendment.

4. As part of the procedure for adopting the general budget, the Commission shall send the Community body's statement of estimates to the budgetary authority and propose the amount of the subsidy for the Community body and the number of staff it considers that the body needs.

5. The budgetary authority shall adopt the establishment plan of the Community body and any subsequent amendment thereto in accordance with Article 32(1).

6. The budget and the establishment plan shall be adopted by the management board. They become definitive after final adoption of the general budget setting the amount of the subsidy and the establishment plan and if necessary the budget and the establishment plan shall be adjusted accordingly.

#### Article 28

Any amendment to the budget, including the establishment plan, shall be the subject of an amending budget adopted by the same procedure as the initial budget, in accordance with the provisions of the constituent instrument and Article 27.

### CHAPTER 2

#### Structure and presentation of the budget

#### Article 29

The budget shall comprise a statement of revenue and a statement of expenditure.

#### Article 30

In so far as it is justified by the nature of the Agency's activities, the statement of expenditure must be set out on the basis of a nomenclature with a classification by purpose. This nomenclature shall be determined by the Community body and shall make a clear distinction between administrative appropriations and operating appropriations.

#### Article 31

The budget shall show:

1. in the statement of revenue:

- (a) the estimated revenue of the Community body for the financial year in question;
- (b) the estimated revenue for the preceding financial year and the revenue for year  $n - 2$ ;
- (c) appropriate remarks on each revenue line;

2. in the statement of expenditure:

- (a) the commitment and payment appropriations for the financial year in question;
- (b) the commitment and payment appropriations for the preceding financial year, and the expenditure committed and the expenditure paid in year  $n - 2$ ;
- (c) a summary statement of the schedule of payments due in subsequent financial years to meet budget commitments entered into in earlier financial years;
- (d) appropriate remarks on each subdivision.

#### Article 32

1. The establishment plan referred to in Article 27 shall show next to the number of posts authorised for the financial year, the number authorised for the preceding year and the number of posts actually filled.

It shall constitute an absolute limit for the Community body; no appointment may be made in excess of the limit set.

However, save in the case of grades A 1, A 2 and A 3, the management board may modify the establishment plan by up to 10 % of posts authorised, subject to two conditions:

- (a) that the volume of staff appropriations corresponding to a full financial year is not affected;
- (b) that the limit of the total number of posts authorised by the establishment plan is not exceeded.

2. By way of derogation from the second subparagraph of paragraph 1, the effects of part-time work authorised by the appointing authority in accordance with the Staff Regulations may be offset by other appointments.

## TITLE IV

## IMPLEMENTATION OF THE BUDGET

## CHAPTER 1

**General provisions***Article 33*

The director shall perform the duties of authorising officer. He/she shall implement the revenue and expenditure of the budget in accordance with the financial rules of the Community body, on his/her own responsibility and within the limits of the appropriations authorised.

*Article 34*

1. The director may delegate his/her powers of budget implementation to staff of the Community body covered by the regulations and rules applicable to officials and other servants of the European Communities (hereinafter referred to as the 'Staff Regulations'), in accordance with the conditions laid down by the financial rules, within the meaning of Article 185 of the general Financial Regulation, adopted by the management board. Those so empowered may act only within the limits of the powers expressly conferred upon them.

2. The delegatee may subdelegate the powers received as provided for in the rules for implementing this Regulation referred to in Article 99. Each act of subdelegation shall require the explicit agreement of the director.

*Article 35*

1. All financial actors within the meaning of Chapter 2 of this title shall be prohibited from taking any measures of budget implementation which may bring their own interests into conflict with those of the Community body. Should such a case arise, the actor in question must refrain from such measures and refer the matter to the competent authority.

2. There is a conflict of interests where the impartial and objective exercise of the functions of an actor in the implementation of the budget or an internal auditor is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with the beneficiary.

3. The competent authority referred to in paragraph 1 shall be the immediate superior of the member of staff concerned. If the member of staff is the director, the competent authority shall be the management board.

*Article 36*

1. The budget shall be implemented by the director in the departments placed under his/her authority.

2. Technical expertise tasks and administrative, preparatory or ancillary tasks involving neither the exercise of public authority nor the use of discretionary powers of judgement may be entrusted by contract to external private-sector entities or bodies, where this proves to be indispensable.

## CHAPTER 2

**Financial actors**

## Section 1

***Principle of segregation of duties****Article 37*

The duties of authorising officer and accounting officer shall be segregated and mutually incompatible.

## Section 2

***Authorising officer****Article 38*

1. The authorising officer shall be responsible for implementing revenue and expenditure in accordance with the principles of sound financial management and for ensuring that the requirements of legality and regularity are complied with.

2. To implement expenditure, the authorising officer shall make budget commitments and legal commitments, shall validate expenditure and authorise payments and shall undertake the preliminaries for the implementation of appropriations.

3. Implementation of revenue shall comprise drawing up estimates of amounts receivable, establishing entitlements to be recovered and issuing recovery orders. It shall involve waiving established entitlements where appropriate.

4. The authorising officer shall put in place, in compliance with the minimum standards adopted by the management board on the basis of equivalent standards laid down by the Commission for its own departments, and having due regard to the risks associated with the management environment and the nature of the action financed, the organisational structure and the internal management and control systems and procedures suited to the performance of his/her duties, including where appropriate ex post verifications.

The authorising officer shall establish within his/her departments an expertise and advice function designed to help him/her control the risks involved in his/her activities.

5. Before an operation is authorised, the operational and financial aspects shall be verified by members of staff other than the one who initiated the operation. Initiation and the ex ante and ex post verification of an operation shall be separate functions.

6. The authorising officer shall conserve the supporting documents relating to operations carried out for a period of five years from the date of the decision granting discharge in respect of implementation of the budget.

#### Article 39

1. Initiation of an operation as referred to in Article 38(5) shall be understood to mean all the operations which are preparatory to the adoption of the acts implementing the budget by the authorising officers responsible referred to in Articles 33 and 34.

2. Ex ante verification of an operation as referred to in Article 38(5) shall be understood to mean all the ex ante checks put in place by the authorising officer responsible in order to verify the operational and financial aspects.

3. Each operation shall be subject of at least one ex ante verification. The purpose of this verification shall be to ascertain that:

- (a) the expenditure is in order and conforms to the relevant provisions;
- (b) the principle of sound financial management referred to in Article 25 has been applied.

4. The purpose of ex post verifications of documents and, where appropriate, on-the-spot verifications shall be to verify that operations financed by the budget have been correctly implemented and in particular that the criteria referred to in paragraph 3 have been complied with. These verifications may be organised on a sample basis using risk analysis.

5. The officials or other staff responsible for the verifications referred to in paragraphs 2 and 4 shall be different from those performing the tasks referred to in paragraph 1 and shall not be their subordinates.

6. All staff responsible for scrutinising the management of financial operations must have the necessary professional skills. They shall respect a specific code of professional standards adopted by the Community body and based on standards laid down by the Commission for its own departments.

#### Article 40

1. The authorising officer shall report to the management board on the performance of his/her duties in the form of an annual activity report (hereinafter 'authorising officer's report'), together with financial and management information. This report shall indicate the results of his/her operations by reference to the objectives set, the risks associated with these opera-

tions, the use made of the resources provided and the way the internal control system functions. The internal auditor within the meaning of Article 71 shall take note of the annual activity report and any other pieces of information identified.

2. By no later than 15 June each year, the management board shall send the budgetary authority and the Court of Auditors an analysis and an assessment of the authorising officer's annual report on the previous financial year. This analysis and assessment shall be included in the annual report of the Community body, in accordance with the provisions of the constituent instrument.

#### Article 41

Any member of staff involved in the financial management and control of transactions who considers that a decision he/she is required by his/her superior to apply or to agree to is irregular or contrary to the principles of sound financial management or the professional rules he/she is required to observe shall inform the Director in writing and, if the latter fails to take action within a reasonable period, the panel referred to in Article 47(4) and the management board. In the event of any illegal activity, fraud or corruption which may harm the interests of the Community, he/she shall inform the authorities and bodies designated by the applicable legislation.

#### Article 42

Where powers of budget implementation are delegated or subdelegated in accordance with Article 34, Article 38(1), (2) and (3) shall apply *mutatis mutandis* to the authorising officers by delegation or subdelegation.

### Section 3

#### Accounting officer

#### Article 43

1. The management board shall appoint an accounting officer, covered by the Staff Regulations, who shall be responsible in the Community body for:

- (a) proper implementation of payments, collection of revenue and recovery of amounts established as being receivable;
- (b) preparing and presenting the accounts in accordance with Title VII;
- (c) keeping the accounts in accordance with Title VII;
- (d) implementing, in accordance with Title VII, the accounting rules and methods and the chart of accounts in accordance with the provisions adopted by the Commission's accounting officer;
- (e) laying down and validating the accounting systems and where appropriate validating systems laid down by the authorising officer to supply or justify accounting information;
- (f) treasury management.

2. The accounting officer shall obtain from the authorising officer, who shall guarantee its reliability, all the information necessary for the production of accounts which give a true image of the Community body's assets and of budget implementation.

3. Subject to paragraph 4 of this Article and Article 44, the accounting officer is alone empowered to manage monies and other assets. He/she shall be responsible for their safekeeping.

4. The accounting officer may delegate certain tasks to subordinates subject to the Staff Regulations, where this is indispensable for the performance of his/her duties.

5. The instrument of delegation shall lay down the tasks entrusted to the delegates and their rights and obligations.

#### Section 4

##### ***Imprest administrator***

###### *Article 44*

Where it proves indispensable for the payment of small sums and for the collection of other revenue referred to in Article 5, imprest accounts may be set up which shall be endowed by the accounting officer and shall be placed under the responsibility of imprest administrators designated by him/her.

The maximum amount of each item of expenditure or revenue that can be paid by the imprest administrator to third parties may not exceed a certain amount to be specified by each Community body for each item of expenditure or revenue.

#### CHAPTER 3

##### **Liability of the financial actors**

#### Section 1

##### ***General rules***

###### *Article 45*

1. Without prejudice to any disciplinary action, authorising officers by delegation and subdelegation may at any time have their delegation or subdelegation withdrawn temporarily or definitively by the authority which appointed them.

The authorising officer may at any time withdraw his/her agreement to a specific subdelegation.

2. Without prejudice to any disciplinary action, the accounting officer may at any time be suspended temporarily or definitively from his/her duties by the management board. The management board shall appoint an interim accounting officer.

3. Without prejudice to any disciplinary action, imprest administrators may at any time be suspended temporarily or definitively from their duties by the accounting officer.

###### *Article 46*

1. The provisions of this chapter are without prejudice to the criminal-law liability which the authorising officer and the persons referred to in Article 45 may incur as provided in the applicable national law and in the provisions in force on the protection of the Communities' financial interests and on the fight against corruption involving officials of the Communities or officials of Member States.

2. Each authorising officer, accounting officer or imprest administrator shall be liable to disciplinary action and payment of compensation as laid down in the Staff Regulations, without prejudice to Articles 47, 48 and 49. In the event of illegal activity, fraud or corruption which may harm the interests of the Community, the matter will be referred to the authorities and bodies designated by the applicable legislation.

#### Section 2

##### ***Rules applicable to authorising officers by delegation and subdelegation***

###### *Article 47*

1. The authorising officer shall be liable to payment of compensation as laid down in the Staff Regulations. Accordingly, he/she may be required to make good, in whole or in part, any damage suffered by the Communities as a result of serious misconduct on his/her part in the course of or in connection with the performance of his/her duties, in particular if he/she determines entitlements to be recovered or issues recovery orders, commits expenditure or signs a payment order without complying with this Financial Regulation and its implementing rules.

The same shall apply where, through serious misconduct, he/she fails to draw up a document establishing an amount receivable or if he/she fails to issue a recovery order or is, without justification, late in issuing it, or if he/she fails to issue a payment order or is late in issuing it, thereby rendering the agency liable to civil action by third parties.

2. An authorising officer by delegation or subdelegation who considers that a decision falling under his/her responsibility is irregular or contrary to the principles of sound financial management shall inform the delegating authority in writing. If the delegating authority then gives a reasoned instruction in writing to the authorising officer by delegation or subdelegation to implement the decision in question, the latter must implement it and may not be held liable.

3. In the event of delegation, the authorising officer shall continue to be responsible for the effectiveness of the internal management and control systems put in place and for the choice of the authorising officer by delegation.

4. The panel set up by the Commission to determine whether a financial irregularity has occurred and what the consequences, if any, should be, in accordance with Article 66(4) of the general Financial Regulation, may exercise the same powers in respect of the Community body as it does in respect of Commission departments, if the management board so decides.



If it does not so decide, the management board shall set up a functionally independent panel that is specialised in this field.

On the basis of the opinion of this panel, the director shall decide whether to initiate disciplinary proceedings or proceedings for the payment of compensation. If the panel detects systemic problems, it shall send a report with recommendations to the authorising officer and to the Commission's internal auditor. If the opinion implicates the director, the panel shall send it to the management board and the Commission's internal auditor.

5. Any member of staff may be required to make good, in whole or in part, any damage suffered by the Community body as a result of serious misconduct on his/her part in the course of or in connection with the performance of his/her duties.

The appointing authority shall take a reasoned decision, after completing the formalities laid down by the Staff Regulations with regard to disciplinary matters.

#### Section 3

#### **Rules applicable to accounting officers and imprest administrators**

##### *Article 48*

An accounting officer may be liable to disciplinary action and payment of compensation, as laid down in the Staff Regulations, in particular where:

- (a) he/she loses or damages monies, assets and documents in his/her keeping or causes them to be lost or damaged by his/her negligence;
- (b) he/she alters bank accounts or postal giro accounts without notifying the authorising officer in advance;
- (c) he/she recovers or pays amounts which are not in conformity with the corresponding recovery or payment orders;
- (d) he/she fails to collect revenue due.

##### *Article 49*

An imprest administrator may be liable to disciplinary action and payment of compensation, as laid down in the Staff Regulations, in particular where:

- (a) he/she loses or damages monies, assets and documents in his/her keeping or causes them to be lost or damaged by his/her negligence;
- (b) he/she cannot provide proper supporting documents for the payments he/she has made;
- (c) he/she makes payments to persons other than those entitled;
- (d) he/she fails to collect revenue due.

#### CHAPTER 4

#### **Revenue operations**

##### Section 1

#### **General provisions**

##### *Article 50*

The Community body shall present to the Commission requests for payment of all or part of the Community subsidy, supported by a cash-flow forecast, under terms and at intervals agreed with the Commission.

##### *Article 51*

The funds paid to the Community body by the Commission by way of the subsidy shall bear interest for the benefit of the general budget.

##### Section 2

#### **Estimate of amounts receivable**

##### *Article 52*

An estimate of the amount receivable shall first be made by the authorising officer responsible in respect of any measure or situation which may give rise to or modify an amount owing to the Community body.

##### Section 3

#### **Establishment of amounts receivable**

##### *Article 53*

1. Establishment of an amount receivable is the act by which the authorising officer or authorising officer by delegation:

- (a) verifies that the debt exists;
- (b) determines or verifies the reality and the amount of the debt;
- (c) verifies the conditions in which the debt is due.

2. Any amount receivable that is identified as being certain, of a fixed amount and due must be established by a recovery order given to the accounting officer, accompanied by a debit note sent to the debtor. Both of these documents shall be drawn up and sent by the authorising officer responsible.

3. Without prejudice to the provisions laid down in the rules, contract or agreement applicable, any debt not repaid on the due date laid down in the debit note shall bear interest in accordance with the detailed rules for implementation of the general Financial Regulation.

4. In duly substantiated cases, certain routine revenue items may be established provisionally.

Provisional establishment shall cover the recovery of several individual amounts which need not therefore be established individually.

Before the end of the financial year, the authorising officer shall amend the amounts established provisionally to ensure that they correspond to the amounts receivable actually established.

#### Section 4

### **Authorisation of recovery**

#### Article 54

The authorisation of recovery is the act whereby the authorising officer responsible instructs the accounting officer, by issuing a recovery order, to recover an amount receivable which he/she has established.

#### Section 5

### **Recovery**

#### Article 55

1. Amounts wrongly paid shall be recovered.
2. The accounting officer shall act on recovery orders for amounts receivable duly established by the authorising officer or authorising officer responsible. He/she shall exercise due diligence to ensure that the Community body receives its revenue and shall see that its rights are safeguarded.
3. Where the authorising officer responsible is planning to waive recovery of an established amount receivable, he/she shall ensure that the waiver is in order and complies with the principle of sound financial management.

Such a waiver shall be by decision of the authorising officer, which must be substantiated. The authorising officer may not delegate such a decision.

The waiver decision shall state what action has been taken to secure recovery and the points of law and fact on which it is based.

4. The authorising officer responsible shall cancel an established amount receivable when the discovery of a mistake as to a point of law or fact reveals that the amount had not been correctly established. Such cancellation shall be by decision of the authorising officer responsible and shall be suitably substantiated.

5. The authorising officer responsible shall adjust the amount of an established debt upwards or downwards when the discovery of a factual error entails the alteration of the amount of the debt, provided that this correction does not involve the loss of the established entitlement of the Commu-

nity body. Such an adjustment shall be by decision of the authorising officer responsible and shall be suitably substantiated.

#### Article 56

1. Upon actual recovery of the sum due, the accounting officer shall make an entry in the accounts and shall inform the authorising officer responsible.

2. A receipt shall be issued in respect of all cash payments made to the accounting officer.

#### Article 57

1. If actual recovery has not taken place by the due date stipulated in the debit note, the accounting officer shall inform the authorising officer responsible and immediately launch the procedure for effecting recovery by any means offered by the law, including, where appropriate, by offsetting and, if this is not possible, by enforced recovery.

2. The accounting officer shall recover amounts by offsetting them against equivalent claims that the Community body has on any debtor who himself or herself has a claim on the Community body that is certain, of a fixed amount and due, provided that offsetting is legally possible.

#### Article 58

The accounting officer, in collaboration with the authorising officer responsible, may allow additional time for payment only at the written request of the debtor, with due indication of the reasons, provided that the following two conditions are met:

- (a) the debtor undertakes to pay interest at the rate specified in the detailed rules for implementation of the general Financial Regulation for the entire additional period allowed, starting from the date on which the payment was originally due;
- (b) in order to safeguard the rights of the Community body, the debtor provides a financial guarantee covering both the principal sum and the interest.

#### Section 6

### **Specific provisions applicable to fees and charges**

#### Article 59

1. Where the Community body collects fees and charges referred to in Article 5(a), an overall provisional estimate of such fees and charges shall be made at the beginning of each financial year.

2. As a general rule, the Community body shall provide services by virtue of the tasks entrusted to it only after the corresponding fee or charge has been paid in its entirety.

3. If, by way of exception, a service has been provided without prior payment of the corresponding charge or fee, sections 3, 4 and 5 of this chapter shall apply.

## CHAPTER 5

**Expenditure operations***Article 60*

1. Every item of expenditure shall be committed, validated, authorised and paid.
2. Every commitment of expenditure shall be preceded by a financing decision.
3. The work programme of the Community body shall be equivalent to a financing decision for the activities it covers, provided that they are clearly identified and the underlying criteria are spelled out precisely.
4. Administrative appropriations may be implemented without a prior financing decision.

## Section 1

**Commitment of expenditure***Article 61*

1. The budget commitment is the operation reserving the appropriations necessary to cover subsequent payments to honour a legal commitment.
2. The legal commitment is the act whereby the authorising officer responsible enters into or establishes an obligation which results in a charge for the budget.
3. The budget commitment is individual when the beneficiary and the amount of the expenditure are known.
4. The budget commitment is global when at least one of the elements necessary to identify the individual commitment is still not known.
5. The budget commitment is provisional when it is intended to cover routine administrative expenditure and either the amount or the final beneficiaries are not definitively known.

The provisional budget commitment shall be implemented either by the conclusion of one or more individual legal commitments giving rise to an entitlement to subsequent payments or, in exceptional cases relating to expenditure on staff management, directly by payments.

*Article 62*

1. In respect of any measure which may give rise to expenditure chargeable to the budget, the authorising officer responsible must first make a budget commitment before entering into a legal obligation with third parties.
2. Individual legal commitments relating to individual or provisional budget commitments shall be concluded by 31 December of year *n*.

At the end of the periods referred to in the first subparagraph, the unused balance of these budget commitments shall be decommitted by the authorising officer responsible.

3. The legal commitments entered into for actions extending over more than one financial year and the corresponding budget commitments shall, save in the case of staff expenditure, have a final date for implementation set in compliance with the principle of sound financial management.

Any parts of such commitments which have not been executed six months after that final date shall be decommitted in accordance with Article 11.

*Article 63*

When adopting a budget commitment, the authorising officer responsible shall ensure that:

- (a) the expenditure has been charged to the correct item in the budget;
- (b) the appropriations are available;
- (c) the expenditure conforms to the applicable provisions, in particular those of the constituent instrument, the financial rules of each Community body and all acts adopted pursuant to them;
- (d) the principle of sound financial management is complied with.

## Section 2

**Validation of expenditure***Article 64*

Validation of expenditure is the act whereby the authorising officer responsible:

- (a) verifies the existence of the creditor's entitlement;
- (b) verifies the conditions in which payment is due;
- (c) determines or verifies the reality and the amount of the claim.

*Article 65*

1. Validation of any expenditure shall be based on supporting documents attesting the creditor's entitlement, on the basis of a statement of services actually rendered, supplies actually delivered or work actually carried out, or on the basis of other documents justifying payment.

2. The validation decision shall be expressed by the signing of a 'passed for payment' voucher by the authorising officer responsible.

3. In a non-computerised system, 'passed for payment' shall take the form of a stamp incorporating the signature of the authorising officer responsible. In a computerised system, 'passed for payment' shall take the form of validation using the personal password of the authorising officer responsible.

## Section 3

**Authorisation of expenditure**

## Article 66

1. Authorisation of expenditure is the act whereby the authorising officer responsible, by issuing a payment order, instructs the accounting officer to pay an item of expenditure which he/she has validated.

2. The payment order shall be dated and signed by the authorising officer responsible, then sent to the accounting officer. The supporting documents shall be kept by the authorising officer responsible in accordance with Article 38(6).

3. Where appropriate, the payment order sent to the accounting officer shall be accompanied by a document certifying that the goods have been entered in the inventories referred to in Article 90(1).

## Section 4

**Payment of expenditure**

## Article 67

1. Payment shall be made on production of proof that the relevant action has been carried out in accordance with the provisions of the basic act within the meaning of Article 49 of the general Financial Regulation or the contract or grant agreement, and shall cover one of the following operations:

- (a) payment of the entire amount due;
- (b) payment of the amount due in any of the following ways:
  - (i) prefinancing, which may be divided into a number of payments;
  - (ii) one or more interim payments;
  - (iii) payment of the balance of the amounts due.

Prefinancing shall count in full or in part against the interim payments.

The entire prefinancing and interim payments shall count against the payment of balances.

2. A distinction shall be made in the accounts between the different types of payment referred to in paragraph 1 at the time they are made.

## Article 68

Payment of expenditure shall be made by the accounting officer within the limits of the funds available.

## Section 5

**Time limits for expenditure operations**

## Article 69

The validation, authorisation and payment of expenditure must be carried out within the time limits specified in, and in accordance with the provisions of, the detailed rules for implementation of the general Financial Regulation.

## CHAPTER 6

**IT systems**

## Article 70

Where revenue and expenditure operations are managed by means of computer systems, documents may be signed by a computerised or electronic procedure.

## CHAPTER 7

**Internal auditor**

## Article 71

1. The Community body shall have an internal auditing function which must be performed in compliance with the relevant international standards.

2. Without prejudice to Article 38(4) the Commission's internal auditor shall exercise, the same powers with respect to the Community bodies as with respect to Commission departments.

## Article 72

1. The internal auditor shall advise the Community body on dealing with risks, by issuing independent opinions on the quality of management and control systems and by issuing recommendations for improving the conditions of implementation of operations and promoting sound financial management.

He/she shall be responsible:

- (a) for assessing the suitability and effectiveness of internal management systems and the performance of departments in implementing programmes and actions by reference to the risks associated with them; and
- (b) for assessing the suitability and quality of the internal control systems applicable to every budgetary implementation operation.

2. The internal auditor shall perform his/her duties on all the Community body's activities and departments. He/she shall enjoy full and unlimited access to all information required to perform his/her duties.

3. The internal auditor shall report to the management board and the Director on his/her findings and recommendations. They shall ensure that action is taken on recommendations resulting from audits.

4. The internal auditor shall submit to the Community body an annual internal audit report setting out, *inter alia*, the number and type of internal audits conducted, the recommendations made and the action taken on these recommendations. This annual report shall also mention any systemic problems detected by the specialised panel set up under Article 66(4) of the general Financial Regulation.

5. Each year the Community body shall send to the authority responsible for discharge and to the Commission, a report drawn up by its director summarising the number and type of internal audits conducted by the internal auditor, the recommendations made and the action taken on these recommendations.

#### Article 73

The responsibility of the internal auditor for action taken in the performance of his/her duties shall be determined in accordance with Article 87 of the general Financial Regulation.

### TITLE V

#### PROCUREMENT

#### Article 74

As regards procurement, the relevant provisions of the general Financial Regulation and the detailed rules for implementing that Regulation shall apply.

### TITLE VI

#### GRANTS AWARDED BY THE COMMUNITY BODY

#### Article 75

Where the Community body may award grants in accordance with its constituent instrument, the relevant provisions of the general Financial Regulation and the detailed rules for implementing that Regulation shall apply.

### TITLE VII

#### PRESENTATION OF THE ACCOUNTS AND ACCOUNTING

#### CHAPTER 1

#### Article 78

#### Presentation of the accounts

The financial statements shall be drawn up in accordance with the generally accepted accounting principles specified in the detailed rules for implementing the general Financial Regulation, namely:

#### Article 76

The annual accounts of the Community body shall comprise:

- (a) the financial statements of the Community body;
- (b) the reports on implementation of the budget of the Community body.

The accounts of the Community body shall be accompanied by a report on budgetary and financial management during the year.

#### Article 77

The accounts must comply with the rules and be accurate and comprehensive and present a true and fair view:

- (a) as regards the financial statements, of the assets and liabilities, charges and income, entitlements and obligations not shown as assets or liabilities and cash flow;
- (b) as regards reports on budgetary implementation, of revenue and expenditure operations.

- (a) going concern basis;
- (b) prudence;
- (c) consistent accounting methods;
- (d) comparability of information;
- (e) materiality;
- (f) no netting;
- (g) reality over appearance;
- (h) accrual-based accounting.

#### Article 79

1. In accordance with the principle of accrual-based accounting, the financial statements shall show the charges and income for the financial year, regardless of the date of payment or collection.



2. The value of assets and liabilities shall be determined in accordance with the valuation rules laid down by the accounting methods provided for in Article 132 of the general Financial Regulation.

#### Article 80

1. The financial statements shall be presented in euro and shall comprise:

- (a) the balance sheet and the economic outturn account, which represent the assets and liabilities and financial situation and the economic outturn at 31 December of the previous year; they shall be presented in accordance with the structure laid down by the Council Directive on the annual accounts of certain types of companies, but with account being taken of the specific nature of the Community body's activities;
- (b) the cash-flow table showing amounts collected and disbursed during the year and the final treasury position;
- (c) the statement of changes in capital presenting in detail the increases and decreases during the year in each item of the capital accounts.

2. The annex to the financial statements shall supplement and comment on the information presented in the statements referred to in paragraph 1 and shall supply all the additional information prescribed by internationally accepted accounting practice where such information is relevant to the Community body's activities.

#### Article 81

The budgetary implementation reports shall be presented in euro. They shall comprise:

- (a) the budgetary outturn account, which sets out all budget operations for the year in terms of revenue and expenditure; the structure in which it is presented shall be the same as that of the budget itself;
- (b) the annex to the budgetary outturn account, which shall supplement and comment on the information given in that account.

#### Article 82

The accounting officer shall send to the Commission's accounting officer by no later than 1 March of the following year its provisional accounts, together with the report on budgetary and financial management during the year, referred to in Article 76(7) of this Regulation, so that the Commission's accounting officer can consolidate the accounts as provided for in Article 128 of the general Financial Regulation.

#### Article 83

1. In accordance with Article 129(1) of the general Financial Regulation, the Court of Auditors shall, by 15 June at the latest, make its observations on the provisional accounts of each institution and each body referred to in Article 185 of the general Financial Regulation.

2. On receiving the Court of Auditors' observations on the provisional accounts of the Community body, the Director shall draw up the final accounts of the Community body, under his/her own responsibility, and send them to the management board, which shall give an opinion on these accounts.

3. The director shall send the final accounts, together with the opinion of the management board, to the Commission's accounting officer and to the Court of Auditors, the European Parliament and the Council, by 1 July of the following year at the latest.

4. The final accounts of the Community body shall be published in the *Official Journal of the European Communities* on 31 October of the following financial year.

5. The director shall send the Court of Auditors a reply to the observations made in its annual report by 30 September at the latest.

### CHAPTER 2

#### Accounting

##### Section 1

#### Common provisions

##### Article 84

1. The accounting system of the Community body is the system serving to organise the budgetary and financial information in such a way that figures can be input, filed and registered.

2. The accounts shall consist of general accounts and budgetary accounts. These accounts shall be kept in euro on the basis of the calendar year.

3. The figures in the general accounts and the budgetary accounts shall be adopted at the close of the budget year so that the accounts referred to in Chapter 1 can be drawn up.

4. Notwithstanding paragraphs 2 and 3, the authorising officer may keep analytical accounts.

##### Article 85

The accounting rules and methods and the harmonised chart of accounts to be applied by the Community body shall be adopted by the Commission's accounting officer in accordance with Article 133 of the general Financial Regulation.

##### Section 2

#### General accounts

##### Article 86

The general accounts shall record, in chronological order using the double entry method, all events and operations which affect the economic and financial situation and the assets and liabilities of the Community body.

##### Article 87

1. Movements on the accounts and the balances shall be entered in the accounting ledgers.

2. All accounting entries, including adjustments to the accounts, shall be based on supporting documents, to which they shall refer.

3. The accounting system must be such as to leave a trail for all accounting entries.

#### *Article 88*

The accounting officer of the Community body shall, after the close of the budgetary year and up to the date of presentation of the final accounts, make any adjustments which, without involving disbursement or collection in respect of that year, are necessary for a true and fair presentation of the accounts in compliance with the rules.

#### *Section 3*

### **Budgetary accounts**

#### *Article 89*

1. The budget accounts shall provide a detailed record of budgetary implementation.

2. For the purposes of paragraph 1, the budgetary accounts shall record all budgetary revenue and expenditure operations provided for in Title IV of this Regulation.

#### *CHAPTER 4*

### **Property inventories**

#### *Article 90*

1. The Community body shall keep inventories showing the quantity and value of all the tangible, intangible and financial assets constituting Community property in accordance with a model drawn up by the accounting officer of the Commission.

The Community body shall check that entries in the inventory correspond to the actual situation.

2. The sale of movable property shall be advertised in appropriate manner.

#### *TITLE VIII*

### **EXTERNAL AUDIT AND DISCHARGE**

#### *CHAPTER 1*

### **External audit**

#### *Article 91*

The Court of Auditors shall scrutinise the accounts of the Community body in accordance with Article 248 of the EC Treaty.

#### *Article 92*

1. The Community body shall send the Court of Auditors the budget, as finally adopted. It shall inform the Court of Auditors, as soon as possible, of all decisions and acts adopted pursuant to Articles 10, 14, 19 and 23.

2. The Community body shall send the Court of Auditors the internal financial rules it adopts.

3. The Court of Auditors shall be informed of the appointment of authorising officers, accounting officers and imprest administrators and of delegation decisions under Article 34, Article 43(1) and (4) and Article 44.

#### *Article 93*

The scrutiny carried out by the Court of Auditors shall be governed by Articles 139 to 144 of the general Financial Regulation.

#### *CHAPTER 2*

### **Discharge**

#### *Article 94*

1. The European Parliament, upon a recommendation from the Council, shall, before 30 April of year  $n + 2$  give a discharge to the director in respect of the implementation of the budget for year  $n$ .

2. If the date provided for in paragraph 1 cannot be met, the European Parliament or the Council shall inform the director of the reasons for the postponement.

3. If the European Parliament postpones the decision giving a discharge, the director shall make every effort to take measures, as soon as possible, to remove or facilitate removal of the obstacles to that decision.

#### *Article 95*

1. The discharge decision shall cover the accounts of all the revenue and expenditure of the Community body, the resulting balance and the assets and liabilities of the Community body shown in the financial statement.

2. With a view to granting the discharge, the European Parliament shall, after the Council has done so, examine the accounts and financial statements of the Community body. It shall also examine the annual report made by the Court of Auditors, together with the replies of the director of the Community body, any relevant special reports by the Court of Auditors in respect of the financial year in question and the Court of Auditors' statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.

3. The director shall submit to the European Parliament, at the latter's request, in the same manner as provided for in Article 146(3) of the general Financial Regulation, any information required for the smooth application of the discharge procedure for the year in question.

#### Article 96

1. The director shall take all appropriate steps to act on the observations accompanying the European Parliament's discharge decision and on the comments accompanying the recommendation for discharge adopted by the Council.

2. At the request of the European Parliament or the Council, the director shall report on the measures taken in the light of these observations and comments. He/she shall send a copy thereof to the Commission and the Court of Auditors.

### TITLE IX

#### TRANSITIONAL AND FINAL PROVISIONS

##### Article 97

The time limits referred to in Article 83 shall apply for the first time in respect of budgetary year 2005.

For earlier years these time limits shall be:

- (a) 15 September for Article 83(3);
- (b) 30 November for Article 83(4);
- (c) 31 October for Article 83(5).

##### Article 98

The European Parliament, the Council and the Commission shall be empowered to obtain any necessary information or explanations regarding budgetary matters within their fields of competence.

##### Article 99

The management board shall, as far as is necessary, adopt detailed rules for implementing the financial regulation of the Community body, on a proposal from its director.

##### Article 100

Once this Regulation has entered into force, each body referred to in Article 185 of the general Financial Regulation shall adopt a new financial regulation in view of its entry into force for 1 January 2003 or, in any event, within six months of the date on which it falls within the scope of the said Article 185, following the granting of a subsidy charged to the general budget.

##### Article 101

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

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

Done at Brussels, 23 December 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

---

**COMMISSION REGULATION (EC) No 2344/2002**  
**of 18 December 2002**  
**amending Annexes I, III, V and VII to Council Regulation (EEC) No 3030/93 on common rules for**  
**imports of certain textile products from third countries**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

(5) For reasons of clarity, certain Annexes to Regulation (EEC) No 3030/93 should be replaced altogether.

Having regard to the Treaty establishing the European Community,

(6) Regulation (EEC) No 3030/93 should therefore be amended accordingly.

Having regard to Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries <sup>(1)</sup>, as last amended by Commission Regulation (EC) No 797/2002 <sup>(2)</sup>, and in particular Article 19 thereof,

(7) In order to ensure that the Community complies with its international obligations, the measures provided for in this Regulation should apply with effect from 1 January 2003.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Textile Committee,

Whereas:

(1) The common rules for imports of textile products from third countries should be updated to take account of a number of recent developments.

HAS ADOPTED THIS REGULATION:

(2) The Council has approved by Decision 2002/877/EC of 5 November 2002 <sup>(3)</sup> the signing, on behalf of the European Community, of an Agreement in the form of a Memorandum of Understanding between the European Community and the Republic of Brazil on arrangements in the area of market access for textile and clothing products, and authorising its provisional application.

*Article 1*

Regulation (EEC) No 3030/93 is amended as follows:

(3) The Commission has decided by Regulation (EC) No 475/2002 <sup>(4)</sup> to suspend the application of the double-checking regime to certain textile products for Ukraine.

(a) Annexes I, V and VII are replaced by the texts set out in the Annex to this Regulation;

(b) Annex III is amended as shown in the Annex to this Regulation.

(4) Certain Combined Nomenclature Codes have been amended, owing to the revision of the Nomenclature of the Harmonized System annexed to the Convention of the World Customs Organization. The amendments also affect certain codes in Annex I to Regulation (EEC) No 3030/93.

*Article 2*

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

<sup>(1)</sup> OJ L 275, 8.11.1993, p. 3.

<sup>(2)</sup> OJ L 128, 15.5.2002, p. 29.

<sup>(3)</sup> OJ L 305, 7.11.2002, p. 20.

<sup>(4)</sup> OJ L 75, 16.3.2002, p. 26.

It shall apply with effect from 1 January 2003.

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

Done at Brussels, 18 December 2002.

*For the Commission*

Pascal LAMY

*Member of the Commission*

---



## ANNEX

1. Annex I is replaced by the following:

## 'ANNEX I

## TEXTILE PRODUCTS REFERRED TO IN ARTICLE 1 (1)

- Without prejudice to the rules for the interpretation of the combined nomenclature, the wording of the description of goods is considered to be of indicative value only, since the products covered by each category are determined, within this Annex, by CN codes. Where there is an "ex" symbol in front of a CN code, the products covered in each category are determined by the scope of the CN code and by that of the corresponding description.
- When the constitutive material of the products of categories 1 to 114 is not specifically mentioned, these products are to be taken to be made exclusively of wool or of fine animal hair, of cotton or of man-made fibres. This applies to the following countries: Argentina, Bangladesh, Bosnia and Herzegovina, Brazil, Cambodia, China (MFA Agreement), Croatia, Egypt, Former Yugoslav Republic of Macedonia, Hong Kong, India, Indonesia, Laos, Macao, Malaysia, Nepal, Pakistan, Peru, Philippines, Russian Federation, Singapore, South Korea, Sri Lanka, Taiwan, Thailand and Vietnam.
- Garments which are not recognizable as being garments for men or boys or as being garments for women or girls are classified with the latter.
- Where the expression "babies' garments" is used, this is meant to cover garments up to and including commercial size 86.

Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
GROUP I A			
1	<p>Cotton yarn, not put up for retail sale</p> <p>5204 11 00, 5204 19 00, 5205 11 00, 5205 12 00, 5205 13 00, 5205 14 00, 5205 15 10, 5205 15 90, 5205 21 00, 5205 22 00, 5205 23 00, 5205 24 00, 5205 26 00, 5205 27 00, 5205 28 00, 5205 31 00, 5205 32 00, 5205 33 00, 5205 34 00, 5205 35 00, 5205 41 00, 5205 42 00, 5205 43 00, 5205 44 00, 5205 46 00, 5205 47 00, 5205 48 00, 5206 11 00, 5206 12 00, 5206 13 00, 5206 14 00, 5206 15 10, 5206 15 90, 5206 21 00, 5206 22 00, 5206 23 00, 5206 24 00, 5206 25 10, 5206 25 90, 5206 31 00, 5206 32 00, 5206 33 00, 5206 34 00, 5206 35 00, 5206 41 00, 5206 42 00, 5206 43 00, 5206 44 00, 5206 45 00, ex 5604 90 00</p>		
2	<p>Woven fabrics of cotton, other than gauze, terry fabrics, pile fabrics, chenille fabrics, tulle and other net fabrics</p> <p>5208 11 10, 5208 11 90, 5208 12 16, 5208 12 19, 5208 12 96, 5208 12 99, 5208 13 00, 5208 19 00, 5208 21 10, 5208 21 90, 5208 22 16, 5208 22 19, 5208 22 96, 5208 22 99, 5208 23 00, 5208 29 00, 5208 31 00, 5208 32 16, 5208 32 19, 5208 32 96, 5208 32 99, 5208 33 00, 5208 39 00, 5208 41 00, 5208 42 00, 5208 43 00, 5208 49 00, 5208 51 00, 5208 52 10, 5208 52 90, 5208 53 00, 5208 59 00, 5209 11 00, 5209 12 00, 5209 19 00, 5209 21 00, 5209 22 00, 5209 29 00, 5209 31 00, 5209 32 00, 5209 39 00, 5209 41 00, 5209 42 00, 5209 43 00, 5209 49 10, 5209 49 90, 5209 51 00, 5209 52 00, 5209 59 00, 5210 11 10, 5210 11 90, 5210 12 00, 5210 19 00, 5210 21 10, 5210 21 90, 5210 22 00, 5210 29 00, 5210 31 10, 5210 31 90, 5210 32 00, 5210 39 00, 5210 41 00, 5210 42 00, 5210 49 00, 5210 51 00, 5210 52 00, 5210 59 00, 5211 11 00, 5211 12 00, 5211 19 00, 5211 21 00, 5211 22 00, 5211 29 00, 5211 31 00, 5211 32 00, 5211 39 00, 5211 41 00, 5211 42 00, 5211 43 00, 5211 49 10, 5211 49 90, 5211 51 00, 5211 52 00, 5211 59 00, 5212 11 10, 5212 11 90, 5212 12 10, 5212 12 90, 5212 13 10, 5212 13 90, 5212 14 10, 5212 14 90, 5212 15 10, 5212 15 90, 5212 21 10, 5212 21 90, 5212 22 10, 5212 22 90, 5212 23 10, 5212 23 90, 5212 24 10, 5212 24 90, 5212 25 10, 5212 25 90, ex 5811 00 00, ex 6308 00 00</p>		

(1) N.B.: Covers only categories 1 to 114, with the exception of Armenia, Azerbaijan, Belarus, Cambodia, China (non-MFA Agreement), Georgia, Kazakhstan, Kyrgyzstan, Laos, Moldova, Mongolia, Nepal, Russian Federation, Tajikistan, Turkmenistan, Ukraine, United Arab Emirates, Uzbekistan and Vietnam, for which categories 1 to 161 are covered and of Bosnia and Herzegovina, Croatia, Former Yugoslav Republic of Macedonia and Taiwan for which categories 1 to 123 are covered. In the case of Taiwan categories 115 to 123 are included in Group III B.

Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
2 (a)	Of which: Other than unbleached or bleached 5208 31 00, 5208 32 16, 5208 32 19, 5208 32 96, 5208 32 99, 5208 33 00, 5208 39 00, 5208 41 00, 5208 42 00, 5208 43 00, 5208 49 00, 5208 51 00, 5208 52 10, 5208 52 90, 5208 53 00, 5208 59 00, 5209 31 00, 5209 32 00, 5209 39 00, 5209 41 00, 5209 42 00, 5209 43 00, 5209 49 10, 5209 49 90, 5209 51 00, 5209 52 00, 5209 59 00, 5210 31 10, 5210 31 90, 5210 32 00, 5210 39 00, 5210 41 00, 5210 42 00, 5210 49 00, 5210 51 00, 5210 52 00, 5210 59 00, 5211 31 00, 5211 32 00, 5211 39 00, 5211 41 00, 5211 42 00, 5211 43 00, 5211 49 10, 5211 49 90, 5211 51 00, 5211 52 00, 5211 59 00, 5212 13 10, 5212 13 90, 5212 14 10, 5212 14 90, 5212 15 10, 5212 15 90, 5212 23 10, 5212 23 90, 5212 24 10, 5212 24 90, 5212 25 10, 5212 25 90, ex 5811 00 00, ex 6308 00 00		
3	Woven fabrics of synthetic fibres (discontinuous or waste) other than narrow woven fabrics, pile fabrics ( incl. terry fabrics) and chenille fabrics 5512 11 00, 5512 19 10, 5512 19 90, 5512 21 00, 5512 29 10, 5512 29 90, 5512 91 00, 5512 99 10, 5512 99 90, 5513 11 20, 5513 11 90, 5513 12 00, 5513 13 00, 5513 19 00, 5513 21 10, 5513 21 30, 5513 21 90, 5513 22 00, 5513 23 00, 5513 29 00, 5513 31 00, 5513 32 00, 5513 33 00, 5513 39 00, 5513 41 00, 5513 42 00, 5513 43 00, 5513 49 00, 5514 11 00, 5514 12 00, 5514 13 00, 5514 19 00, 5514 21 00, 5514 22 00, 5514 23 00, 5514 29 00, 5514 31 00, 5514 32 00, 5514 33 00, 5514 39 00, 5514 41 00, 5514 42 00, 5514 43 00, 5514 49 00, 5515 11 10, 5515 11 30, 5515 11 90, 5515 12 10, 5515 12 30, 5515 12 90, 5515 13 11, 5515 13 19, 5515 13 91, 5515 13 99, 5515 19 10, 5515 19 30, 5515 19 90, 5515 21 10, 5515 21 30, 5515 21 90, 5515 22 11, 5515 22 19, 5515 22 91, 5515 22 99, 5515 29 10, 5515 29 30, 5515 29 90, 5515 91 90, 5515 91 30, 5515 91 90, 5515 92 11, 5515 92 19, 5515 92 91, 5515 92 99, 5515 99 10, 5515 99 30, 5515 99 90, 5803 90 30, ex 5905 00 70, ex 6308 00 00		
3 (a)	Of which: Other than unbleached or bleached 5512 19 10, 5512 19 90, 5512 29 10, 5512 29 90, 5512 99 10, 5512 99 90, 5513 21 10, 5513 21 30, 5513 21 90, 5513 22 00, 5513 23 00, 5513 29 00, 5513 31 00, 5513 32 00, 5513 33 00, 5513 39 00, 5513 41 00, 5513 42 00, 5513 43 00, 5513 49 00, 5514 21 00, 5514 22 00, 5514 23 00, 5514 29 00, 5514 31 00, 5514 32 00, 5514 33 00, 5514 39 00, 5514 41 00, 5514 42 00, 5514 43 00, 5514 49 00, 5515 11 30, 5515 11 90, 5515 12 30, 5515 12 90, 5515 13 19, 5515 13 99, 5515 19 30, 5515 19 90, 5515 21 30, 5515 21 90, 5515 22 19, 5515 22 99, 5515 29 30, 5515 29 90, 5515 91 30, 5515 91 90, 5515 92 19, 5515 92 99, 5515 99 30, 5515 99 90, ex 5803 90 30, ex 5905 00 70, ex 6308 00 00		

## GROUP I B

4	Shirts, T-shirts, lightweight fine knit roll, polo or turtle necked jumpers and pullovers (other than of wool or fine animal hair), undervests and the like, knitted or crocheted 6105 10 00, 6105 20 10, 6105 20 90, 6105 90 10, 6109 10 00, 6109 90 10, 6109 90 30, 6110 20 10, 6110 30 10	6,48	154
---	--	------	-----

Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
5	Jerseys, pullovers, slip-overs, waistcoats, twinsets, cardigans, bed-jackets and jumpers (others than jackets and blazers), anoraks, wind-cheaters, waister jackets and the like, knitted or crocheted 6101 10 90, 6101 20 90, 6101 30 90, 6102 10 90, 6102 20 90, 6102 30 90, 6110 11 10, 6110 11 30, 6110 11 90, 6110 12 10, 6110 12 90, 6110 19 10, 6110 19 90, 6110 20 91, 6110 20 99, 6110 30 91, 6110 30 99	4,53	221
6	Men's or boys' woven breeches, shorts other than swimwear and trousers (incl. slacks); women's or girls' woven trousers and slacks, of wool, of cotton or of man made fibres; lower parts of track suits with lining, others than category 16 or 29, of cotton or of man-made fibres 6203 41 10, 6203 41 90, 6203 42 31, 6203 42 33, 6203 42 35, 6203 42 90, 6203 43 19, 6203 43 90, 6203 49 19, 6203 49 50, 6204 61 10, 6204 62 31, 6204 62 33, 6204 62 39, 6204 63 18, 6204 69 18, 6211 32 42, 6211 33 42, 6211 42 42, 6211 43 42	1,76	568
7	Women's or girls' blouses, shirts and shirt-blouses, whether or not knitted or crocheted, of wool, of cotton or man-made fibres 6106 10 00, 6106 20 00, 6106 90 10, 6206 20 00, 6206 30 00, 6206 40 00	5,55	180
8	Men's or boys' shirts, other than knitted or crocheted, of wool, cotton or man-made fibres 6205 10 00, 6205 20 00, 6205 30 00	4,60	217

## GROUP II A

9	Terry towelling and similar woven terry fabrics of cotton; toilet linen and kitchen linen, other than knitted or crocheted, of terry towelling and woven terry fabrics, of cotton 5802 11 00, 5802 19 00, ex 6302 60 00		
20	Bed linen, other than knitted or crocheted 6302 21 00, 6302 22 90, 6302 29 90, 6302 31 10, 6302 31 90, 6302 32 90, 6302 39 90		
22	Yarn of staple or waste synthetic fibres, not put up for retail sale 5508 10 11, 5508 10 19, 5509 11 00, 5509 12 00, 5509 21 10, 5509 21 90, 5509 22 10, 5509 22 90, 5509 31 10, 5509 31 90, 5509 32 10, 5509 32 90, 5509 41 10, 5509 41 90, 5509 42 10, 5509 42 90, 5509 51 00, 5509 52 10, 5509 52 90, 5509 53 00, 5509 59 00, 5509 61 10, 5509 61 90, 5509 62 00, 5509 69 00, 5509 91 10, 5509 91 90, 5509 92 00, 5509 99 00		
22 (a)	Of which acrylic ex 5508 10 19, 5509 31 10, 5509 31 90, 5509 32 10, 5509 32 90, 5509 61 10, 5509 61 90, 5509 62 00, 5509 69 00		
23	Yarn of staple or waste artificial fibres, not put up for retail sale 5508 20 10, 5510 11 00, 5510 12 00, 5510 20 00, 5510 30 00, 5510 90 00		

Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
32	Woven pile fabrics and chenille fabrics (other than terry towelling or terry fabrics of cotton and narrow woven fabrics) and tufted textile surfaces, of wool, of cotton or of man-made textile fibres 5801 10 00, 5801 21 00, 5801 22 00, 5801 23 00, 5801 24 00, 5801 25 00, 5801 26 00, 5801 31 00, 5801 32 00, 5801 33 00, 5801 34 00, 5801 35 00, 5801 36 00, 5802 20 00, 5802 30 00		
32 (a)	Of which: Cotton corduroy 5801 22 00		
39	Table linen, toilet linen and kitchen linen, other than knitted or crocheted, other than of terry towelling or a similar terry fabrics of cotton 6302 51 10, 6302 51 90, 6302 53 90, ex 6302 59 00, 6302 91 10, 6302 91 90, 6302 93 90, ex 6302 99 00		

## GROUP II B

12	Panty-hose and tights, stockings, understockings, socks, ankle-socks, sockettes and the like, knitted or crocheted, other than for babies, including stockings for varicose veins, other than products of category 70 6115 12 00, 6115 19 00, 6115 20 11, 6115 20 90, 6115 91 00, 6115 92 00, 6115 93 10, 6115 93 30, 6115 93 99, 6115 99 00	24,3 pairs	41
13	Men's or boys' underpants and briefs, women's or girls' knickers and briefs, knitted or crocheted, of wool, of cotton or of man-made fibres 6107 11 00, 6107 12 00, 6107 19 00, 6108 21 00, 6108 22 00, 6108 29 00, ex 6212 10 10	17	59
14	Men's or boys' woven overcoats, raincoats and other coats, cloaks and capes, of wool, of cotton or of man-made textile fibres (other than parkas) (of category 21) 6201 11 00, ex 6201 12 10, ex 6201 12 90, ex 6201 13 10, ex 6201 13 90, 6210 20 00	0,72	1 389
15	Women's or girls' woven overcoats, raincoats and other coats, cloaks and capes; jackets and blazers, of wool, of cotton or of man-made textile fibres (other than parkas) (of category 21) 6202 11 00, ex 6202 12 10, ex 6202 12 90, ex 6202 13 10, ex 6202 13 90, 6204 31 00, 6204 32 90, 6204 33 90, 6204 39 19, 6210 30 00	0,84	1 190
16	Men's or boys' suits and ensembles, other than knitted or crocheted, of wool, of cotton or of man-made fibres, excluding ski suits; men's or boys' track suits with lining, with an outer shell of a single identical fabric, of cotton or of man-made fibres 6203 11 00, 6203 12 00, 6203 19 10, 6203 19 30, 6203 21 00, 6203 22 80, 6203 23 80, 6203 29 18, 6211 32 31, 6211 33 31	0,80	1 250
17	Men's or boys' jackets or blazers, other than knitted or crocheted, of wool, of cotton or of man-made fibres 6203 31 00, 6203 32 90, 6203 33 90, 6203 39 19	1,43	700

Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
18	Men's or boys' singlets and other vests, underpants, briefs, nightshirts, pyjamas, bathrobes, dressing gowns and similar articles, other than knitted or crocheted 6207 11 00, 6207 19 00, 6207 21 00, 6207 22 00, 6207 29 00, 6207 91 10, 6207 91 90, 6207 92 00, 6207 99 00 Women's or girls' singlets and other vests, slips, petticoats, briefs, panties, night-dresses, pyjamas, négligees, bathrobes, dressing gowns and similar articles, other than knitted or crocheted 6208 11 00, 6208 19 10, 6208 19 90, 6208 21 00, 6208 22 00, 6208 29 00, 6208 91 11, 6208 91 19, 6208 91 90, 6208 92 00, 6208 99 00, ex 6212 10 10		
19	Handkerchiefs, other than knitted or crocheted 6213 20 00, 6213 90 00	59	17
21	Parkas; anoraks, windcheaters, waister jackets and the like, other than knitted or crocheted, of wool, of cotton or of man-made fibres; upper parts of tracksuits with lining, other than category 16 or 29, of cotton or of man-made fibres ex 6201 12 10, ex 6201 12 90, ex 6201 13 10, ex 6201 13 90, 6201 91 00, 6201 92 00, 6201 93 00, ex 6202 12 10, ex 6202 12 90, ex 6202 13 10, ex 6202 13 90, 6202 91 00, 6202 92 00, 6202 93 00, 6211 32 41, 6211 33 41, 6211 42 41, 6211 43 41	2,3	435
24	Men's or boys' nightshirts, pyjamas, bathrobes, dressing gowns and similar articles, knitted or crocheted 6107 21 00, 6107 22 00, 6107 29 00, 6107 91 10, 6107 91 90, 6107 92 00, ex 6107 99 00 Women's or girls' night-dresses, pyjamas, négligees, bathrobes, dressing gowns and similar articles, knitted or crocheted 6108 31 10, 6108 31 90, 6108 32 11, 6108 32 19, 6108 32 90, 6108 39 00, 6108 91 10, 6108 91 90, 6108 92 00, 6108 99 10	3,9	257
26	Women's or girls' dresses, of wool, of cotton or of man-made fibres 6104 41 00, 6104 42 00, 6104 43 00, 6104 44 00, 6204 41 00, 6204 42 00, 6204 43 00, 6204 44 00	3,1	323
27	Women's or girls' skirts, including divided skirts 6104 51 00, 6104 52 00, 6104 53 00, 6104 59 00, 6204 51 00, 6204 52 00, 6204 53 00, 6204 59 10	2,6	385
28	Trousers, bib and brace overalls, breeches and shorts (other than swimwear), knitted or crocheted, of wool, of cotton or of man-made fibres 6103 41 10, 6103 41 90, 6103 42 10, 6103 42 90, 6103 43 10, 6103 43 90, 6103 49 10, 6103 49 91, 6104 61 10, 6104 61 90, 6104 62 10, 6104 62 90, 6104 63 10, 6104 63 90, 6104 69 10, 6104 69 91	1,61	620
29	Women's or girls' suits and ensembles, other than knitted or crocheted, of wool, of cotton or of man-made fibres, excluding ski suits; women's or girls' track suits with lining, with an outer shell of an identical fabric, of cotton or of man-made fibres 6204 11 00, 6204 12 00, 6204 13 00, 6204 19 10, 6204 21 00, 6204 22 80, 6204 23 80, 6204 29 18, 6211 42 31, 6211 43 31	1,37	730
31	Brassières, woven, knitted or crocheted ex 6212 10 10, 6212 10 90	18,2	55



Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
68	Babies' garments and clothing accessories, excluding babies' gloves, mittens and mitts of categories 10 and 87, and babies' stockings, socks and sockettes, other than knitted or crocheted, of category 88 6111 10 90, 6111 20 90, 6111 30 90, ex 6111 90 00, ex 6209 10 00, ex 6209 20 00, ex 6209 30 00, ex 6209 90 00		
73	Track suits of knitted or crocheted fabric, of wool, of cotton or of man-made textile fibres 6112 11 00, 6112 12 00, 6112 19 00	1,67	600
76	Men's or boys' industrial or occupational clothing, other than knitted or crocheted 6203 22 10, 6203 23 10, 6203 29 11, 6203 32 10, 6203 33 10, 6203 39 11, 6203 42 11, 6203 42 51, 6203 43 11, 6203 43 31, 6203 49 11, 6203 49 31, 6211 32 10, 6211 33 10 Women's or girls' aprons, smock overalls and other industrial or occupational clothing, other than knitted or crocheted 6204 22 10, 6204 23 10, 6204 29 11, 6204 32 10, 6204 33 10, 6204 39 11, 6204 62 11, 6204 62 51, 6204 63 11, 6204 63 31, 6204 69 11, 6204 69 31, 6211 42 10, 6211 43 10		
77	Ski suits, other than knitted or crocheted ex 6211 20 00		
78	Garments, other than knitted or crocheted, excluding garments of categories 6, 7, 8, 14, 15, 16, 17, 18, 21, 26, 27, 29, 68, 72, 76 and 77 6203 41 30, 6203 42 59, 6203 43 39, 6203 49 39, 6204 61 80, 6204 61 90, 6204 62 59, 6204 62 90, 6204 63 39, 6204 63 90, 6204 69 39, 6204 69 50, 6210 40 00, 6210 50 00, 6211 31 00, 6211 32 90, 6211 33 90, 6211 41 00, 6211 42 90, 6211 43 90		
83	Overcoats, jackets, blazers and other garments, including ski suits, knitted or crocheted, excluding garments of categories 4, 5, 7, 13, 24, 26, 27, 28, 68, 69, 72, 73, 74, 75 6101 10 10, 6101 20 10, 6101 30 10, 6102 10 10, 6102 20 10, 6102 30 10, 6103 31 00, 6103 32 00, 6103 33 00, ex 6103 39 00, 6104 31 00, 6104 32 00, 6104 33 00, ex 6104 39 00, 6112 20 00, 6113 00 90, 6114 10 00, 6114 20 00, 6114 30 00		
GROUP III A			
33	Woven fabrics of synthetic filament yarn obtained from strip or the like of polyethylene or polypropylene, less than 3 m wide 5407 20 11 Sacks and bags, of a kind used for the packing of goods, not knitted or crocheted, obtained from strip or the like 6305 32 81, 6305 32 89, 6305 33 91, 6305 33 99		
34	Woven fabrics of synthetic filament yarn obtained from strip or the like of polyethylene or polypropylene, 3 m or more wide 5407 20 19		
35	Woven fabrics of synthetic fibres (continuous), other than those for tyres of category 114 5407 10 00, 5407 20 90, 5407 30 00, 5407 41 00, 5407 42 00, 5407 43 00, 5407 44 00, 5407 51 00, 5407 52 00, 5407 53 00, 5407 54 00, 5407 61 10, 5407 61 30, 5407 61 50, 5407 61 90, 5407 69 10, 5407 69 90, 5407 71 00, 5407 72 00, 5407 73 00, 5407 74 00, 5407 81 00, 5407 82 00, 5407 83 00, 5407 84 00, 5407 91 00, 5407 92 00, 5407 93 00, 5407 94 00, ex 5811 00 00, ex 5905 00 70		

Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
35 (a)	Of which: Other than unbleached or bleached ex 5407 10 00, ex 5407 20 90, ex 5407 30 00, 5407 42 00, 5407 43 00, 5407 44 00, 5407 52 00, 5407 53 00, 5407 54 00, 5407 61 30, 5407 61 50, 5407 61 90, 5407 69 90, 5407 72 00, 5407 73 00, 5407 74 00, 5407 82 00, 5407 83 00, 5407 84 00, 5407 92 00, 5407 93 00, 5407 94 00, ex 5811 00 00, ex 5905 00 70		
36	Woven fabrics of continuous artificial fibres, other than those for tyres of category 114 5408 10 00, 5408 21 00, 5408 22 10, 5408 22 90, 5408 23 10, 5408 23 90, 5408 24 00, 5408 31 00, 5408 32 00, 5408 33 00, 5408 34 00, ex 5811 00 00, ex 5905 00 70		
36 a)	Of which: Other than unbleached or bleached ex 5408 10 00, 5408 22 10, 5408 22 90, 5408 23 10, 5408 23 90, 5408 24 00, 5408 32 00, 5408 33 00, 5408 34 00, ex 5811 00 00, ex 5905 00 70		
37	Woven fabrics of artificial staple fibres 5516 11 00, 5516 12 00, 5516 13 00, 5516 14 00, 5516 21 00, 5516 22 00, 5516 23 10, 5516 23 90, 5516 24 00, 5516 31 00, 5516 32 00, 5516 33 00, 5516 34 00, 5516 41 00, 5516 42 00, 5516 43 00, 5516 44 00, 5516 91 00, 5516 92 00, 5516 93 00, 5516 94 00, 5803 90 50, ex 5905 00 70		
37 a)	Of which: Other than unbleached or bleached 5516 12 00, 5516 13 00, 5516 14 00, 5516 22 00, 5516 23 10, 5516 23 90, 5516 24 00, 5516 32 00, 5516 33 00, 5516 34 00, 5516 42 00, 5516 43 00, 5516 44 00, 5516 92 00, 5516 93 00, 5516 94 00, ex 5803 90 50, ex 5905 00 70		
38 A	Knitted or crocheted synthetic curtain fabric including net curtain fabric 6005 31 10, 6005 32 10, 6005 33 10, 6005 34 10, 6006 31 10, 6006 32 10, 6006 33 10, 6006 34 10		
38 B	Net curtains, other than knitted or crocheted ex 6303 91 00, ex 6303 92 90, ex 6303 99 90		
40	Woven curtains (including drapes, interior blinds, curtain and bed valances and other furnishing articles), other than knitted or crocheted, of wool, of cotton or of man-made fibres ex 6303 91 00, ex 6303 92 90, ex 6303 99 90, 6304 19 10, ex 6304 19 90, 6304 92 00, ex 6304 93 00, ex 6304 99 00		
41	Yarn of synthetic filament (continuous), not put up for retail sale, other than non textured single yarn untwisted or with a twist of not more than 50 turns/m 5401 10 11, 5401 10 19, 5402 10 10, 5402 10 90, 5402 20 00, 5402 31 00, 5402 32 00, 5402 33 00, 5402 39 10, 5402 39 90, 5402 49 10, 5402 49 91, 5402 49 99, 5402 51 00, 5402 52 00, 5402 59 10, 5402 59 90, 5402 61 00, 5402 62 00, 5402 69 10, 5402 69 90, ex 5604 20 00, ex 5604 90 00		
42	Yarn of continuous man-made fibres, not put up for retail sale 5401 20 10 Yarn of artificial fibres; yarn of artificial filaments, not put up for retail sale, other than single yarn of viscose rayon untwisted or with a twist of not more than 250 turns/m and single non textured yarn of cellulose acetate 5403 10 00, 5403 20 00, ex 5403 32 00, ex 5403 33 00, 5403 39 00, 5403 41 00, 5403 42 00, 5403 49 00, ex 5604 20 00		

Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
43	Yarn of man-made filament, yarn of artificial staple fibres, cotton yarn, put up for retail sale 5204 20 00, 5207 10 00, 5207 90 00, 5401 10 90, 5401 20 90, 5406 10 00, 5406 20 00, 5508 20 90, 5511 30 00		
46	Carded or combed sheep's or lambs' wool or other fine animal hair 5105 10 00, 5105 21 00, 5105 29 00, 5105 31 00, 5105 39 10, 5105 39 90		
47	Yarn of carded sheep's or lambs' wool (woollen yarn) or of carded fine animal hair, not put up for retail sale 5106 10 10, 5106 10 90, 5106 20 10, 5106 20 91, 5106 20 99, 5108 10 10, 5108 10 90		
48	Yarn of combed sheep's or lambs' wool (worsted yarn) or of combed fine animal hair, not put up for retail sale 5107 10 10, 5107 10 90, 5107 20 10, 5107 20 30, 5107 20 51, 5107 20 59, 5107 20 91, 5107 20 99, 5108 20 10, 5108 20 90		
49	Yarn of sheep's or lambs' wool or of combed fine animal hair, put up for retail sale 5109 10 10, 5109 10 90, 5109 90 10, 5109 90 90		
50	Woven fabrics of sheep's or lambs' wool or of fine animal hair 5111 11 11, 5111 11 19, 5111 11 91, 5111 11 99, 5111 19 11, 5111 19 19, 5111 19 31, 5111 19 39, 5111 19 91, 5111 19 99, 5111 20 00, 5111 30 10, 5111 30 30, 5111 30 90, 5111 90 10, 5111 90 91, 5111 90 93, 5111 90 99, 5112 11 10, 5112 11 90, 5112 19 11, 5112 19 19, 5112 19 91, 5112 19 99, 5112 20 00, 5112 30 10, 5112 30 30, 5112 30 90, 5112 90 10, 5112 90 91, 5112 90 93, 5112 90 99		
51	Cotton, carded or combed 5203 00 00		
53	Cotton gauze 5803 10 00		
54	Artificial staple fibres, including waste, carded, combed or otherwise processed for spinning 5507 00 00		
55	Synthetic staple fibres, including waste, carded, combed or otherwise processed for spinning 5506 10 00, 5506 20 00, 5506 30 00, 5506 90 10, 5506 90 90		
56	Yarn of synthetic staple fibres (including waste), put up for retail sale 5508 10 90, 5511 10 00, 5511 20 00		
58	Carpets, carpentines and rugs, knotted (made up or not) 5701 10 10, 5701 10 91, 5701 10 93, 5701 10 99, 5701 90 10, 5701 90 90		

Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
59	Carpets and other textile floor coverings, other than the carpets of category 58 5702 10 00, 5702 31 00, 5702 32 00, 5702 39 10, 5702 41 00, 5702 42 00, 5702 49 10, 5702 51 00, 5702 52 00, ex 5702 59 00, 5702 91 00, 5702 92 00, ex 5702 99 00, 5703 10 00, 5703 20 11, 5703 20 19, 5703 20 91, 5703 20 99, 5703 30 11, 5703 30 19, 5703 30 51, 5703 30 59, 5703 30 91, 5703 30 99, 5703 90 00, 5704 10 00, 5704 90 00, 5705 00 10, 5705 00 30, ex 5705 00 90		
60	Tapestries, hand-made, of the type Gobelins, Flanders, Aubusson, Beauvais and the like, and needlework tapestries (e.g. petit point and cross stitch) made in panels and the like by hand 5805 00 00		
61	Narrow woven fabrics, and narrow fabrics (bolduc) consisting of warp without weft, assembled by means of an adhesive, other than labels and similar articles of category 62 Elastic fabrics and trimmings (not knitted or crocheted), made from textile materials assembled from rubber thread ex 5806 10 00, 5806 20 00, 5806 31 00, 5806 32 10, 5806 32 90, 5806 39 00, 5806 40 00		
62	Chenille yarn (incl. flock chenille yarn), gimped yarn (other than metallized yarn and gimped horsehair yarn) 5606 00 91, 5606 00 99 Tulle and other net fabrics but not including woven, knitted or crocheted fabrics, hand or mechanically-made lace, in the piece, in strips or in motifs 5804 10 11, 5804 10 19, 5804 10 90, 5804 21 10, 5804 21 90, 5804 29 10, 5804 29 90, 5804 30 00 Labels, badges and the like of textile materials, not embroidered, in the piece, in strips or cut to shape or size, woven 5807 10 10, 5807 10 90 Braids and ornamental trimmings in the piece; tassels, pompons and the like 5808 10 00, 5808 90 00 Embroidery, in the piece, in strips or in motifs 5810 10 10, 5810 10 90, 5810 91 10, 5810 91 90, 5810 92 10, 5810 92 90, 5810 99 10, 5810 99 90		
63	Knitted or crocheted fabric of synthetic fibres containing by weight 5 % or more elastomeric yarn and knitted or crocheted fabrics containing by weight 5 % or more of rubber thread 5906 91 00, ex 6002 40 00, 6002 90 00, ex 6004 10 00, 6004 90 00 Raschel lace and long-pile fabric of synthetic fibres ex 6001 10 00, 6003 30 10, 6005 31 50, 6005 32 50, 6005 33 50, 6005 34 50		
65	Knitted or crocheted fabric, other than those of categories 38 A and 63, of wool, of cotton or of man-made fibres 5606 00 10, ex 6001 10 00, 6001 21 00, 6001 22 00, 6001 29 10, 6001 91 10, 6001 91 30, 6001 91 50, 6001 91 90, 6001 92 10, 6001 92 30, 6001 92 50, 6001 92 90, 6001 99 10, ex 6002 40 00, 6003 10 00, 6003 20 00, 6003 30 90, 6003 40 00, ex 6004 10 00, 6005 10 00, 6005 21 00, 6005 22 00, 6005 23 00, 6005 24 00, 6005 31 90, 6005 32 90, 6005 33 90, 6005 34 90, 6005 41 00, 6005 42 00, 6005 43 00, 6005 44 00, 6006 10 00, 6006 21 00, 6006 22 00, 6006 23 00, 6006 24 00, 6006 31 90, 6006 32 90, 6006 33 90, 6006 34 90, 6006 41 00, 6006 42 00, 6006 43 00, 6006 44 00		

Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
66	Travelling rugs and blankets, other than knitted or crocheted, of wool, of cotton or of man-made fibres 6301 10 00, 6301 20 91, 6301 20 99, 6301 30 90, ex 6301 40 90, ex 6301 90 90		
GROUP III B			
10	Gloves, mittens and mitts, knitted or crocheted 6111 10 10, 6111 20 10, 6111 30 10, ex 6111 90 00, 6116 10 20, 6116 10 80, 6116 91 00, 6116 92 00, 6116 93 00, 6116 99 00	17 pairs	59
67	Knitted or crocheted clothing accessories other than for babies; household linen of all kinds, knitted or crocheted; curtains (incl. drapes) and interior blinds, curtain or bed valances and other furnishing articles knitted or crocheted; knitted or crocheted blankets and travelling rugs, other knitted or crocheted articles including parts of garments or of clothing accessories 5807 90 90, 6113 00 10, 6117 10 00, 6117 20 00, 6117 80 10, 6117 80 90, 6117 90 00, 6301 20 10, 6301 30 10, 6301 40 10, 6301 90 10, 6302 10 10, 6302 10 90, 6302 40 00, ex 6302 60 00, 6303 11 00, 6303 12 00, 6303 19 00, 6304 11 00, 6304 91 00, ex 6305 20 00, 6305 32 11, ex 6305 32 90, 6305 33 10, ex 6305 39 00, ex 6305 90 00, 6307 10 10, 6307 90 10		
67 (a)	Of which: Sacks and bags of a kind used for the packing of goods, made from polyethylene or polypropylene strip 6305 32 11, 6305 33 10		
69	Women's and girls' slips and petticoats, knitted or crocheted 6108 11 00, 6108 19 00	7,8	128
70	Panty-hose and tights of synthetic fibres, measuring per single yarn less than 67 decitex (6,7 tex) 6115 11 00, 6115 20 19 Women's full length hosiery of synthetic fibres 6115 93 91	30,4 pairs	33
72	Swimwear, of wool, of cotton or of man-made fibres 6112 31 10, 6112 31 90, 6112 39 10, 6112 39 90, 6112 41 10, 6112 41 90, 6112 49 10, 6112 49 90, 6211 11 00, 6211 12 00	9,7	103
74	Women's or girls' knitted or crocheted suits and ensembles, of wool, of cotton or of man-made fibres, excluding ski suits 6104 11 00, 6104 12 00, 6104 13 00, ex 6104 19 00, 6104 21 00, 6104 22 00, 6104 23 00, ex 6104 29 00	1,54	650
75	Men's or boys' knitted or crocheted suits and ensembles, of wool, of cotton or of man-made fibres, excluding ski suit 6103 11 00, 6103 12 00, 6103 19 00, 6103 21 00, 6103 22 00, 6103 23 00, 6103 29 00	0,80	1 250
84	Shawls, scarves, mufflers, mantillas, veils and the like other than knitted or crocheted, of wool, of cotton or of man-made fibres 6214 20 00, 6214 30 00, 6214 40 00, 6214 90 10		
85	Ties, bow ties and cravats other than knitted or crocheted, of wool, of cotton or of man-made fibres 6215 20 00, 6215 90 00	17,9	56



Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
86	Corsets, corset-belts, suspender belts, braces, suspenders, garters and the like, and parts thereof, whether or not knitted or crocheted 6212 20 00, 6212 30 00, 6212 90 00	8,8	114
87	Gloves, mittens and mitts, not knitted or crocheted ex 6209 10 00, ex 6209 20 00, ex 6209 30 00, ex 6209 90 00, 6216 00 00		
88	Stockings, socks and sockettes, not knitted or crocheted; other clothing accessories, parts of garments or of clothing accessories other than for babies, other than knitted or crocheted ex 6209 10 00, ex 6209 20 00, ex 6209 30 00, ex 6209 90 00, 6217 10 00, 6217 90 00		
90	Twine, cordage, ropes and cables of synthetic fibres, plaited or not 5607 41 00, 5607 49 11, 5607 49 19, 5607 49 90, 5607 50 11, 5607 50 19, 5607 50 30, 5607 50 90		
91	Tents 6306 21 00, 6306 22 00, 6306 29 00		
93	Sacks and bags, of a kind used for the packing of goods of woven fabrics, other than made from polyethylene or polypropylene strip ex 6305 20 00, ex 6305 32 90, ex 6305 39 00		
94	Wadding of textile materials and articles thereof; textile fibres, not exceeding 5 mm in length (flock), textile dust and mill neps 5601 10 10, 5601 10 90, 5601 21 10, 5601 21 90, 5601 22 10, 5601 22 91, 5601 22 99, 5601 29 00, 5601 30 00		
95	Felt and articles thereof, whether or not impregnated or coated, other than floor coverings 5602 10 19, 5602 10 31, 5602 10 39, 5602 10 90, 5602 21 00, 5602 29 90, 5602 90 00, ex 5807 90 10, ex 5905 00 70, 6210 10 10, 6307 90 91		
96	Non-woven fabrics and articles of such fabrics, whether or not impregnated, coated, covered or laminated 5603 11 10, 5603 11 90, 5603 12 10, 5603 12 90, 5603 13 10, 5603 13 90, 5603 14 10, 5603 14 90, 5603 91 10, 5603 91 90, 5603 92 10, 5603 92 90, 5603 93 10, 5603 93 90, 5603 94 10, 5603 94 90, ex 5807 90 10, ex 5905 00 70, 6210 10 91, 6210 10 99, ex 6301 40 90, ex 6301 90 90, 6302 22 10, 6302 32 10, 6302 53 10, 6302 93 10, 6303 92 10, 6303 99 10, ex 6304 19 90, ex 6304 93 00, ex 6304 99 00, ex 6305 32 90, ex 6305 39 00, 6307 10 30, ex 6307 90 99		
97	Nets and netting made of twine, cordage or rope and made up fishing nets of yarn, twine, cordage or rope 5608 11 11, 5608 11 19, 5608 11 91, 5608 11 99, 5608 19 11, 5608 19 19, 5608 19 30, 5608 19 90, 5608 90 00		
98	Other articles made from yarn, twine, cordage, cables or rope, other than textile fabrics, articles made from such fabrics and articles of category 97 5609 00 00, 5905 00 10		

Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
99	Textile fabrics coated with gum or amylaceous substances, of a kind used for the outer covers of books and the like; tracing cloth; prepared painting canvas; buckram and similar stiffened textile fabrics of a kind used for hat foundations 5901 10 00, 5901 90 00 Linoleum, whether or not cut to shape; floor coverings consisting of a coating or covering applied on a textile backing, whether or not cut to shape 5904 10 00, 5904 90 00 Rubberised textile fabric, not knitted or crocheted, excluding those for tyres 5906 10 00, 5906 99 10, 5906 99 90 Textile fabrics otherwise impregnated or coated; painted canvas being theatrical scenery, studio back-cloths, other than of category 100 5907 00 10, 5907 00 90		
100	Textile fabrics impregnated, coated, covered or laminated with preparations of cellulose derivatives or of other artificial plastic materials 5903 10 10, 5903 10 90, 5903 20 10, 5903 20 90, 5903 90 10, 5903 90 91, 5903 90 99		
101	Twine, cordage, ropes and cables, plaited or not, other than of synthetic fibres ex 5607 90 90		
109	Tarpaulins, sails, awnings and sunblinds 6306 11 00, 6306 12 00, 6306 19 00, 6306 31 00, 6306 39 00		
110	Woven pneumatic mattresses 6306 41 00, 6306 49 00		
111	Camping goods, woven, other than pneumatic mattresses and tents 6306 91 00, 6306 99 00		
112	Other made up textile articles, woven, excluding those of categories 113 and 114 6307 20 00, ex 6307 90 99		
113	Floor cloth, dish cloth and dusters, other than knitted or crocheted 6307 10 90		
114	Woven fabrics and articles for technical uses 5902 10 10, 5902 10 90, 5902 20 10, 5902 20 90, 5902 90 10, 5902 90 90, 5908 00 00, 5909 00 10, 5909 00 90, 5910 00 00, 5911 10 00, ex 5911 20 00, 5911 31 11, 5911 31 19, 5911 31 90, 5911 32 10, 5911 32 90, 5911 40 00, 5911 90 10, 5911 90 90		
GROUP IV			
115	Flax or ramie yarn 5306 10 10, 5306 10 30, 5306 10 50, 5306 10 90, 5306 20 10, 5306 20 90, 5308 90 12, 5308 90 19		
117	Woven fabrics of flax or of ramie 5309 11 10, 5309 11 90, 5309 19 00, 5309 21 10, 5309 21 90, 5309 29 00, 5311 00 10, 5803 90 90, 5905 00 30		

Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
118	Table linen, toilet linen and kitchen linen of flax or ramie, other knitted or crocheted 6302 29 10, 6302 39 10, 6302 39 30, 6302 52 00, ex 6302 59 00, 6302 92 00, ex 6302 99 00		
120	Curtains (incl. drapes), interior blinds, curtain and bed valances and other furnishing articles, not knitted or crocheted, of flax or ramie ex 6303 99 90, 6304 19 30, ex 6304 99 00		
121	Twine, cordage, ropes and cables, plaited or not, of flax or ramie ex 5607 90 90		
122	Sacks and bags, of a kind used for the packing of goods, used, of flax, other than knitted or crocheted ex 6305 90 00		
123	Woven pile fabrics and chenille fabrics of flax or ramie, other than narrow woven fabrics 5801 90 10, ex 5801 90 90 Shawls, scarves, mufflers, mantillas, veils and the like, of flax or ramie, other than knitted or crocheted 6214 90 90		
GROUP V			
124	Synthetic staple fibres 5501 10 00, 5501 20 00, 5501 30 00, 5501 90 10, 5501 90 90, 5503 10 10, 5503 10 90, 5503 20 00, 5503 30 00, 5503 40 00, 5503 90 10, 5503 90 90, 5505 10 10, 5505 10 30, 5505 10 50, 5505 10 70, 5505 10 90		
125 A	Synthetic filament yarn (continuous) not put up for retail sale, other than yarn of category 41 5402 41 00, 5402 42 00, 5402 43 00		
125 B	Monofilament, strip (artificial straw and the like) and imitation catgut of synthetic materials 5404 10 10, 5404 10 90, 5404 90 11, 5404 90 19, 5404 90 90, ex 5604 20 00, ex 5604 90 00		
126	Artificial staple fibres 5502 00 10, 5502 00 40, 5502 00 80, 5504 10 00, 5504 90 00, 5505 20 00		
127 A	Yarn of artificial filaments (continuous) not put up for retail sale, other than yarn of category 42 5403 31 00, ex 5403 32 00, ex 5403 33 00		
127 B	Monofilament, strip (artificial straw and the like) and imitation catgut of artificial textile materials 5405 00 00, ex 5604 90 00		
128	Coarse animal hair, carded or combed 5105 40 00		
129	Yarn of coarse animal hair or of horsehair 5110 00 00		
130 A	Silk yarn other than yarn spun from silk waste 5004 00 10, 5004 00 90, 5006 00 10		

Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
130 B	Silk yarn other than of category 130 A; silk-worm gut 5005 00 10, 5005 00 90, 5006 00 90, ex 5604 90 00		
131	Yarn of other vegetable textile fibres 5308 90 90		
132	Paper yarn 5308 90 50		
133	Yarn of true hemp 5308 20 10, 5308 20 90		
134	Metallized yarn 5605 00 00		
135	Woven fabrics of coarse animal hair or of horse hair 5113 00 00		
136	Woven fabrics of silk or of silk waste 5007 10 00, 5007 20 11, 5007 20 19, 5007 20 21, 5007 20 31, 5007 20 39, 5007 20 41, 5007 20 51, 5007 20 59, 5007 20 61, 5007 20 69, 5007 20 71, 5007 90 10, 5007 90 30, 5007 90 50, 5007 90 90, 5803 90 10, ex 5905 00 90, ex 5911 20 00		
137	Woven pile fabric and chenille fabrics and narrow woven fabrics of silk, or of silk waste ex 5801 90 90, ex 5806 10 00		
138	Woven fabrics of paper yarn and other textile fibres other than of ramie 5311 00 90, ex 5905 00 90		
139	Woven fabrics of metal threads or of metallized yarn 5809 00 00		
140	Knitted or crocheted fabric of textile material other than wool or fine animal hair, cotton or man made fibres ex 6001 10 00, 6001 29 90, 6001 99 90, 6003 90 00, 6005 90 00, 6006 90 00		
141	Travelling rugs and blankets of textile material other than wool or fine animal hair, cotton or man made fibres ex 6301 90 90		
142	Carpets and other textile floor coverings of sisal, of other fibres of the agave family or the Manila hemp ex 5702 39 90, ex 5702 49 90, ex 5702 59 00, ex 5702 99 00, ex 5705 00 90		
144	Felt of coarse animal hair 5602 10 35, 5602 29 10		
145	Twine, cordage, ropes and cables plaited or not abaca (Manila hemp) or of true hemp 5607 90 10, ex 5607 90 90		

Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
146 A	Binder or baler twine for agricultural machines, of sisal or other fibres of the agave family ex 5607 21 00		
146 B	Twine, cordage, ropes and cables of sisal or other fibres of the agave family, other than the products of category 146 A ex 5607 21 00, 5607 29 10, 5607 29 90		
146 C	Twine, cordage, ropes and cables, whether or not plaited or braided, of jute or of other textile bast fibres of heading No 5303 5607 10 00		
147	Silk waste (incl. cocoons unsuitable for reeling), yarn waste and garnetted stock, other than not carded or combed 5003 90 00		
148 A	Yarn of jute or of other textile bast fibres of heading No 5303 5307 10 10, 5307 10 90, 5307 20 00		
148 B	Coir yarn 5308 10 00		
149	Woven fabrics of jute or of other textile bast fibres of a width of more than 150 cm 5310 10 90, ex 5310 90 00		
150	Woven fabrics of jute or of other textile bast fibres of a width of not more than 150 cm; Sacks and bags, of a kind used for the packing of goods, of jute or of other textile bast fibres, other than used 5310 10 10, ex 5310 90 00, 5905 00 50, 6305 10 90		
151 A	Floor coverings of coconut fibres (coir) 5702 20 00		
151 B	Carpets and other textile floor coverings, of jute or of other textile bast fibres, other than tufted or flopped ex 5702 39 90, ex 5702 49 90, ex 5702 59 00, ex 5702 99 00		
152	Needle loom felt of jute or of other textile bast fibres not impregnated or coated, other than floor coverings 5602 10 11		
153	Used sacks and bags, of a kind used for the packing of goods, of jute or of other textile bast fibres of heading No 5303 6305 10 10		
154	Silkworm cocoons suitable for reeling 5001 00 00  Raw silk (not thrown) 5002 00 00  Silk waste (incl. cocoons unsuitable for reeling), yarn waste and garnetted stock, not carded or combed 5003 10 00		



Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
	<p>Wool not carded or combed 5101 11 00, 5101 19 00, 5101 21 00, 5101 29 00, 5101 30 00</p> <p>Fine or coarse animal hair, not carded or combed 5102 11 00, 5102 19 10, 5102 19 30, 5102 19 40, 5102 19 90, 5102 20 00</p> <p>Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock 5103 10 10, 5103 10 90, 5103 20 10, 5103 20 91, 5103 20 99, 5103 30 00</p> <p>Garnetted stock of wool or of fine or coarse animal hair 5104 00 00</p> <p>Flax, raw or processed but not spun: flax tow and waste (including yarn waste and garnetted stock) 5301 10 00, 5301 21 00, 5301 29 00, 5301 30 10, 5301 30 90</p> <p>Ramie and other vegetable textile fibres, raw or processed but not spun: tow, noils and waste, other than coir and abaca of heading No 5304 5305 90 00</p> <p>Cotton, not carded nor combed 5201 00 10, 5201 00 90</p> <p>Cotton waste (incl. yarn waste and garnetted stock) 5202 10 00, 5202 91 00, 5202 99 00</p> <p>True hemp (<i>cannabis sativa</i> L.), raw or processed but not spun: tow and waste of true hemp (including yarn waste and garnetted stock) 5302 10 00, 5302 90 00</p> <p>Abaca (<i>Manila hemp</i> or <i>Musa Textilis Nee</i>), raw or processed but not spun: tow and waste of abaca (including yarn waste and garnetted stock) 5305 21 00, 5305 29 00</p> <p>Jute or other textile bast fibres ( excl. flax, true hemp and ramie), raw or processed but not spun: tow and waste of jute or other textile bast fibres (including yarn waste and garnetted stock) 5303 10 00, 5303 90 00</p> <p>Other vegetable textile fibres, raw or processed but not spun: tow and waste of such fibres (including yarn waste and garnetted stock) 5304 10 00, 5304 90 00, 5305 11 00, 5305 19 00, 5305 90 00</p>		
156	<p>Blouses and pullovers knitted or crocheted of silk or silk waste for women and girls 6106 90 30, ex 6110 90 90</p>		

Category	Description CN-code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
157	Garments, knitted or crocheted, other than those of categories 1 to 123 and 156 6101 90 10, 6101 90 90, 6102 90 10, 6102 90 90, ex 6103 39 00, 6103 49 99, ex 6104 19 00, ex 6104 29 00, ex 6104 39 00, 6104 49 00, 6104 69 99, 6105 90 90, 6106 90 50, 6106 90 90, ex 6107 99 00, 6108 99 90, 6109 90 90, 6110 90 10, ex 6110 90 90, ex 6111 90 00, 6114 90 00		
159	Dresses, blouses and shirt-blouses, not knitted or crocheted, of silk or silk waste 6204 49 10, 6206 10 00 Shawls, scarves, mufflers, mantillas, veils and the like, not knitted or crocheted, of silk or silk waste 6214 10 00 Ties, bow ties and cravats of silk or silk waste 6215 10 00		
160	Handkerchiefs of silk or silk waste 6213 10 00		
161	Garments, not knitted or crocheted, other than those of categories 1 to 123 and category 159 6201 19 00, 6201 99 00, 6202 19 00, 6202 99 00, 6203 19 90, 6203 29 90, 6203 39 90, 6203 49 90, 6204 19 90, 6204 29 90, 6204 39 90, 6204 49 90, 6204 59 90, 6204 69 90, 6205 90 10, 6205 90 90, 6206 90 10, 6206 90 90, ex 6211 20 00, 6211 39 00, 6211 49 00		

## ANNEX I A

Category	Description CN-Code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
163 <sup>(1)</sup>	Gauze and articles of gauze put up in forms or packings for retail sale 3005 90 31		

<sup>(1)</sup> Only applies to imports from China

## ANNEX I B

1. This Annex covers textile raw materials (categories 128 and 154), textile products other than those of wool and fine animal hair, cotton and man-made fibres, as well as man-made fibres and filaments and yarns of categories 124, 125A, 125B, 126, 127A and 127B.
2. Without prejudice to the rules for the interpretation of the combined nomenclature, the wording of the description of goods is considered to be of indicative value only, since the products covered by each category are determined, within this Annex, by CN codes. Where there is an "ex" symbol in front of a CN code, the products covered in each category are determined by the scope of the CN code and by that of the corresponding description.
3. Garments which are not recognisable as being garments for men or boys or as being garments for women or girls are classified with the latter.
4. Where the expression "babies' garments" is used, this is meant to cover garments up to and including commercial size 86.

Category	Description CN-Code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
GROUP I			
ex 20	Bed linen, other than knitted or crocheted ex 6302 29 90, ex 6302 39 90		
ex 32	Woven pile fabrics and chenille fabrics and tufted textile surfaces ex 5802 20 00, ex 5802 30 00		
ex 39	Table linen, toilet and kitchen linen, other than knitted or crocheted and other than those of category 118 ex 6302 59 00, ex 6302 99 00		
GROUP II			
ex 12	Panty-hose and tights, stockings, understockings, socks, ankle socks, sock-ettes and the like, knitted or crocheted, other than for babies ex 6115 19 00, ex 6115 20 90, ex 6115 99 00	24,3	41
ex 13	Men's or boys' underpants and briefs, women's or girls' knickers and briefs, knitted or crocheted ex 6107 19 00, ex 6108 29 00, ex 6212 10 10	17	59
ex 14	Men's or boys' woven overcoats, raincoats and other coats, cloaks and capes ex 6210 20 00	0,72	1 389
ex 15	Women's or girls' woven overcoats, raincoats and other coats, cloaks and capes, jackets and blazers, other than parkas ex 6210 30 00	0,84	1 190
ex 18	Men's or boys' singlets and other vests, underpants, briefs, nightshirts, pyjamas, bathrobes, dressing gowns and similar articles, other than knitted or crocheted ex 6207 19 00, ex 6207 29 00, ex 6207 99 00 Women's or girls' singlets and other vests, slips, petticoats, briefs, panties, nightdresses, pyjamas, négligés, bathrobes, dressing gowns and similar articles, other than knitted or crocheted ex 6208 19 90, ex 6208 29 00, ex 6208 99 00, ex 6212 10 10		
ex 19	Handkerchiefs, other than those of silk and silk waste ex 6213 90 00	59	17

Category	Description CN-Code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
ex 24	Men's or boys' nightshirts, pyjamas, bathrobes, dressing gowns and similar articles, knitted or crocheted ex 6107 29 00 Women's or girls' nightdresses, pyjamas, négligés, bathrobes, dressing gowns and similar articles, knitted or crocheted ex 6108 39 00	3,9	257
ex 27	Women's or girls' skirts, including divided skirts ex 6104 59 00	2,6	385
ex 28	Trousers, bib and brace overalls, breeches and shorts (other than swimwear), knitted or crocheted ex 6103 49 10, ex 6104 69 10	1,61	620
ex 31	Brassières, woven, knitted or crocheted ex 6212 10 10, ex 6212 10 90	18,2	55
ex 68	Babies' garments and clothing accessories, excluding babies' gloves, mittens and mitts of categories ex 10 and ex 87, and babies' stockings, socks and sockettes, other than knitted or crocheted, of category ex 88 ex 6209 90 00		
ex 73	Track suits of knitted or crocheted fabric ex 6112 19 00	1,67	600
ex 78	Woven garments of fabrics of heading No 5903, 5906 and 5907, excluding garments of categories ex 14 and ex 15 ex 6210 40 00, ex 6210 50 00		
ex 83	Garments of knitted or crocheted fabrics of heading No 5903 and 5907 and ski suits, knitted or crocheted, ex 6112 20 00, ex 6113 00 90		

## GROUP III A

ex 38 B	Net curtains, other than knitted or crocheted ex 6303 99 90		
ex 40	Woven curtains (including drapes, interior blinds, curtain and bed valances and other furnishing articles), other than knitted or crocheted ex 6303 99 90, ex 6304 19 90, ex 6304 99 00		
ex 58	Carpets, carpentines and rugs, knotted (made up or not) ex 5701 90 10, ex 5701 90 90		
ex 59	Carpets and other textile floor coverings, other than the carpets of category ex 58, 142 and 151B ex 5702 10 00, ex 5702 59 00, ex 5702 99 00, ex 5703 90 00, ex 5704 10 00, ex 5704 90 00, ex 5705 00 90		

Category	Description CN-Code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
ex 60	Tapestries, hand-made, of the type Gobelins, Flanders, Aubusson, Beauvais and the like, and needlework tapestries (e.g. petit point and cross stitch) made in panels and the like by hand ex 5805 00 00		
ex 61	Narrow woven fabrics, and narrow fabrics (bolduc) consisting of warp without weft, assembled by means of an adhesive, other than labels and similar articles of category ex 62 and of category 137 Elastic fabrics and trimmings (not knitted or crocheted), made from textile materials assembled from rubber thread ex 5806 10 00, ex 5806 20 00, ex 5806 39 00, ex 5806 40 00		
ex 62	Chenille yarn (incl. flock chenille yarn), gimped yarn (other than metalized yarn and gimped horsehair yarn) ex 5606 00 91, ex 5606 00 99 Tulle and other net fabrics but not including woven, knitted or crocheted fabrics, hand or mechanically-made lace, in the piece, in strips or in motifs ex 5804 10 11, ex 5804 10 19, ex 5804 10 90, ex 5804 29 10, ex 5804 29 90, ex 5804 30 00 Labels, badges and the like of textile materials, not embroidered, in the piece, in strips or cut to shape or size, woven ex 5807 10 10, ex 5807 10 90 Braids and ornamental trimmings in the piece; tassels, pompons and the like ex 5808 10 00, ex 5808 90 00 Embroidery, in the piece, in strips or in motifs ex 5810 10 10, ex 5810 10 90, ex 5810 99 10, ex 5810 99 90		
ex 63	Knitted or crocheted fabric of synthetic fibres containing by weight 5 % or more elastomeric yarn and knitted or crocheted fabrics containing by weight 5 % or more of rubber thread ex 5906 91 00, ex 6002 40 00, ex 6002 90 00, ex 6004 10 00, ex 6004 90 00		
ex 65	Knitted or crocheted fabric, other than those of category ex 63 ex 5606 00 10, ex 6002 40 00, ex 6004 10 00		
ex 66	Travelling rugs and blankets, other than knitted or crocheted ex 6301 10 00, ex 6301 90 90		
GROUP III B			
ex 10	Gloves, mittens and mitts, knitted or crocheted ex 6116 10 20, ex 6116 10 80, ex 6116 99 00	17 pairs	59
ex 67	Knitted or crocheted clothing accessories other than for babies; household linen of all kinds, knitted or crocheted; curtains (incl. drapes) and interior blinds, curtain or bed valances and other furnishing articles knitted or crocheted; knitted or crocheted blankets and travelling rugs, other knitted or crocheted articles including parts of garments or of clothing accessories ex 5807 90 90, ex 6113 00 10, ex 6117 10 00, ex 6117 20 00, ex 6117 80 10, ex 6117 80 90, ex 6117 90 00, ex 6301 90 10, ex 6302 10 90, ex 6302 40 00, ex 6303 19 00, ex 6304 11 00, ex 6304 91 00, ex 6307 10 10, ex 6307 90 10		

Category	Description CN-Code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
ex 69	Women's and girls' slips and petticoats, knitted or crocheted ex 6108 19 00	7,8	128
ex 72	Swimwear ex 6112 39 10, ex 6112 39 90, ex 6112 49 10, ex 6112 49 90, ex 6211 11 00, ex 6211 12 00	9,7	103
ex 75	Men's or boys' knitted or crocheted suits and ensembles ex 6103 19 00, ex 6103 29 00	0,80	1 250
ex 85	Ties, bow ties and cravats other than knitted or crocheted, other than those of category 159 ex 6215 90 00	17,9	56
ex 86	Corsets, corset-belts, suspender belts, braces, suspenders, garters and the like, and parts thereof, whether or not knitted or crocheted ex 6212 20 00, ex 6212 30 00, ex 6212 90 00	8,8	114
ex 87	Gloves, mittens and mitts, not knitted or crocheted ex 6209 90 00, ex 6216 00 00		
ex 88	Stockings, socks and sockettes, not knitted or crocheted; other clothing accessories, parts of garments or of clothing accessories, other than for babies, other than knitted or crocheted ex 6209 90 00, ex 6217 10 00, ex 6217 90 00		
ex 91	Tents ex 6306 29 00		
ex 94	Wadding of textile materials and articles thereof; textile fibres, not exceeding 5 mm in length (flock), textile dust and mill neps ex 5601 10 90, ex 5601 29 00, ex 5601 30 00		
ex 95	Felt and articles thereof, whether or not impregnated or coated, other than floor coverings ex 5602 10 19, ex 5602 10 39, ex 5602 10 90, ex 5602 29 90, ex 5602 90 00, ex 5807 90 10, ex 6210 10 10, ex 6307 90 91		
ex 97	Nets and netting made of twine, cordage or rope and made up fishing nets of yarn, twine, cordage or rope ex 5608 90 00		
ex 98	Other articles made from yarn, twine, cordage, cables or rope, other than textile fabrics, articles made from such fabrics and articles of category 97 ex 5609 00 00, ex 5905 00 10		



Category	Description CN-Code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
ex 99	Textile fabrics coated with gum or amylaceous substances, of a kind used for the outer covers of books and the like; tracing cloth; prepared painting canvas; buckram and similar stiffened textile fabrics of a kind used for hat foundations ex 5901 10 00, ex 5901 90 00 Linoleum, whether or not cut to shape; floor coverings consisting of a coating or covering applied on a textile backing, whether or not cut to shape ex 5904 10 00, ex 5904 90 00 Rubberised textile fabric, not knitted or crocheted, excluding those for tyres ex 5906 10 00, ex 5906 99 10, ex 5906 99 90 Textile fabrics otherwise impregnated or coated; painted canvas being theatrical scenery, studio back-cloths, other than of category ex 100 ex 5907 00 10, ex 5907 00 90		
ex 100	Textile fabrics impregnated, coated, covered or laminated with preparations of cellulose derivatives or of other artificial plastic materials ex 5903 10 10, ex 5903 10 90, ex 5903 20 10, ex 5903 20 90, ex 5903 90 10, ex 5903 90 91, ex 5903 90 99		
ex 109	Tarpaulins, sails, awnings and sunblinds ex 6306 19 00, ex 6306 39 00		
ex 110	Woven pneumatic mattresses ex 6306 49 00		
ex 111	Camping goods, woven, other than pneumatic mattresses and tents ex 6306 99 00		
ex 112	Other made up textiles articles, woven, excluding those of categories ex 113 and ex 114 ex 6307 20 00, ex 6307 90 99		
ex 113	Floor cloth, dish cloth and dusters, other than knitted or crocheted ex 6307 10 90		
ex 114	Woven fabrics and articles for technical uses, other than those of category 136 ex 5908 00 00, ex 5909 00 90, ex 5910 00 00, ex 5911 10 00, ex 5911 31 19, ex 5911 31 90, ex 5911 32 10, ex 5911 32 90, ex 5911 40 00, ex 5911 90 10, ex 5911 90 90		
GROUP IV			
115	Flax or ramie yarn 5306 10 10, 5306 10 30, 5306 10 50, 5306 10 90, 5306 20 10, 5306 20 90, 5308 90 12, 5308 90 19		
117	Woven fabrics of flax or of ramie 5309 11 10, 5309 11 90, 5309 19 00, 5309 21 10, 5309 21 90, 5309 29 00, 5311 00 10, 5803 90 90, 5905 00 30		

Category	Description CN-Code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
118	Table linen, toilet linen and kitchen linen of flax or ramie, other knitted or crocheted 6302 29 10, 6302 39 10, 6302 39 30, 6302 52 00, ex 6302 59 00, 6302 92 00, ex 6302 99 00		
120	Curtains (incl. drapes), interior blinds, curtain and bed valances and other furnishing articles, not knitted or crocheted, of flax or ramie ex 6303 99 90, 6304 19 30, ex 6304 99 00		
121	Twine, cordage, ropes and cables, plaited or not, of flax or ramie ex 5607 90 90		
122	Sacks and bags, of a kind used for the packing of goods, used, of flax, other than knitted or crocheted ex 6305 90 00		
123	Woven pile fabrics and chenille fabrics of flax or ramie, other than narrow woven fabrics 5801 90 10, ex 5801 90 90 Shawls, scarves, mufflers, mantillas, veils and the like, of flax or ramie, other than knitted or crocheted 6214 90 90		
GROUP V			
124	Synthetic staple fibres 5501 10 00, 5501 20 00, 5501 30 00, 5501 90 10, 5501 90 90, 5503 10 10, 5503 10 90, 5503 20 00, 5503 30 00, 5503 40 00, 5503 90 10, 5503 90 90, 5505 10 10, 5505 10 30, 5505 10 50, 5505 10 70, 5505 10 90		
125 A	Synthetic filament yarn (continuous) not put up for retail sale 5402 41 00, 5402 42 00, 5402 43 00		
125 B	Monofilament, strip (artificial straw and the like) and imitation catgut of synthetic materials 5404 10 10, 5404 10 90, 5404 90 11, 5404 90 19, 5404 90 90, ex 5604 20 00, ex 5604 90 00		
126	Artificial staple fibres 5502 00 10, 5502 00 40, 5502 00 80, 5504 10 00, 5504 90 00, 5505 20 00		
127 A	Yarn of artificial filaments (continuous) not put up for retail sale, single yarn or viscose rayon untwisted or with a twist of not more than 250 turns per metre and single non-textured yarn of cellulose acetate 5403 31 00, ex 5403 32 00, ex 5403 33 00		
127 B	Monofilament, strip (artificial straw and the like) and imitation catgut of artificial textile materials 5405 00 00, ex 5604 90 00		

Category	Description CN-Code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
128	Coarse animal hair, carded or combed 5105 40 00		
129	Yarn of coarse animal hair or of horsehair 5110 00 00		
130 A	Silk yarn other than yarn spun from silk waste 5004 00 10, 5004 00 90, 5006 00 10		
130 B	Silk yarn other than of category 130 A; silk-worm gut 5005 00 10, 5005 00 90, 5006 00 90, ex 5604 90 00		
131	Yarn of other vegetable textile fibres 5308 90 90		
132	Paper yarn 5308 90 50		
133	Yarn of true hemp 5308 20 10, 5308 20 90		
134	Metallized yarn 5605 00 00		
135	Woven fabrics of coarse animal hair or of horse hair 5113 00 00		
136 A	Woven fabrics of silk or of silk waste other than unbleached, scoured or bleached 5007 20 19, ex 5007 20 31, ex 5007 20 39, ex 5007 20 41, 5007 20 59, 5007 20 61, 5007 20 69, 5007 20 71, 5007 90 30, 5007 90 50, 5007 90 90		
136 B	Woven fabrics of silk or of silk waste other than those of category 136A ex 5007 10 00, 5007 20 11, 5007 20 21, ex 5007 20 31, ex 5007 20 39, 5007 20 41, 5007 20 51, 5007 90 10, ex 5803 90 10, ex 5905 00 90, ex 5911 20 00		
137	Woven pile fabric and chenille fabrics and narrow woven fabrics of silk, or of silk waste ex 5801 90 90, ex 5806 10 00		
138	Woven fabrics of paper yarn and other textile fibres other than of ramie 5311 00 90, ex 5905 00 90		
139	Woven fabrics of metal threads or of metallized yarn 5809 00 00		

Category	Description CN-Code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
140	Knitted or crocheted fabric of textile material other than wool or fine animal hair, cotton or man made fibres ex 6001 10 00, 6001 29 90, 6001 99 90, 6003 90 00, 6005 90 00, 6006 90 00		
141	Travelling rugs and blankets of textile material other than wool or fine animal hair, cotton or man made fibres ex 6301 90 90		
142	Carpets and other textile floor coverings of sisal, of other fibres of the agave family or the Manila hemp ex 5702 39 90, ex 5702 49 90, ex 5702 59 00, ex 5702 99 00, ex 5705 00 90		
144	Felt of coarse animal hair 5602 10 35, 5602 29 10		
145	Twine, cordage, ropes and cables plaited or not abaca (Manila hemp) or of true hemp 5607 90 10, ex 5607 90 90		
146 A	Binder or baler twine for agricultural machines, of sisal or other fibres of the agave family ex 5607 21 00		
146 B	Twine, cordage, ropes and cables of sisal or other fibres of the agave family, other than the products of category 146 A ex 5607 21 00, 5607 29 10, 5607 29 90		
146 C	Twine, cordage, ropes and cables, whether or not plaited or braided, of jute or of other textile bast fibres of heading No 5303 5607 10 00		
147	Silk waste (incl. cocoons unsuitable for reeling), yarn waste and garnetted stock, other than not carded or combed 5003 90 00		
148 A	Yarn of jute or of other textile bast fibres of heading No 5303 5307 10 10, 5307 10 90, 5307 20 00		
148 B	Coir yarn 5308 10 00		
149	Woven fabrics of jute or of other textile bast fibres of a width of more than 150 cm 5310 10 90, ex 5310 90 00		
150	Woven fabrics of jute or of other textile bast fibres of a width of not more than 150 cm; Sacks and bags, of a kind used for the packing of goods, of jute or of other textile bast fibres, other than used 5310 10 10, ex 5310 90 00, 5905 00 50, 6305 10 90		

Category	Description CN-Code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
151 A	Floor coverings of coconut fibres (coir) 5702 20 00		
151 B	Carpets and other textile floor coverings, of jute or of other textile bast fibres, other than tufted or flocked ex 5702 39 90, ex 5702 49 90, ex 5702 59 00, ex 5702 99 00		
152	Needle loom felt of jute or of other textile bast fibres not impregnated or coated, other than floor coverings 5602 10 11		
153	Used sacks and bags, of a kind used for the packing of goods, of jute or of other textile bast fibres of heading No 5303 6305 10 10		
154	<p>Silkworm cocoons suitable for reeling 5001 00 00</p> <p>Raw silk (not thrown) 5002 00 00</p> <p>Silk waste (incl. cocoons unsuitable for reeling), yarn waste and garnetted stock, not carded or combed 5003 10 00</p> <p>Wool not carded or combed 5101 11 00, 5101 19 00, 5101 21 00, 5101 29 00, 5101 30 00</p> <p>Fine or coarse animal hair, not carded or combed 5102 11 00, 5102 19 10, 5102 19 30, 5102 19 40, 5102 19 90, 5102 20 00</p> <p>Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock 5103 10 10, 5103 10 90, 5103 20 10, 5103 20 91, 5103 20 99, 5103 30 00</p> <p>Garnetted stock of wool or of fine or coarse animal hair 5104 00 00</p> <p>Flax, raw or processed but not spun: flax tow and waste (including yarn waste and garnetted stock) 5301 10 00, 5301 21 00, 5301 29 00, 5301 30 10, 5301 30 90</p> <p>Ramie and other vegetable textile fibres, raw or processed but not spun: tow, noils and waste, other than coir and abaca of heading No 5304 5305 90 00</p> <p>Cotton, not carded nor combed 5201 00 10, 5201 00 90</p> <p>Cotton waste (incl. yarn waste and garnetted stock) 5202 10 00, 5202 91 00, 5202 99 00</p> <p>True hemp (<i>cannabis sativa</i>), raw or processed but not spun: tow and waste of true hemp (including yarn waste and garnetted stock) 5302 10 00, 5302 90 00</p>		

Category	Description CN-Code 2002	Table of equivalence	
		pieces/kg	g/piece
(1)	(2)	(3)	(4)
	<p>Abaca (<i>Manila hemp</i> or <i>Musa Textilis Nee</i>), raw or processed but not spun: tow and waste of abaca (including yarn waste and garnetted stock) 5305 21 00, 5305 29 00</p> <p>Jute or other textile bast fibres (excl. flax, true hemp and ramie), raw or processed but not spun: tow and waste of jute or other textile bast fibres (including yarn waste and garnetted stock) 5303 10 00, 5303 90 00</p> <p>Other vegetable textile fibres, raw or processed but not spun: tow and waste of such fibres (including yarn waste and garnetted stock) 5304 10 00, 5304 90 00, 5305 11 00, 5305 19 00, 5305 90 00</p>		
156	<p>Blouses and pullovers knitted or crocheted of silk or silk waste for women and girls 6106 90 30, ex 6110 90 90</p>		
157	<p>Garments, knitted or crocheted, excluding garments of categories ex 10, ex 12, ex 13, ex 24, ex 27, ex 28, ex 67, ex 69, ex 72, ex 73, ex 75, ex 83 and 156 6101 90 10, 6101 90 90, 6102 90 10, 6102 90 90, ex 6103 39 00, 6103 49 99, ex 6104 19 00, ex 6104 29 00, ex 6104 39 00, 6104 49 00, 6104 69 99, 6105 90 90, 6106 90 50, 6106 90 90, ex 6107 99 00, 6108 99 90, 6109 90 90, 6110 90 10, ex 6110 90 90, ex 6111 90 00, 6114 90 00</p>		
159	<p>Dresses, blouses and shirt-blouses, not knitted or crocheted, of silk or silk waste 6204 49 10, 6206 10 00</p> <p>Shawls, scarves, mufflers, mantillas, veils and the like, not knitted or crocheted, of silk or silk waste 6214 10 00</p> <p>Ties, bow ties and cravats of silk or silk waste 6215 10 00</p>		
160	<p>Handkerchiefs of silk or silk waste 6213 10 00</p>		
161	<p>Garments, not knitted or crocheted, excluding garments of categories ex 14, ex 15, ex 18, ex 31, ex 68, ex 72, ex 78, ex 86, ex 87, ex 88 and 159 6201 19 00, 6201 99 00, 6202 19 00, 6202 99 00, 6203 19 90, 6203 29 90, 6203 39 90, 6203 49 90, 6204 19 90, 6204 29 90, 6204 39 90, 6204 49 90, 6204 59 90, 6204 69 90, 6205 90 10, 6205 90 90, 6206 90 10, 6206 90 90, ex 6211 20 00, 6211 39 00, 6211 49 00'</p>		



2. Annex III is amended as follows:

(a) In Article 28, paragraph 6 is replaced by the following:

‘6. This number shall be composed of the following elements:

— two letters identifying the exporting country as follows:

- Argentina=AR
- Armenia=AM
- Azerbaijan=AZ
- Bangladesh=BD
- Belarus=BY
- Bosnia and Herzegovina=BA
- Brazil=BR
- Cambodia=KH
- China=CN
- Croatia=HR
- Egypt=EG
- Former Yugoslav Republic of Macedonia=96 <sup>(1)</sup>
- Georgia=GE
- Hong Kong=HK
- India=IN
- Indonesia=ID
- Kazakhstan=KZ
- Kyrgyzstan=KG
- Laos=LA
- Macao=MO
- Malaysia=MY
- Moldova=MD
- Mongolia=MN
- Nepal=NP
- Pakistan=PK
- Peru=PE
- Philippines=PH
- Russian Federation=RU
- Singapore=SG
- South Korea=KR
- Sri Lanka=LK
- Taiwan=TW
- Tajikistan=TJ
- Thailand=TH
- Turkmenistan=TM
- Ukraine=UA
- United Arab Emirates=AE
- Uzbekistan=UZ
- Vietnam=VN

— two letters identifying the intended Member State of destination as follows:

- AT = Austria
- BL = Benelux
- DE = Federal Republic of Germany
- DK = Denmark
- EL = Greece
- ES = Spain
- FI = Finland
- FR = France

<sup>(1)</sup> Two digits in the case of FYROM.

- GB = United Kingdom
- IE = Ireland
- IT = Italy
- PT = Portugal
- SE = Sweden
- a one-digit number identifying the quota year or the year under which exports were recorded, in the case of products listed in Table A of this Annex, corresponding to the last figure in the year in question, e.g. "3" for 2003 and "4" for 2004. In the case of products originating in the People's Republic of China listed in Appendix C to Annex V this number should be "9" for the year 2003 and "0" for the year 2004,
- a two-digit number identifying the issuing office in the exporting country,
- a five-digit number running consecutively from 00001 to 99999 allocated to the specific Member State of destination.'

(b) Table A is replaced by the following:

TABLE A

**Countries and categories subject to the system of double-checking surveillance**

(The complete description of the categories is shown in Annex I)

Third country	Group	Category	Unit
Bangladesh	IB	4 (*)	1 000 pieces
		6 (*)	1 000 pieces
		8 (*)	1 000 pieces
Bosnia and Herzegovina	IA	1	tonnes
		2	tonnes
		2A	tonnes
		3	tonnes
	IB	5	1 000 pieces
		6	1 000 pieces
		7	1 000 pieces
		8	1 000 pieces
	IIA	9	tonnes
	IIB	15	1 000 pieces
		16	1 000 pieces
	IIIB	67	tonnes
Brazil	IA	1	tonnes
		2	tonnes
		2A	tonnes
		3	tonnes
	IB	4	1 000 pieces
		6 (l)	1 000 pieces
	IIA	9	tonnes
		20	tonnes
		22	tonnes
		39	tonnes

Third country	Group	Category	Unit
Cambodia	IB	4	1 000 pieces
		5	1 000 pieces
		6	1 000 pieces
		7	1 000 pieces
		8	1 000 pieces
	IIB	15	1 000 pieces
		21	1 000 pieces
		28	1 000 pieces
		73	1 000 pieces
Croatia	IA	1	tonnes
		2	tonnes
		2A	tonnes
		3	tonnes
	IB	5	1 000 pieces
		6	1 000 pieces
		7	1 000 pieces
		8	1 000 pieces
	IIA	9	tonnes
	IIB	15	1 000 pieces
		16	1 000 pieces
	IIIB	67	tonnes
Egypt	IA	1	tonnes
		2	tonnes
	IB	4 (*)	1 000 pieces
	IIA	20 (*)	tonnes
Former Yugoslave Republic of Macedonia	IA	1	tonnes
		2	tonnes
	IB	4	1 000 pieces
		5	1 000 pieces
		8	1 000 pieces
Kazakhstan	IA	2	tonnes
Kyrgyzstan	IA	1	tonnes
		2	tonnes
		3	tonnes
	IB	4	1 000 pieces
		5	1 000 pieces
		6	1 000 pieces
		7	1 000 pieces
		8	1 000 pieces

Third country	Group	Category	Unit
Laos	IB	4	1 000 pieces
		5	1 000 pieces
		6	1 000 pieces
		7	1 000 pieces
		8	1 000 pieces
	IIB	21	1 000 pieces
		28	1 000 pieces
		78	tonnes
Moldova	IA	2	tonnes
		3	tonnes
	IB	4	1 000 pieces
		5	1 000 pieces
		6	1 000 pieces
		7	1 000 pieces
		8	1 000 pieces
	IIA	20	tonnes
		39	tonnes
	IIB	15	1 000 pieces
Mongolia	IB	5	1 000 pieces
		5A (?)	1 000 pieces
Nepal	IB	4	1 000 pieces
		5	1 000 pieces
		6	1 000 pieces
		7	1 000 pieces
	IIB	26	1 000 pieces
Russian Federation	IA	1	tonnes
		2	tonnes
		2A	tonnes
		3	tonnes
	IB	4	1 000 pieces
		5	1 000 pieces
		6	1 000 pieces
		7	1 000 pieces
		8	1 000 pieces
	IIA	9	tonnes
		20	tonnes
		22	tonnes
		39	tonnes

Third country	Group	Category	Unit
	IIB	12	1 000 pairs
		13	1 000 pieces
		15	1 000 pieces
		16	1 000 pieces
		21	1 000 pieces
		24	1 000 pieces
		29	1 000 pieces
		83	tonnes
	IIIA	33	tonnes
		37	tonnes
		50	tonnes
	IIIB	74	1 000 pieces
		90	tonnes
	IV	115	tonnes
		117	tonnes
		118	tonnes
Sri Lanka	IB	4	1 000 pieces
		5	1 000 pieces
		6	1 000 pieces
		7	1 000 pieces
	IIB	26	1 000 pieces
Tajikistan	IA	1	tonnes
		2	tonnes
	IB	6	1 000 pieces
		8	1 000 pieces
Turkmenistan	IA	1	tonnes
Ukraine	IA	2	tonnes
	IB	4	1 000 pieces
		5	1 000 pieces
		6	1 000 pieces
		7	1 000 pieces
		8	1 000 pieces
	IIB	12	1 000 pares
		13	1 000 pieces
		15	1 000 pieces
		16	1 000 pieces
		26/27	1 000 pieces
		29	1 000 pieces
		83	tonnes
	IV	117	tonnes

Third country	Group	Category	Unit
United Arab Emirates	IA	2	tonnes
	IB	4	1 000 pieces
		5	1 000 pieces
		6	1 000 pieces
		7	1 000 pieces
		8	1 000 pieces
	IIA	9	tonnes
		20	tonnes
	IIB	26	1 000 pieces
	V	157	tonnes
Uzbekistan	IA	1	tonnes
		3	tonnes
	IB	4	1 000 pieces
		5	1 000 pieces
		6	1 000 pieces
		7	1 000 pieces
		8	1 000 pieces
	IIB	26	1 000 pieces
Vietnam	IA	1	tonnes
		2	tonnes
		3	tonnes
	IIA	22	tonnes
		23	tonnes
		32	tonnes
	IIB	16	1 000 pieces
		17	1 000 pieces
		19	1 000 pieces
		24	1 000 pieces
		27	1 000 pieces
	IIIA	33	tonnes
		36	tonnes
		37	tonnes
	IIIB	90	tonnes
	IV	115	tonnes
		117	tonnes
	V	136	tonnes
		156	tonnes
		157	tonnes
		159	tonnes
		160	tonnes

(\*) For these categories the provisions of article 9 do not apply.

(<sup>1</sup>) See appendix A.

(<sup>2</sup>) For products of category 5 (other than anoraks, windcheaters, waister jackets and the like) of fine animal hair falling within CN codes: 6110 12 10, 6110 12 90, 6110 19 10 and 6110 19 90.'



3. Annex V is replaced by the following:

‘ANNEX V

**COMMUNITY QUANTITATIVE LIMITS**

**applicable for year 2003 and 2004**

(The complete description of the goods is shown in Annex I)

Third country	Category	Unit	Community quantitative limits	Community quantitative limits
			2003	2004
Argentina	GROUP IA			
	1	tonnes	5 785	5 998
	2	tonnes	8 218	8 476
	2a	tonnes	7 320	7 549
Belarus	GROUP IA			
	1	tonnes	1 430	
	2	tonnes	3 638	
	3	tonnes	211	
	GROUP IB			
	4	1 000 pieces	1 027	
	5	1 000 pieces	913	
	6	1 000 pieces	801	
	7	1 000 pieces	795	
	8	1 000 pieces	912	
	GROUP IIA			
	9	tonnes	331	
	20	tonnes	295	
	22	tonnes	368	
	23	tonnes	230	
	39	tonnes	208	
	GROUP IIB			
	12	1 000 pieces	5 344	
	13	1 000 pieces	2 459	
	15	1 000 pieces	917	
	16	1 000 pieces	166	
	21	1 000 pieces	802	
	24	1 000 pieces	696	
	26/27	1 000 pieces	969	
	29	1 000 pieces	337	
	73	1 000 pieces	284	
	83	tonnes	165	
	GROUP IIIA			
	33	tonnes	350	
	36	tonnes	1 114	
	37	tonnes	419	
	50	tonnes	134	

Third country	Category	Unit	Community quantitative limits	Community quantitative limits
			2003	2004
	GROUP IIIB			
	67	tonnes	307	
	74	1 000 pieces	328	
	90	tonnes	179	
	GROUP IV			
	115	tonnes	79	
Brazil <sup>(5)</sup>	117	tonnes	926	
	118	tonnes	406	
	GROUP IA			
	1	tonnes		
	2	tonnes		
	2a	tonnes		
	3	tonnes		
	GROUP IB			
	4	1 000 pieces		
	6 <sup>(1)</sup>	1 000 pieces		
	GROUP IIA			
	9	tonnes		
	20	tonnes		
	22	tonnes		
	39	tonnes		
China <sup>(2)</sup> <sup>(3)</sup>	GROUP IA			
	1	tonnes	4 491	4 746
	2 <sup>(*)</sup>	tonnes <sup>(1)</sup>	29 132	29 235
	of which 2a	tonnes	3 765	3 779
	3	tonnes	5 938	5 946
	of which 3a	tonnes	770	782
	GROUP IB			
	4 <sup>(1)</sup>	1 000 pieces	82 818	84 733
	5 <sup>(1)</sup>	1 000 pieces	26 341	27 043
	6 <sup>(1)</sup>	1 000 pieces	28 199	29 079
	7 <sup>(1)</sup>	1 000 pieces	13 277	13 631
	8 <sup>(1)</sup>	1 000 pieces	18 657	19 154
	GROUP IIA			
	9	tonnes	6 079	6 182
	20/39	tonnes	9 633	9 824
	22	tonnes	17 975	18 770
	23	tonnes	11 558	11 804
	GROUP IIB			
	12	1 000 pairs	32 721	34 458
	13	1 000 pieces	516 216	530 864
	14	1 000 pieces	14 608	16 059
	15	pieces	17 404	18 327

Third country	Category	Unit	Community quantitative limits	Community quantitative limits
			2003	2004
	16	1 000 pieces	16 196	16 426
	17	1 000 pieces	12 187	12 878
	26	pieces	5 523	5 671
	28	1 000 pieces	81 202	88 115
	29	1 000 pieces	13 757	14 928
	31	1 000 pieces	83 851	90 988
	78	tonnes	32 932	35 736
	83	tonnes	9 673	10 497
	GROUP IIIB 97	tonnes	2 514	2 763
	GROUP V			
	163	tonnes	6 449	7 364
Hong Kong	GROUP IA			
	2	tonnes	14 075	14 127
	2a	tonnes	12 080	12 124
	3	tonnes	11 584	11 627
	3a	tonnes	7 776	7 804
	GROUP IB			
	4 <sup>(1)</sup>	1 000 pieces	49 315	49 950
	5	1 000 pieces	38 074	38 495
	6 <sup>(1)</sup>	1 000 pieces	66 445	67 057
	6a	1 000 pieces	55 778	56 292
	7	1 000 pieces	40 116	40 707
	8	1 000 pieces	57 295	57 928
	GROUP IIA			
	39	tonnes	2 010	2 084
	GROUP IIB			
	12	1 000 pairs	19 383	20 454
	13 <sup>(1)</sup>	1 000 pieces	112 970	115 051
	18	1 000 sets	3 119	3 205
	26	1 000 pieces	11 915	12 134
	29	1 000 sets	4 011	4 196
	31	1 000 pieces	32 894	34 711
	78	tonnes	13 865	14 503
	83	tonnes	694	726
India	GROUP IA			
	1	tonnes	45 333	47 003
	2	tonnes	63 867	65 925
	2a	tonnes	26 355	29 267
	3	tonnes	35 804	38 441
	3a	tonnes	7 181	7 709

Third country	Category	Unit	Community quantitative limits	Community quantitative limits
			2003	2004
	GROUP IB			
	4 <sup>(1)</sup>	1 000 pieces	87 733	95 003
	5	1 000 pieces	48 416	52 873
	6 <sup>(1)</sup>	1 000 pieces	2 259	13 388
	7	1 000 pieces	74 350	77 773
	8	1 000 pieces	54 671	57 440
	GROUP IIA			
	9	tonnes	13 926	15 210
	20	tonnes	25 869	28 251
	23	tonnes	27 733	30 797
	39	tonnes	8 113	9 009
	GROUP IIB			
	15	1 000 pieces	9 198	10 214
	26	1 000 pieces	22 531	24 191
	29	1 000 pieces	13 373	14 604
Indonesia	GROUP IA			
	1	tonnes	21 015	22 176
	2	tonnes	31 555	33 880
	2a	tonnes	11 733	12 597
	3	tonnes	27 934	30 506
	3a	tonnes	14 853	16 220
	GROUP IB			
	4	1 000 pieces	54 911	58 956
	5	1 000 pieces	52 553	58 359
	6 <sup>(1)</sup>	1 000 pieces	19 062	21 168
	7	1 000 pieces	14 039	15 591
	8	1 000 pieces	22 089	24 530
	GROUP IIA			
	23	tonnes	28 441	31 583
	GROUP IIIA			
	35	tonnes	28 425	31 304
Macao	GROUP IB			
	4 <sup>(1)</sup>	1 000 pieces	14 734	15 005
	5	1 000 pieces	13 763	14 016
	6 <sup>(1)</sup>	1 000 pieces	14 842	15 115
	7	1 000 pieces	5 783	5 890
	8	1 000 pieces	8 100	8 249
	GROUP IIA			
	20	tonnes	231	244
	39	tonnes	291	307
	GROUP IIB			
	13	1 000 pieces	9 092	9 427
	15	1 000 pieces	614	648
	16	1 000 pieces	493	507
	26	1 000 pieces	1 281	1 317

Third country	Category	Unit	Community quantitative limits	Community quantitative limits
			2003	2004
	31	1 000 pieces	10 210	10 774
	78	tonnes	2 037	2 112
	83	tonnes	489	516
Malaysia	GROUP IA			
	2	tonnes	8 349	8 811
	2a	tonnes	3 182	3 358
	3 <sup>(1)</sup>	tonnes	17 201	18 151
	3a <sup>(1)</sup>	tonnes	6 916	7 298
	GROUP IB			
	4 <sup>(1)</sup>	1 000 pieces	19 885	21 716
	5	1 000 pieces	9 232	10 082
	6 <sup>(1)</sup>	1 000 pieces	11 697	12 773
	7	1 000 pieces	41 498	43 791
	8	1 000 pieces	9 940	10 489
	GROUP IIA			
	22	tonnes	16 624	18 461
Pakistan	GROUP IA			
	1 <sup>(1)</sup>	tonnes	24 328	25 448
	2	tonnes	47 300	49 477
	2a	tonnes	16 605	18 440
	3	tonnes	77 337	83 033
	GROUP IB			
	4 <sup>(1)</sup>	1 000 pieces	45 612	49 812
	5	1 000 pieces	13 301	14 771
	6 <sup>(1)</sup>	1 000 pieces	49 142	53 667
	7	1 000 pieces	32 591	36 192
	8	1 000 pieces	7 899	8 336
	GROUP IIA			
	9	tonnes	13 464	14 951
	20	tonnes	52 407	58 680
	39	tonnes	18 358	20 048
	GROUP IIB			
	26	1 000 pieces	31 895	35 419
	28	1 000 pieces	115 272	128 009
Peru	GROUP IA			
	1 <sup>(1)</sup>	tonnes	22 032	24 061
	2	tonnes	16 014	18 078
Philippines	GROUP IB			
	4 <sup>(1)</sup>	1 000 pieces	30 256	32 763
	5	1 000 pieces	15 215	16 616
	6 <sup>(1)</sup>	1 000 pieces	13 916	15 325
	7	1 000 pieces	7 621	8 182
	8	1 000 pieces	8 711	9 272

Third country	Category	Unit	Community quantitative limits	Community quantitative limits
			2003	2004
	GROUP IIB			
	13	1 000 pieces	38 292	42 523
	15	1 000 pieces	4 694	5 212
	26	1 000 pieces	6 265	6 958
	31	1 000 pieces	23 735	26 957
Singapore	GROUP IA			
	2	tonnes	5 586	5 894
	2a	tonnes	2 696	2 845
	3	tonnes	1 824	1 992
	GROUP IB			
	4 <sup>(1)</sup>	1 000 pieces	32 654	35 060
	5	1 000 pieces	18 550	19 916
	6	1 000 pieces	19 800	21 441
	7	1 000 pieces	15 995	17 173
	8	1 000 pieces	9 801	10 342
South Korea	GROUP IA			
	1	tonnes	909	910
	2	tonnes	6 153	6 165
	2a	tonnes	1 047	1 049
	3	tonnes	5 078	5 124
	3a	tonnes	892	908
	GROUP IB			
	4 <sup>(1)</sup>	1 000 pieces	16 533	16 867
	5	1 000 pieces	36 091	36 490
	6 <sup>(1)</sup>	1 000 pieces	6 535	6 686
	7	1 000 pieces	10 435	10 579
	8	1 000 pieces	34 436	34 911
	GROUP IIA			
	9	tonnes	1 645	1 721
	22	tonnes	21 437	22 819
	GROUP IIB			
	12	1 000 pairs	220 639	230 796
	13	1 000 pieces	17 203	17 678
	14	1 000 pieces	8 559	8 953
	15	1 000 pieces	12 049	12 715
	16	1 000 pieces	1 238	1 284
	17	1 000 pieces	3 428	3 522
	26	1 000 pieces	3 178	3 236
	28	1 000 pieces	1 264	1 334
	29 <sup>(1)</sup>	1 000 pieces	803	848
	31	1 000 pieces	7 948	8 314
	78	tonnes	8 784	9 350
	83	tonnes	461	482



Third country	Category	Unit	Community quantitative limits	Community quantitative limits
			2003	2004
	GROUP IIIA			
	35	tonnes	10 525	11 494
	50	tonnes	1 279	1 392
	GROUP IIIB			
	97	tonnes	2 501	2 777
	97a <sup>(1)</sup>	tonnes	801	889
Sri Lanka <sup>(4)</sup>	GROUP IB			
	6	1 000 pieces		
	7	1 000 pieces		
	8	1 000 pieces		
Taiwan	GROUP IB			
	2	tonnes	5 869	5 869
	2a	tonnes	500	500
	3	tonnes	8 378	8 378
	3a	tonnes	850	850
	GROUP IB			
	4 <sup>(1)</sup>	1 000 pieces	11 795	11 990
	5	1 000 pieces	21 839	22 005
	6 <sup>(1)</sup>	1 000 pieces	5 985	6 080
	7	1 000 pieces	3 574	3 613
	8	1 000 pieces	9 570	9 692
	GROUP IIA			
	20	tonnes	315	325
	22	tonnes	9 770	10 019
	23	tonnes	6 284	6 523
	GROUP IIB			
	12	1 000 pairs	41 845	42 908
	13	1 000 pieces	3 239	3 322
	14	1 000 pieces	4 842	5 058
	15	1 000 pieces	3 030	3 145
	16	1 000 pieces	498	510
	17	1 000 pieces	987	1 012
	26	1 000 pieces	3 385	3 428
	28 <sup>(1)</sup>	1 000 pieces	2 355	2 430
	78	tonnes	5 580	5 793
	83	tonnes	1 247	1 294
	GROUP IIIA			
	35	tonnes	9 360	9 836
	GROUP IIIB			
	97	tonnes	1 657	1 762
	97a <sup>(1)</sup>	tonnes	754	802

Third country	Category	Unit	Community quantitative limits	Community quantitative limits
			2003	2004
Thailand	GROUP IA			
	1	tonnes	23 809	25 124
	2	tonnes	17 528	18 497
	2a	tonnes	4 575	4 828
	3 <sup>(1)</sup>	tonnes	31 706	33 458
	3a <sup>(1)</sup>	tonnes	8 591	9 065
	GROUP IB			
	4	1 000 pieces	50 011	54 616
	5	1 000 pieces	35 280	38 529
	6	1 000 pieces	12 715	13 886
	7	1 000 pieces	11 902	12 998
	8	1 000 pieces	6 319	6 726
	GROUP IIA			
	20	tonnes	13 890	15 424
	22	tonnes	6 600	7 330
	GROUP IIB			
	12	1 000 pairs	43 961	48 819
	26	1 000 pieces	10 247	11 379
	GROUP IIIB			
	97	tonnes	3 061	3 399
	97a <sup>(1)</sup>	tonnes	2 598	2 885
Uzbekistan	GROUP IA			
	2	tonnes	16 500	
	of which 2a	tonnes	1 650	
Vietnam <sup>(1)</sup>	GROUP IB			
	4	1 000 pieces	10 709	
	5	1 000 pieces	3 551	
	6	1 000 pieces	5 465	
	7	1 000 pieces	3 003	
	8	1 000 pieces	14 206	
	GROUP IIA			
	9	tonnes	982	
	20	tonnes	255	
	39	tonnes	244	
	GROUP IIB			
	12	1 000 pairs	3 096	
	13	1 000 pieces	9 253	
	14	1 000 pieces	493	
	15	1 000 pieces	550	
	18	tonnes	968	
	21	1 000 pieces	20 837	

Third country	Category	Unit	Community quantitative limits	Community quantitative limits
			2003	2004
	26	1 000 pieces	1 256	
	28	1 000 pieces	3 881	
	29	1 000 pieces	381	
	31	1 000 pieces	4 372	
	68	tonnes	473	
	73	1 000 pieces	1 159	
	76	tonnes	1 259	
	78	tonnes	1 311	
	83	tonnes	436	
	GROUP IIIA			
	35	tonnes	671	
	41	tonnes	809	
	GROUP IIIB			
	10	1 000 pairs	6 160	
	97	tonnes	224	
	GROUP IV			
	118	tonnes	277	
	GROUP V			
	161	tonnes	248	

(<sup>1</sup>) See appendix A.

(<sup>2</sup>) See appendix B.

(<sup>3</sup>) See appendix C.

(\*) Possibility to transfer to and from category 3 up to 40 % of the category to which the transfer is made.

(<sup>4</sup>) The application of quantitative restrictions for Sri Lanka is not in application pursuant to the EC/Sri Lanka Memorandum of Understanding on market access in the textile sector, under which the European Community retains the right to reapply them under certain circumstances.

(<sup>5</sup>) The application of quantitative restrictions for Brazil is not in application pursuant to the EC/Brazil Memorandum of Understanding on market access in the textile sector, under which the European Community retains the right to reapply them under certain circumstances.

#### Appendix A to Annex V

Category	Third Country	Remarks
1	Pakistan	The following additional quantities may be added to the relevant annual quantitative limit (tonnes): — 2003: 487 — 2004: 509  These quantities may, subject to notification, be transferred to the relevant quantitative limits for category 2. Part of the quantity so transferred may be used on a pro rata basis for category 2a)
	Peru	In addition to the quantitative limits shown in Annex V, an additional annual quantity of 900 tonnes of products falling within category 1 is reserved for imports into the Community for processing by the Community industry

Category	Third Country	Remarks
2	China	<p>For fabrics, below 115 cm in width (CN codes:  5208 11 90, ex 5208 12 16, ex 5208 12 96, 5208 13 00,  5208 19 00, 5208 21 90, ex 5208 22 16, ex 5208 22 96,  5208 23 00, 5208 29 00, 5208 31 00, ex 5208 32 16,  ex 5208 32 96, 5208 33 00, 5208 39 00, 5208 41 00,  5208 42 00, 5208 43 00, 5208 49 00, 5208 51 00,  5208 52 10, 5208 53 00, 5208 59 00, 5209 11 00,  5209 12 00, 5209 19 00, 5209 21 00, 5209 22 00,  5209 29 00, 5209 31 00, 5209 32 00, 5209 39 00,  5209 41 00, 5209 42 00, 5209 43 00, 5209 49 90,  5209 51 00, 5209 52 00, 5209 59 00, 5210 11 10,  5210 12 00, 5210 19 00, 5210 31 10, 5210 32 00,  5210 39 00, 5210 41 00, 5210 42 00, 5210 49 00,  5211 11 00, 5211 12 00, 5211 19 00, 5211 31 00,  5211 32 00, 5211 39 00, 5211 41 00, 5211 42 00,  5211 43 00, ex 5211 49 10, 5211 49 90, 5212 11 10,  5212 11 90, 5212 13 90, 5212 14 10, 5212 14 90,  5212 21 10, 5212 21 90, 5212 23 10, 5212 23 90,  5212 24 10, 5212 24 90, ex 5811 00 00 and  ex 6308 00 00), the following additional quantities may be  exported to the Community by China (tonnes):  — 2003: 1 407  — 2004: 1 412</p> <p>For fabrics of category 2 for medical gauze (CN codes:  5208 11 10 and 5208 21 10), the following additional quantities  may be exported to the Community by China (tonnes):  — 2003: 1943  — 2004: 1950</p> <p>Possibility of transfer to and from category 3 of up to 40 % of  the category to which the transfer is made</p>
3	Malaysia Thailand	The quantitative limits shown in Annex V include cotton fabric falling within category 2
3a	Malaysia Thailand	The quantitative limits shown in Annex V include cotton fabric other than unbleached or bleached falling within category 2a)
4	China Hong Kong India Macao Malaysia Pakistan Philippines Singapore South Korea Taiwan	<p>For the purpose of setting off exports against the agreed  quantitative limits a conversion rate of five garments (other  than babies' garments) of a maximum commercial size of  130 cm for three garments whose commercial size exceeds  130 cm may be applied for up to 5 % of the quantitative  limits</p> <p>For Hong Kong, Macao and South Korea, this figure shall be  3 %, and for Taiwan 4 %</p> <p>The export licence concerning these products must bear, in  box 9, the words "The conversion rate for garments of a  commercial size of not more than 130 cm must be applied"</p>

Category	Third Country	Remarks
5	China	<p>These figures include the following quantities reserved for European industry for a period of 180 days each year (1 000 pieces):</p> <p>— 2003: 682</p> <p>— 2004: 700</p> <p>For products of category 5 (other than anoraks, windchesters, waister jackets and the like) of fine animal hair falling within CN codes: 6110 12 10, 6110 12 90, 6110 19 10 and 6110 19 90, the following sublimits apply within the quantitative limits established for category 5 (1 000 pieces):</p> <p>— 2003: 244</p> <p>— 2004: 250</p>
6	China	<p>The figures include the following quantities reserved for European industry for a period of 180 days each year (1 000 pieces):</p> <p>— 2003: 1 235</p> <p>— 2004: 1 274</p> <p>The following additional quantities of shorts (CN codes 6203 41 90, 6203 42 90, 6203 43 90 and 6203 49 50) may be exported by China to the Community (1 000 pieces):</p> <p>— 2003: 1 228</p> <p>— 2004: 1 266</p>
	Brazil <sup>(1)</sup> Hong Kong India Indonesia Macao Malaysia Philippines Singapore South Korea Sri Lanka <sup>(2)</sup> Taiwan	<p>For the purpose of setting off exports against the agreed quantitative limits a conversion rate of five garments (other than babies' garments) of a maximum commercial size of 130 cm for three garments whose commercial size exceeds 130 cm may be applied for up to 5 % of the quantitative limits</p> <p>For Macao this figure shall be 3 % and for Hong Kong it shall be 1 %</p> <p>Utilization of the conversion rate for Hong Kong is limited in respect of long trousers to the subceiling shown below</p> <p>The export licence concerning these products must bear, in box 9, the words "The conversion rate for garments of a commercial size of not more than 130 cm must be applied"</p>
	Hong Kong	<p>Within the quantitative limits laid down in Annex V there are the following subceilings for long trousers falling within CN codes:</p> <p>6203 41 10, 6203 42 31, 6203 42 33, 6203 42 35, 6203 43 19, 6203 49 19, 6204 61 10, 6204 62 31, 6204 62 33, 6204 62 39, 6204 63 18, 6204 69 18, 6211 32 42, 6211 33 42, 6211 42 42 and 6211 43 42 (1 000 pieces):</p> <p>— 2003: 56 292</p> <p>— 2004: 56 292</p> <p>The export licence covering these products should be endorsed "category 6 A"</p>
7	China	<p>These figures include the following quantities reserved for European industry for a period of 180 days each year (1 000 pieces):</p> <p>— 2003: 735</p> <p>— 2004: 755</p>

Category	Third Country	Remarks
8	China	These figures include the following quantities reserved for European industry for a period of 180 days each year (1 000 pieces): — 2003: 1 188 — 2004: 1 220
13	Hong Kong	The quantitative limits shown in Annex V cover only products of cotton or synthetic fibres falling within CN codes: 6107 11 00, ex 6107 12 00, 6108 21 00, ex 6108 22 00 and ex 6212 10 10 In addition to the quantitative limits shown in Annex V, the following specific quantities were agreed for exports of products (of wool or regenerated fibres) falling within CN codes: ex 6107 12 00, ex 6107 19 00, ex 6108 22 00, ex 6108 29 00 and ex 6212 10 10 (tonnes): — 2003: 2 796 — 2004: 3 002 The export licence covering these products should be endorsed "category 13 S"
15	China	These figures include the following quantities reserved for European industry for a period of 180 days each year (1 000 pieces): — 2003: 352 — 2004: 371
26	China	These figures include the following quantities reserved for European industry for a period of 180 days each year (1 000 pieces): — 2003: 361 — 2004: 370
28	Taiwan	In addition to the quantitative limits laid down in Annex V, specific quantities were agreed for exports of bib and brace overalls, breeches and shorts falling within CN codes: 6103 41 90, 6103 42 90, 6103 43 90, 6103 49 91, 6104 61 90, 6104 62 90, 6104 63 90 and 6104 69 91: — 2003: 1 188 629 pieces — 2004: 1 226 368 pieces
29	South Korea	In addition to the quantitative limits laid down in Annex V, additional quantities are reserved for martial arts (judo, karate, kung fu, taekwondo or the like) clothing (1 000 pieces): — 2003: 361 — 2004: 370
97a	South Korea Taiwan Thailand	Fine nets (CN codes: 5608 11 19 and 5608 11 99)

Category	Third Country	Remarks
All categories subject to quantitative limits	Vietnam	Vietnam shall reserve 30 % of its quantitative limits for firms belonging to the Community textile industry for a period of four months beginning on 1 January of each year, on the basis of lists provided by the Community before 30 October of the preceding year

(<sup>1</sup>) The application of quantitative restrictions for Brazil is not in application pursuant to the EC/Brazil Memorandum of Understanding on market access in the textile sector, under which the European Community retains the right to reapply them under certain circumstances.

(<sup>2</sup>) The application of quantitative restrictions for Sri Lanka is not in application pursuant to the EC/Sri Lanka Memorandum of Understanding on market access in the textile sector, under which the European Community retains the right to reapply them under certain circumstances.

*Appendix B to Annex V*

Third country	Category	Unit	2003
China	The following quantities made available for the year 2003, may be used exclusively at European fairs:		
	1	Tonnes	317
	2	Tonnes	1 338
	2a	Tonnes	159
	3	Tonnes	196
	3a	Tonnes	27
	4	1 000 pieces	2 061
	5	1 000 pieces	705
	6	1 000 pieces	1 689
	7	1 000 pieces	302
	8	1 000 pieces	992
	9	Tonnes	294
	12	1 000 pairs	843
	13	1 000 pieces	3 192
	20/39	Tonnes	372
	22	Tonnes	332

Flexibilities provided for in Article 7 of and Annex VIII to Council Regulation 3030/93 for China are applicable to the above categories and amounts.

*Appendix C to Annex V*

**COMMUNITY QUANTITATIVE LIMITS**

(The complete description of the goods is shown in Annex IB)

Third country	Category	Unit	2003	2004
China	GROUP I ex 20 ( <sup>1</sup> )	tonnes	50	53
	GROUP IV			
	115	tonnes	1 239	1 276
	117	tonnes	589	606
	118	tonnes	1 394	1 450
	122	tonnes	194	203



Third country	Category	Unit	2003	2004
	GROUP V			
	136A	tonnes	436	453
	156 (?)	tonnes	3 406	3 525
	157 (?)	tonnes	12 489	12 801
	159 (?)	tonnes	4 279	4 322

(<sup>1</sup>) Categories marked by "ex" cover products other than those of wool or fine animal hairs, cotton or synthetic or artificial textile materials.

(<sup>2</sup>) For these categories, China undertakes to reserve, as a priority 23 % of the quantitative limits concerned for users belonging to the textile Community industry during 90 days beginning on 1 January of each year.

4. Annex VII is replaced by the following:

#### *'ANNEX VII*

#### **referred to in Article 5**

Outward processing traffic

#### *Article 1*

Re-imports into the Community of textile products listed in column 2 of the table attached to this Annex, effected in accordance with the Regulations on economic outward processing in force in the Community, shall not be subject to the quantitative limits referred to in Article 2 of the Regulation where they are subject to specific quantitative limits given in column 4 of the table and have been re-imported after processing in the corresponding third country listed in column 1 for each of the quantitative limits specified.

#### *Article 2*

Re-imports not covered by this Annex may be subject to specific quantitative limits in accordance with the procedure laid down in Article 17 of the Regulation, provided that the products concerned are subject to the quantitative limits laid down in Article 2 of this Regulation.

#### *Article 3*

1. Transfers between categories and advance use or carry-over of portions of specific quantitative limits from one year to another may be carried out in accordance with the procedure laid down in Article 17 of the Regulation.
2. However, automatic transfers in accordance with paragraph 1 may be carried out within the following limits:
  - transfer between categories for up to 20 % of the quantitative limit established for the category to which the transfer is made,
  - carry-over of a specific quantitative limit from one year to another for up to 10,5 % of the quantitative limit established for the actual year of utilization,
  - advance use of a specific quantitative limit for up to 7,5 % of the quantitative limit established for the actual year of utilization.
3. Where there is a need for additional imports the specific quantitative limits may be adjusted in accordance with the procedure laid down in Article 17 of the Regulation.
4. The Commission shall inform the third country or countries concerned of any measures taken pursuant to the preceding paragraphs.

*Article 4*

1. For the purpose of applying Article 1, the competent authorities of the Member States, before issuing prior authorisations in accordance with the relevant Community Regulations on economic outward processing, shall notify the Commission of the amounts of the requests for authorisations which they have received. The Commission shall notify its confirmation that the requested amount(s) are available for re-importation within the respective Community limits in accordance with the relevant Community Regulations on economic outward processing.
2. The requests included in the notifications to the Commission shall be valid if they establish clearly in each case:
  - (a) the third country in which the goods are to be processed;
  - (b) the category of textile products concerned;
  - (c) the amount to be re-imported;
  - (d) the Member State in which the re-imported products are to be put into free circulation;
  - (e) an indication as to whether the requests relate to
    - (i) a past beneficiary applying for the quantities set aside under Article 3(4) or in accordance with the fifth subparagraph of Article 3(5) of Council Regulation (EC) No 3036/94 <sup>(1)</sup>, or to
    - (ii) an applicant under the third subparagraph of Article 3(4) or under Article 3(5) of that Regulation
3. Normally the notifications referred to in the previous paragraphs of this Article shall be communicated electronically within the integrated network set up for this purpose, unless for imperative technical reasons it is necessary to use other means of communication temporarily.
4. As far as possible, the Commission shall confirm to the authorities the full amount indicated in the requests notified for each category of products and each third country concerned. Notifications presented by Member States for which no confirmation can be given because the amounts requested are no longer available within the Community quantitative limits, will be stored by the Commission in the chronological order in which they have been received and confirmed in the same order as soon as further amounts become available through the application of flexibilities foreseen in Article 3.
5. The competent authorities shall notify the Commission immediately after being informed of any quantity that is not used during the duration of validity of the import authorisation. Such unused quantities shall automatically be recredited to the quantities within the Community quantitative limits not set aside pursuant to the first subparagraph of Article 3(4) or to the fifth subparagraph of Article 3(5) of Council Regulation (EC) No 3036/94.

The quantities for which a renunciation has been made pursuant to the third sub-paragraph of Article 3(4) of Council Regulation (EC) No 3036/94, shall automatically be added to the quantities within the Community quota that are not set aside pursuant to the first sub-paragraph of Article 3(4) or to the fifth sub-paragraph of Article 3(5) of the said Regulation.

All such quantities as outlined in the preceding subparagraphs shall be notified to the Commission in accordance with paragraph 3 above.

*Article 5*

The certificate of origin shall be issued by the competent governmental authorities in the supplier country concerned, in accordance with the Community legislation in force and the provisions of Annex III for all products covered by this Annex.

*Article 6*

The competent authorities of the Member States shall supply the Commission with the names and addresses of the authorities competent to issue the prior authorizations referred to in Article 4 together with specimens of the stamp impressions used by them.

<sup>(1)</sup> OJ L 322, 15.12.1994, p. 1.

TABLE

**COMMUNITY QUANTITATIVE LIMITS FOR GOODS RE-IMPORTED UNDER OPT**

applicable for year 2003 and 2004

(The complete description of the goods is shown in Annex I)

Third country	Category	Unit	Community quantitative limits	Community quantitative limits
			2003	2004
Belarus	GROUP IB			
	4	1 000 pieces	4 139	
	5	1 000 pieces	5 774	
	6	1 000 pieces	7 045	
	7	1 000 pieces	5 226	
	8	1 000 pieces	1 739	
	GROUP IIB			
	12	1 000 pairs	3 924	
	13	1 000 pieces	376	
	15	1 000 pieces	3 020	
	16	1 000 pieces	684	
	21	1 000 pieces	2 249	
	24	1 000 pieces	476	
	26/27	1 000 pieces	2 433	
	29	1 000 pieces	1 135	
	73	1 000 pieces	4 381	
	83	tonnes	569	
	GROUP IIIB	tonnes		
	74	1 000 pieces	759	
China	GROUP IB			
	4	1 000 pieces	323	336
	5	1 000 pieces	717	745
	6	1 000 pieces	2 581	2 706
	7	1 000 pieces	694	723
	8	1 000 pieces	1 581	1 643
	GROUP IIB			
	13	1 000 pieces	870	887
	14	1 000 pieces	640	660
	15	1 000 pieces	628	678
	16	1 000 pieces	1 012	1 032
	17	1 000 pieces	842	868
	26	1 000 pieces	1 232	1 281

Third country	Category	Unit	Community quantitative limits	Community quantitative limits
			2003	2004
	29	1 000 pieces	125	129
	31	1 000 pieces	9 045	10 199
	78	Tonnes	92	105
	83	Tonnes	92	105
	GROUP V			
	159	Tonnes	8,4	8,5
India	GROUP IB			
	7	1 000 pieces	4 533	4 987
	8	1 000 pieces	3 396	3 770
	GROUP IIB			
	15	1 000 pieces	306	380
	26	1 000 pieces	3 064	3 555
Indonesia	GROUP IB			
	6	1 000 pieces	1 980	2 456
	7	1 000 pieces	1 317	1 633
	8	1 000 pieces	1 648	2 045
Macao	GROUP IB			
	6	1 000 pieces	316	335
	GROUP IIB			
	16	1 000 pieces	849	906
Malaysia	GROUP IB			
	4	1 000 pieces	495	594
	5	1 000 pieces	495	594
	6	1 000 pieces	495	594
	7	1 000 pieces	342	383
	8	1 000 pieces	275	308
Pakistan	GROUP IB			
	4	1 000 pieces	6 890	8 270
	5	1 000 pieces	3 344	4 148
	6	1 000 pieces	5 979	7 096
	7	1 000 pieces	2 841	3 372
	8	1 000 pieces	3 963	4 704
	GROUP IIB			
	26	1 000 pieces	3 879	4 604
Philippines	GROUP IB			
	6	1 000 pieces	738	738
	8	1 000 pieces	202	221
Singapore	GROUP IB			
	7	1 000 pieces	1 106	1 283

Third country	Category	Unit	Community quantitative limits	Community quantitative limits
			2003	2004
Sri Lanka <sup>(1)</sup>	GROUP IB			
	6	1 000 pieces		
	7	1 000 pieces		
	8	1 000 pieces		
Thailand	GROUP IB			
	5	1 000 pieces	343	416
	6	1 000 pieces	343	416
	7	1 000 pieces	550	653
	8	1 000 pieces	343	416
	GROUP IIB			
	26	1 000 pieces	522	633
Vietnam	GROUP IB			
	4	1 000 pieces	1 003	
	5	1 000 pieces	764	
	6	1 000 pieces	714	
	7	1 000 pieces	1 337	
	8	1 000 pieces	3 101	
	GROUP IIB			
	12	1 000 pairs	3 158	
	13	1 000 pieces	965	
	15	1 000 pieces	311	
	18	Tonnes	362	
	21	1 000 pieces	2 108	
	26	1 000 pieces	197	
	31	1 000 pieces	1 764	
	68	Tonnes	147	
	76	Tonnes	502	
	78	Tonnes	349	

<sup>(1)</sup> The application of quantitative restrictions for Sri Lanka is not in application pursuant to the EC/Sri Lanka Memorandum of Understanding on market access in the textile sector, under which the European Community retains the right to reapply them under certain circumstances.

## CORRIGENDA

**Corrigendum to Council Regulation (EC) No 2555/2001 of 18 December 2001 fixing for 2002 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where limitations in catch are required**

*(Official Journal of the European Communities L 347 of 31 December 2001)*

On page 19, Annex IB, under the heading 'Herring', Zone IVc, VIId:

*for:* 'TAC 42 673 (4)',

*read:* 'TAC 265 000 (4)'.

On page 31, Annex IC, under the heading 'Capelin', second zone heading:

*for:* 'Zone: V, XIV (Greenland waters)',

*read:* 'Zone: NAFO 0,1 (Greenland waters)'.

On page 39, Annex ID, under the heading 'Haddock', second zone heading:

*for:* 'Zone: VII, VIII, IX, X, CECAF 34.1.1 (EC waters)',

*read:* 'Zone: VIIb to k, VIII, IX, X, CECAF 34.1.1 (EC waters)'.

On page 45, Annex ID, under the heading 'Pollack', Zone: VIId:

*for:*

France	576
Spain	64
EC	640
TAC	640',

*read:*

France	64
Spain	576
EC	640
TAC	640'.

On page 59, Annex IG, heading 'Martalia hyadesi', Zone: FAO 48.3 Antarctic:

*for:* 'Martalia hyadesi',

*read:* 'Martiala hyadesi'.

---