

COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION
FROM THE COMMISSION TO THE BUDGETARY AUTHORITY
CONCERNING LEGAL BASES AND MAXIMUM AMOUNTS

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In a statement annexed to the interinstitutional agreement signed on 29 October 1993, "the institutions confirm their support for the three principles listed in Chapter IV, paragraphs 3(b) and (c) of the Joint Declaration of 30 June 1982 concerning maximum amounts and the need for a legal basis and they undertake to improve application of these principles".

These two concepts, which are at the interface of the Council's legislative power and Parliament's budgetary power, refer to the undertaking given by the Council not to enter maximum amounts in basic instruments and the undertaking given in return by Parliament to agree that a legal basis must exist before appropriations entered in the budget can be implemented.

This need for a legal basis has been enshrined in the Financial Regulation (Article 22 refers explicitly to the 1982 Declaration) and was reiterated in the 1988 Interinstitutional Agreement and again in the 1993 Agreement.

By the statement annexed to the Interinstitutional Agreement, the three institutions not only confirmed that the mechanisms set up by the 1982 Declaration were still valid but also demonstrated their determination to ensure that they were effectively applied, with the twofold concern of improving the budgetary procedure and guaranteeing sound financial management. The aim is to remedy the difficulties encountered in the application of the 1982 Declaration by establishing procedures better suited to the objective pursued.

This communication sets out the background to the problem with particular reference to developments since 1982. It then goes on to make procedural proposals which could help achieve the objective of improving budgetary procedure and financial management set by the Interinstitutional Agreement.

I. THE 1982 JOINT DECLARATION AND ITS APPLICATION

A. Background

The full text of the 1982 Declaration can be found at Annex 1. Paragraph 3 of Section IV "Other matters" reads as follows:

- a) *Ceilings fixed in existing regulations will be respected.*
- b) *In order that the full importance of the budget procedure may be preserved, the fixing of maximum amounts by regulation must be avoided, as must the entry in the budget of amounts in excess of what can actually be expended.*
- c) *The implementation of appropriations entered for significant new Community action shall require a basic regulation. If such appropriations are entered the Commission is invited, where no draft regulation exists, to present one by the end of January at the latest.*

The Council and the Parliament undertake to use their best endeavours to adopt the regulation by the end of May at the latest. If by this time the regulation has not been adopted, the Commission shall present alternative proposals (transfers) for the use during the financial year of the appropriations in question.

This paragraph was the result of major concessions by both Council and Parliament. To be able to gauge these concessions, it is worth recalling the background to the 1982 Joint Declaration.

For a number of years the budgetary procedure had been the scene of regular disputes between the two arms of the budgetary authority. At the end of 1981 serious disagreement between the Council and Parliament on the nature and volume of expenditure to be classified non-compulsory plunged the Community into a major crisis. The budget for 1982 as declared adopted by the President of Parliament did not correspond to the classification of expenditure determined by the Council, which therefore felt that Parliament had overstepped its powers in adopting a budget before solutions had been agreed to the problems outstanding. The Council then took the precautionary measure of bringing an action before the Court of Justice but, in a spirit of constructive cooperation, proposed talks with Parliament and the Commission, mainly on the question of classification of expenditure, so that in future the budgetary procedure would operate more efficiently. The Presidents of the Council and Parliament therefore agreed in February 1982 to initiate the interinstitutional dialogue which finally produced the Joint Declaration; this focused mainly, although not exclusively, on the problem of the classification of expenditure. The two arms of the budgetary authority were also in disagreement on other political and legal issues which are listed in a resolution passed by Parliament on 10 April 1981. This includes the following passage;

"(Parliament)

(...)

9. Considers that as a priority the following matters should be examined:

- (i) the role of the budget as a legal basis permitting the implementation of appropriations,*
- (ii) the determining of the level of appropriations by budgetary or legislative procedures,*
- (iii) the right of the Commission to implement the budget autonomously and the role of management committees."*

These points are all dealt with implicitly or explicitly in paragraph 3 of Section IV (Other matters) of the 1982 Declaration. These provisions lay down a number of important principles designed to support a new balance between the legislative power and the budgetary power.

The first principle is the maintenance of the *status quo*: the new provisions in the Declaration do not apply retrospectively. Parliament thus undertakes not to attempt, by budgetary procedures, to depart from the maximum amounts set in instruments already adopted, and the requirement that a legal basis be secured prior to implementation of appropriations is to apply only to significant Community operations introduced after 1982.

The Council bows to the views of Parliament and the Commission on **maximum amounts**. Hitherto it had inserted maximum amounts in a number of instruments involving non-compulsory expenditure. Parliament challenged this on the grounds that it removed all substance from the Treaty provisions giving Parliament the last word on non-compulsory expenditure. On this point the Council makes a major concession to Parliament as the 1982 Declaration expressly states that "the fixing of maximum amounts by regulation must be avoided".

As regards the legal basis it is agreed that "the implementation of appropriations entered for significant new-Community action shall require a basic regulation". Parliament thus abandons its earlier arguments and accepts that while the entry of appropriations in the budget is a necessary condition for expenditure, it is not, by itself, sufficient. But this requirement could be an obstacle to the application of the decision on the budget which is now far downstream from the legislative decision-making process. Paragraph 3(c) therefore attempts to lay down arrangements for securing a legal basis within time limits compatible with the principle of budget annuality, and even provides for a fall-back procedure. If a legal basis cannot be secured in time, the Commission is asked to present a proposal for reallocating the appropriations entered in the budget so that they can still be used during the year. This provision (which was prompted by the concern, present at that time, to dispel Parliament's reluctance to use its margin of manoeuvre to allocate appropriations to new headings) gave birth to the "Notenboom" procedure and the omnibus transfer which accompanies the Commission's reply to Parliament's oral question every October.

B. Interpretation of the concepts contained in the 1982 declaration

The 1982 Declaration is a political text constituting a code of conduct for the institutions. It uses general concepts which, before they could be put into practice, required a great deal of clarification. The main concepts to be interpreted were "significant Community action" and "basic regulation".

The first of these concepts was analysed as follows:

The wording of the 1982 Declaration implies that legal bases are not required for certain Community operations not considered to be significant. The attempt to lay-down criteria establishing whether or not Community action is significant produced the idea that the Commission may, when exercising its power of initiative, possibly at Parliament's instigation, take action for which no legal basis is required. This is the case, for instance, when it initiates, on its own responsibility, the studies or projects required to prepare its proposals (on this point see the statement in the minutes of the triologue meeting of 28 June 1992, Annex 2).

Such operations are of an exploratory nature and can be divided into two categories:

"pilot projects" are specific and limited operations intended to test the ground; they are one-off in nature and essentially ephemeral;

"preparatory action" is part of a longer-term plan where, as the name suggests, it prepares the ground for some future development, for instance by exploring the possibility of using an existing instrument for a new measure or studying the pros and cons of a new instrument. Preparatory action can come in a wide variety of forms and may last longer than a pilot project.

The second task was to clarify the concept of "basic regulation". One ambiguity was removed immediately: by "basic regulation" was meant "basic instrument" and not just, as a literal interpretation would suggest, the legal instrument termed "regulation" in Article 189 of the Treaty (*"The regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States"*).

The basic instrument will, as a rule, be secondary Community legislation. The article(s) of the Treaty establishing a common policy do not as such constitute a sound legal basis for Community expenditure. They can be used by the Commission, in exercising its power to make proposals, or by the Council and Parliament, in exercising their decision-making powers, as the basis for the instrument defining the arrangements for the Community action envisaged to achieve the objectives set by the Treaty. This instrument can be in any of the forms allowed by the Treaty (regulation, directive or decision).

C. Implementing the 1982 Declaration

Budgetary practice over the last ten years shows that the principles laid down in the 1982 Declaration have not been properly applied, as regards both the requirement for a legal basis and the non-entry of maximum amounts.

1. The legal basis requirement

This requirement has not been uniformly respected as regards both the form of the instrument considered necessary for execution and the very existence of this instrument.

(a) Form of the legal basis

In some cases the Council itself has even judged that the basic instrument did not necessarily need to be one of the forms provided for in Article 189, but that a purely political instrument such as a Council declaration or resolution was sufficient to justify expenditure.

(b) The existence of a legal basis

The above interpretations have, in many instances over the past ten years, allowed operations to escape the requirement laid down in the 1982 Joint Declaration concerning the existence of a legal basis.

This practice covers a large variety of situations, not all of which would appear to be justified.

Broadly speaking two cases can be distinguished: one-off operations which have resulted, after a reasonable length of time, in significant Community action; operations which have gone on without a legal basis for so long that they can no longer be considered one-off operations.

An example of the first category is the rehabilitation and reconstruction programme for developing countries, which started in 1994 as a one-off exploratory measure, but which will change in 1995 into a significant action for which a proposal for a legal basis is being prepared. Similarly, for the AVICENNE programme (scientific and technical cooperation with the Maghreb and other non-member Mediterranean countries), one-off exploratory measures were launched in 1992 on Parliament's initiative with an allocation of ECU 5 million in order to obtain a better picture of the potential for cooperation in this region in certain scientific areas. These measures continued in 1993 and 1994 and, in view of their success, have been incorporated in the fourth research and technological development framework programme under the heading "international scientific cooperation". By contrast, individual operations in the field of financial engineering (B5-331 "Action to encourage transfrontier provision of equity capital for small and medium-sized enterprises"), after being renewed for a number of years, might now be terminated since they duplicate the objectives of the European Investment Fund (the 1995 preliminary draft budget contains only a dash for commitment appropriations and ECU 300 000 in payment appropriations).

In these areas no legal basis is necessary because the action involved is of an exploratory nature. The individual operations have, moreover, served their purpose as they have resulted in significant action or, on the contrary, have demonstrated that it was pointless continuing along the same course.

The second category covers a variety of situations:

- In the case of emergency aid (e.g. aid for disaster victims in the Community, an item allocated ECU 5.5 million which was first entered over fifteen years ago) no legal basis is really necessary because of the type of operation involved: each situation is different and requires a specific and immediate reaction by the Community adapted to the needs (see list of operations at Annex 4).
- Some operations are conducted by the Commission by virtue of tasks assigned to it inherently by the Treaty as the institution responsible for executing Community policies. This applies in particular to information policy measures designed to present and promote the Community's work. This is an area in which the Commission enjoys freedom of action and where it feels that there is no need for a specific legal basis (see list of operations concerned at Annex 5).
- The budget also contains a number of headings which have been extended from year to year but where the absence of a legal basis is not strictly justified; in particular it is not easy to argue that the potential for Community action is still being explored in the case of Article B5-411 (Operations relating to industry), which has an allocation of ECU 5 million and was first entered over ten years ago, Item B7-5022 (Promotion of Community exports to non-Community countries, notably Japan), allocated ECU 10.75 million and first entered in 1979, or Item B7-5070 (Programme of positive measures regarding South Africa), allocated ECU 100 million and first entered in 1986.

But there are reasons why these situations have developed:

Where the amounts involved are small, the cumbersome process for adopting a legal basis and the complexity of the procedures which result (in particular because of the establishment of Management Committees) are often seen as out of all proportion to the amounts involved. Item B7-5051 (Women in development) with its allocation of ECU 2 million is a good example of this reluctance to initiate the process of adopting a legal basis.

Experience has shown that the Commission has great difficulty in deleting or merging items which it feels should not be retained in the budget. The budgetary authority commonly reinstates in the final budget any items which the Commission has removed from its preliminary draft. This failure to agree on the need for an operation and on its future as significant Community action can, to some extent, be interpreted as a clash between the Commission's right of initiative and the rights of the legislative and budgetary authorities. Article B5-108 (Monitoring of foodstuffs) is an example: it was given a token entry in the preliminary draft budgets for 1992, 1993 and 1994 but Parliament finally entered ECU 1 million each year. Operations relating to culture illustrate another aspect: the 1994 budget contains a number of "small items" with no legal basis such as "promotion of theatre and music in the European Community", with an allocation of ECU 500 000, and the "Gutenberg programme", with an allocation of ECU 200 000, which the Commission has been endeavouring for a number of years to merge with other items to form an entity which is complementary to what is already being organized for the protection of the cultural heritage and also to make them fit in coherently with

the many aspects of a Community cultural policy. With a view to the implementation of a significant operation with a proper legal basis, the preliminary draft budget for 1995 again merges the items in question and a proposal for an overall programme will be drawn up before the end of the year.

The timetable set by the 1982 Joint Declaration for securing a legal basis cannot easily be met by the institutions: if appropriations are entered in the budget by Parliament for a new Community operation in the final quarter of year n-1, the Commission has only around three months (i.e. by end-January of year n) to draft a proposal for a legal basis, whereas this is something which requires a great deal of thought and attention and generally involves consultation with the parties concerned. Parliament and the Council then have only four months (i.e. up to end-May) to complete the decision-making process which results in the adoption of a legal basis.

In the end this unrealistic timetable works against the intended objective. Where a proposed legal basis has not been adopted within the four months allowed, the appropriations involved are transferred; authorizing officers will therefore quite naturally tend to continue using the appropriations for preparatory operations rather than become involved in a process which will almost inevitably result in the appropriations being taken away as part of the omnibus transfer. An example of this is what happened with the various satellite agencies, where a whole series of preparatory operations were conducted throughout the negotiations on where these agencies should be located.

To sum up, the absence of realistic arrangements for changing a one-off operation into significant Community action seriously weakened the application of the 1982 Declaration.

2. Non-entry of maximum amounts

In practice maximum amounts have been replaced by "amounts deemed necessary", which the Council decided to enter systematically in all legal bases for "programmes with multiannual allocations". As most Community operations are part of a multiannual programme, the Council has grown into the habit of stating in the legal instrument itself (regulation or decision) that a given operation is multinational in nature and determining the financial requirements involved either as an overall budget or as a series of amounts for each year of the operation.

While the legislative authority is quite justified in wanting to have a clear indication of the presumed duration of the operation and an estimate of the potential budgetary cost, systematic entry of amounts deemed necessary has a number of drawbacks:

- They generate disputes between the two arms of the budgetary authority, which do not see eye to eye on what these amounts actually are and how binding they should be: the Council regards them as an expenditure ceiling, whereas Parliament prefers to think of them as a minimum.
- They are not conducive to sound financial management, in that prior setting of fixed amounts with no possibility of revision is seen by authorizing officers or recipients as giving them a "drawing right" with no regard for cost effectiveness: the guaranteed allocation provided by "amounts deemed necessary" removes all incentive to carry out a periodical evaluation of the results of the operation.
- Finally, they make for rigidity in a budget procedure which since 1988 has been placed in the framework of the financial perspective. The indication of an amount deemed necessary pre-empts decisions on the utilization of the allocations for the headings in the financial perspective in that the programmes are taken on a first-come, first-served basis. They also create inequality between operations belonging to a programme with a multiannual allocation and those governed exclusively by the annual budgetary procedure.

II. PROPOSALS FOR IMPROVING IMPLEMENTATION OF THE 1982 DECLARATION

The Commission proposes that, in the spirit of the rules laid down in the 1982 Declaration, measures be taken to remedy the deviations of current practice as regards both legal bases and maximum amounts.

A. Improving the procedure applicable to legal bases

A distinction needs to be made according to whether or not the operation for which appropriations are entered in the budget constitutes significant Community action:-

The proposals set out below are summarized in the table at Annex 3.

1. Treatment of non-significant action

(a) Justifying that action is not significant

Before launching significant Community action, the Commission must be given the resources to carry out exploratory work which will enable it to prepare the ground for Community intervention in a given field without actually starting up the operation in question. With the 1982 Joint Declaration it was accepted that the availability of budget appropriations was sufficient basis for the Commission to act: the budgetary authority thus acknowledged that entry of appropriations in the budget was sufficient for such non-significant action. But this must remain the exception to the rule. In other words, **there can be no assuming that Community action is non-significant.**

For this reason, the Commission must clearly demonstrate (as too must the budgetary authority whenever it inserts a new heading) that the planned measure is a pilot project or preparatory operation and not significant Community action, whatever the amounts involved.

(b) Limited duration of non-significant action

In principle, two years of exploratory work should be adequate to evaluate the potential of new significant Community action. One-off measures should not therefore continue for longer than this without a legal basis. After two years such measures should either be terminated or result in the adoption of the legal basis. However, in the light of past experience (it should be borne in mind, for instance, that on average between 1979 and 1993 it took 28 months for a Council directive to be adopted) and in view of the increased complexity of the decision-making process, in particular with the new Articles 189a, b and c inserted by the Treaty on European Union, provision should be made for the measure to continue for a further year in order to avoid any interruption.

In practice a legal basis would have to be proposed before the end of the second year of the operation, although it could go on for a further year in order to allow time for completion of the decision-making process and if appropriate the start-up of significant action. In the budget for year n+3, however, there could be no spending from the item in question unless a legal basis had been adopted. Without this legal basis the appropriations would be redeployed under the omnibus transfer at the end of the year.

The timetable planned for changing non-significant action into significant action is set out in the upper part of the attached table.

2. Legislative measures to accompany action designed at the outset as significant

Whether the significant action is proposed by the Commission at the preliminary draft stage or is inserted by the budgetary authority during the budgetary procedure, the Commission undertakes to submit a proposal for an appropriate legal basis as quickly as possible during the first half of the year to which the action relates.

In what will no doubt be a frequent case where the legal basis is not secured by May, a triologue meeting would be convened to decide whether to authorize the utilization of all or some of the appropriations during the current year for a pilot project or preparatory action and if necessary to extend the deadline to the end of the following year so that the decision-making process can be completed. It would not be possible to use the appropriations beyond that date unless a legal basis had been adopted, and "alternative proposals (transfers)" would then be made as provided

in the 1982 Declaration. The appropriations would be reallocated under the omnibus transfer proposed by the Commission in mid-October.

This timetable is set out in the bottom half of the table at Annex 3.

3. Clearing situations left over from the past

The Commission intends to concentrate its efforts on removing headings with allocations of over ECU 5 million in the preliminary draft budget for 1995. It also feels that it would be premature at this stage to include in the exercise headings relating to the second and third pillars or action of a similar nature, given the uncertainty about implementation of these policies.

It has produced a list of significant action for which no legal basis exists at present, distinguishing between headings for which a proposal has been made and those for which no proposal has been made. The attached lists show:

- budget headings (with allocations over ECU 5 million) for which a specific legal basis does not seem necessary. These headings are for genuine one-off measures, pilot projects or preparatory action (Annex 6);
- headings for which the Commission has already proposed a basic instrument which has not yet been adopted (Annex 7);
- headings for which no legal basis has yet been proposed, even though one would seem necessary (Annex 8). For some of these headings, Council resolutions have hitherto been considered sufficient legal basis. If the budgetary authority were to agree, this interpretation could continue to apply and there would be no need for the adoption of a basic instrument under Article 189.

The general arrangement proposed by the Commission is the gradual elimination of the outstanding cases: where legal bases have not yet been proposed, they will have to be by May 1995, and the Council and Parliament will do their utmost to adopt the basic instrument by the end of 1996. Until then, the appropriations corresponding to the measures concerned could thus be used, even without a proper legal basis, until the end of 1996.

The items with no legal base include those which existed before 1982 and which, because of the status quo agreed in the Joint Declaration, have since been exempted from the legal basis requirement. It would now seem unfair to continue allowing a special derogation for these items, which are all well over ten years old. It is therefore proposed that the budgetary authority now apply to these items the same treatment as is applied to any other items which do not have the necessary legal basis.

B. The alternative to amounts deemed necessary

The object here is to offer a remedy for the drawbacks of systematically entering amounts deemed necessary in basic instruments, without losing the information about the estimated financial impact of the proposed action.

The Commission believes that both objectives can be attained with the financial statement which, under the Financial Regulation, must accompany every proposal for a legal basis which may have a financial impact. This would appear to be the most suitable means of providing an assessment which satisfies the following three criteria:

- it allows the three institutions which intervene at the various stages of the procedure (from the proposal to the adoption of the basic instrument) to assess the financial impact;
- it is flexible in that the financial statement can be updated during the procedure and also after the decision has been adopted to take into account any differences which emerge between the initial estimate and new requirements identified by cost-effectiveness analysis;
- it is compatible with the annual budgetary procedure: when the preliminary draft budget is being drawn up, the financial statement informs the Commission about the estimates made by the legislative authority but does not rule out adjustments which the development of the operation show to be necessary.

For this reason, other than the case of research and technological development, where the Treaty (Article 130i) expressly provides that a maximum overall amount should be fixed for the framework programmes, the Commission intends simply to attach a financial statement to its proposals for legal bases and will not indicate any amount deemed necessary in the body of the instrument.

The Commission also hopes that if the Council, for its own reasons and despite the arguments set out above, intends to enter amounts deemed necessary in a basic regulation, it will none the less agree to a correct interpretation: amounts deemed necessary may be a reference figure, but their relevance must be measured against the development of the programmes and of the overall budget situation.

* * *

The Commission intends to take, forthwith, whatever steps are within its power to implement the guidelines contained in this communication.

Where they also involve certain adjustments in the current practice of Parliament and the Council, the budgetary authority must express its views on these proposals. If the content of this communication is approved, the institutions could agree by an exchange of letters to regard it as a code of conduct for implementing the statement attached to the Interinstitutional Agreement.

LIST OF ANNEXES

- Annex 1: 1982 Joint Declaration**
- Annex 2: Statement entered in the minutes of the triilogue meeting of 28 June 1982**
- Annex 3: Table showing the improvement in the procedure applicable to legal bases**
- Annex 4: List of items covering emergency aid**
- Annex 5: List of items where the Commission enjoys autonomous powers**
- Annex 6: List of items for which a legal basis does not appear necessary**
- Annex 7: List of items for which the Commission has already proposed a legal basis**
- Annex 8: List of items for which no legal basis has yet been proposed, although one would appear necessary**

I

(Information)

EUROPEAN PARLIAMENT

COUNCIL

COMMISSION

**JOINT DECLARATION
BY THE EUROPEAN PARLIAMENT,
THE COUNCIL AND THE COMMISSION
on various measures to improve the budgetary procedure**

THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION,

Whereas harmonious cooperation between the institutions is essential to the smooth operation of the Communities;

Whereas various measures to improve the operation of the budgetary procedure under Article 78 of the Treaty establishing the European Coal and Steel Community, Article 203 of the Treaty establishing the European Economic Community and Article 177 of the Treaty establishing the European Atomic Energy Community should be taken by agreement between the institutions of the Communities, due regard being had to their respective powers under the Treaties,

AGREE AS FOLLOWS :

I. CLASSIFICATION OF EXPENDITURE

1. Criteria

In the light of this agreement and of the classification of expenditure proposed by the Commission for the budget for 1982, the three institutions consider compulsory expenditure such expenditure as the budgetary authority is obliged to enter in the budget, to enable the Community to meet its obligations, both internally and externally, under the Treaties and acts adopted in accordance therewith.

2. Application on the basis of this agreement

Items in the budget are hereby classified as set out in the Annex hereto.

II. CLASSIFICATION OF NEW BUDGET ITEMS OR EXISTING ITEMS FOR WHICH THE LEGAL BASIS HAS CHANGED

1. New budget items and the expenditure relating to them shall be classified having regard to the data set out in Section I hereof by agreement between the two institutions which make up the budgetary authority, acting on a proposal from the Commission.
2. The preliminary draft budget shall contain a reasoned proposal for the classification of each new budget item.
3. If one of the two institutions which make up the budgetary authority is unable to accept the Commission's proposal for classification, the disagreement shall be referred to a meeting of the Presidents of Parliament, of the Council and of the Commission, which shall undertake the chairmanship.
4. The three Presidents shall endeavour to resolve any disagreements before the draft budget is established.
5. The Chairman of the Tripartite Dialogue shall report to the inter-institutional conciliation meeting which precedes the first reading by the Council and shall, if necessary, speak in Council and Parliament debates on the first reading.
6. The agreed classification, which shall be considered provisional if the basic act has not yet been adopted, may be reviewed by mutual agreement in the light of the basic act when it is adopted.

III. INTER-INSTITUTIONAL COLLABORATION IN THE CONTEXT OF THE BUDGETARY PROCEDURE

1. The discussion of Parliament's views on the Commission's preliminary draft budget, which is scheduled to precede the Council's establishment of the draft budget, shall be held early enough for the Council to be able to give due weight to Parliament's proposals.
2. (a) If it appears in the course of the budgetary procedure that completion of the procedure might require agreement on fixing a new rate of increase in relation to non-compulsory expenditure for payment appropriations and/or a new rate for commitment appropriations (the latter rate may be at a different level from the former), the Presidents of Parliament, the Council and the Commission shall meet immediately.
(b) In the light of the positions put forward every effort shall be made to identify those elements on which the two institutions which make up the budgetary authority can agree so that the budget procedure can be completed before the end of the year.
(c) To this end, all parties will use their best endeavours to respect this deadline, which is essential to the smooth running of the Community.
3. If, however, agreement has not been reached by 31 December, the budgetary authority shall continue its efforts to reach agreement so that the budget can be adopted by the end of January.

4. The agreement between the two institutions which make up the budgetary authority on the new rate shall determine the level of non-compulsory expenditure at which the budget shall be adopted.
5. The Presidents of Parliament, the Council and the Commission shall meet whenever necessary, at the request of one of them :
 - to assess the results of the application of this declaration,
 - to consider unresolved problems in order to prepare joint proposals for solutions to be submitted to the institutions.

IV. OTHER MATTERS

1. Parliament's margin for manoeuvre — which is to be at least half the maximum rate — shall apply as from the draft budget, including any letters of amendment, as adopted by the Council at the first reading.
2. The maximum rate is to be observed in respect of the annual budget, including amending and/or supplementary budgets, if any. Without prejudice to the determination of a new rate, any portion of the maximum rate which has not been utilized shall remain available for use and may be used when draft amending and/or supplementary budgets are to be considered.
3. (a) Ceilings fixed in existing regulations will be respected.
(b) In order that the full importance of the budget procedure may be preserved, the fixing of maximum amounts by regulation must be avoided, as must the entry in the budget of amounts in excess of what can actually be expended.
(c) The implementation of appropriations entered for significant new Community action shall require a basic regulation. If such appropriations are entered the Commission is invited, where no draft regulation exists, to present one by the end of January at the latest.
The Council and the Parliament undertake to use their best endeavours to adopt the regulation by the end of May at the latest.
If by this time the regulation has not been adopted, the Commission shall present alternative proposals (transfers) for the use during the financial year of the appropriations in question.
4. The institutions note that the procedure for revision of the Financial Regulation is in progress and that some problems should be resolved in that context. They undertake to do all in their power to bring that procedure to a swift conclusion.

Done at Brussels, 30 June 1982.

For Parliament
P. DANKERT

For the Council
L. TINDEMANS

For the Commission
G. THORN

Statement entered in the minutes of the interinstitutional triologue meeting of 28 June 1982
between the Council, Parliament and the Commission

The requirement that a legal instrument be adopted before appropriations entered in the budget for any new significant Community action can be used will enable the Commission, in accordance with standard practice, to assume its rightful role and in particular exercise its powers of initiative by initiating, on its own responsibility, the studies or projects required to prepare its proposals.

NEW PROCEDURES FOR SECURING A LEGAL BASIS

| | n-1 | n | n+1 | n+2 | n+3 |
|--|---|--|---|--|--|
| 1. Non-significant action | entry of an item in the preliminary draft or by the budgetary authority; it must be made quite clear that it is a one-off measure | implementation as a one-off measure | implementation as a one-off measure | | |
| | | | initiation of the conversion process: departments submit a proposal for a legal basis. | implementation as a one-off measure continued because of the complexity of the decision-making process | no implementation until a legal basis has been adopted; if a legal basis is adopted, conversion into significant action is completed, otherwise the appropriations are transferred under the Notenboom procedure |
| 2. Action designed as significant | entered in the preliminary draft budget or by the budgetary authority | The Commission undertakes to submit a proposal for a legal basis as quickly as possible in the first half of the year | | | |
| | | Dialogue meeting to discuss the possibility of provisional implementation during the legislative process (until a legal basis is secured, provided that this is before the end of n+1) | implementation as "non-significant action with a legal basis in the process of being adopted", if the dialogue meeting has agreed to this extension | no implementation until a legal basis has been adopted; if no legal basis has been adopted, the appropriations are transferred under the Notenboom procedure | |

LIST OF EMERGENCY AID OPERATIONS

(Preliminary draft budget 1995)

- B4-3400** **Aid to disaster victims in the Community (ECU 5.5 million)**

- B7-210** **Aid to help the populations of developing countries and others hit by disaster (ECU 41 million)**

- B7-217** **Emergency aid for refugees and displaced persons in developing countries and other third countries (ECU 6 million)**

LIST OF AUTONOMOUS COMMISSION ACTIONS FOR WHICH IT FEELS THAT NO
SPECIFIC LEGAL BASIS IS REQUIRED

(Preliminary draft budget 1995)

- B2-514 Training and information (in agriculture) (ECU 2.2 million)
- B3-300 General information work (ECU 27.5 million)
- B3-301 Information outlets (ECU 8.5 million)
- B3-302 Information programmes for non-member countries (ECU 7 million)
- B3-303 General communication work (ECU 12.5 million)
- B3-306 Information activities in connection with specific policies (ECU 2.5 million)
- B3-4000 Industrial relations and social dialogue (ECU 7.04 million)
- B5-102 Consumer information and comparative tests (ECU 6.55 million)

GENUINE ONE-OFF MEASURES
with commitment appropriations in excess of ECU 5 million

| Item PDB 1995 | Heading | Amount (commitments) | COMMENTS |
|------------------|---|----------------------|--|
| B7-4092 | Preparatory work for reconstruction of the republics formerly part of Yugoslavia | 5.000.000 | Preparatory action |
| B7-5020 | Commercial and economic cooperation | 8.250.000 | One-off measures agreements with third countries deriving from agreements |

**ITEMS FOR WHICH A LEGAL BASIS
HAS BEEN PROPOSED BUT NOT YET ADOPTED**

| Item/Article PDB 1995 | Heading | Amount (commitments) | Date of proposal |
|--------------------------|--|-------------------------|------------------|
| B2-517 | Plant and animal genetic resources | 3.500.000 | 7.9.93 |
| B2-604 | Community contribution to the International Fund for Ireland | 15.000.000 | 3.3.94 |
| B3-1001 | SOCRATES | 155.900.000 | 3.2.94 |
| B3-101 | Youth for Europe | 22.000.000 | 4.11.93 |
| B3-1021 | LEONARDO | 117.300.000 | 21.12.93 |
| B3-4004 | Transnational meetings of employees' representatives from undertakings operating on a transfrontier basis | 8.000.000 | 12.12.90 |
| B3-4103 | Measures to combat poverty and social exclusion | 22.000.000 | 22.9.93 |
| B3-4300 | Public health, health promotion, information on health, health education and public health training | 6.000.000 | 24.11.93 |
| B3-4303 | Health aspects of drug abuse | 3.500.000 | 24.11.93 |
| B4-1000 | THERMIE II (Community programme of financial support for the promotion of energy technology in Europe) | 30.000.000 | 13.4.94 |
| B5-321 | Operations relating to cooperatives | 1.400.000 | 16.2.94 |
| B5-700 | Financial support for transport infrastructure projects within the Community | 216.000.000 | 2.3.94 |
| B5-710 | Financial support for energy infrastructure | 15.000.000 | 2.3.94 |
| B5-720 | Trans-European telecommunications networks | 30.000.000 | 2.3.94 |
| B5-721 | Networks for the interchange of data between administrations (IDA) | 65.000.000 | 12.3.93 |

| Item/Article PDB 1995 | Heading | Amount (commitments) | Date of proposal |
|--------------------------|--|-------------------------|------------------|
| B7-4031 | Fourth financial protocol with Turkey | 13.000.000 | January 89 |
| B7-4083 | Community operations connected with the Israel/PLO peace agreement | 52.000.000 | 10.1.94 |
| B7-5023 | Compensation for ACP banana products | 40.000.000 | 3.12.92 |
| B7-5025 | Programme of diversification and development for certain Latin-American banana-producing countries | 10.000.000 | 25.11.92 |
| B7-5041 | Tropical forests | 50.000.000 | 28.1.94 |

**ITEMS FOR WHICH THE COMMISSION UNDERTAKES TO PROPOSE
A LEGAL BASIS BEFORE THE END OF MAY 1995.**

| Article/Item PDB 1995 | Heading | Amount (commitments) |
|--------------------------|--|----------------------|
| B2-600 | Promotion of interregional cooperative operations | 6.300.000 |
| B2-601 | Business and innovation centres | 8.000.000 |
| B2-704 | Establishment and development of a common sustainable transport policy | 6.500.000 |
| B3-2000 | Protection and development of the European cultural heritage | 8.100.000 |
| B3-2001 | Measures to encourage cultural initiatives in connection with European influence | 5.500.000 |
| B3-4010 | Labour market | 9.500.000 |
| B4-1040 | Market observation (88) and energy planning (*) | 5.000.000 |
| B4-1041 | European Energy Charter and cooperation with third countries in the energy field | 9.000.000 |
| B4-306 | Awareness and subsidies | 8.000.000 |
| B5-401 | Definition and implementation of Community policy in the field of telecommunications and postal services | 9.000.000 |

**ITEMS FOR WHICH THE COMMISSION UNDERTAKES TO PROPOSE
A LEGAL BASIS BEFORE THE END OF MAY 1995.**

| Article/Item PDB 1995 | Heading | Amount (commitments) |
|--------------------------|---|----------------------|
| B5-411 | Operations relating to industry | 5.000.000 |
| B7-215 | Emergency humanitarian aid to the people of the independent States of the former Soviet Union | 46.700.000 |
| B7-216 | Humanitarian action in third countries | 12.100.000 |
| B7-302 | Aid towards self-sufficiency for refugees and displaced persons | 60.000.000 |
| B7-4082 | Exceptional job creation measures in the Maghreb countries | 37.000.000 |
| B7-5010 | Community contribution towards schemes concerning developing countries carried out by NGOs | 135.000.000 |
| B7-5022 | Promotion of Community exports to non-Community countries, notably Japan | 10.750.000 |
| B7-5040 | Environment in the developing countries | 13.200.000 |
| B7-5046 | Health programmes and the fight against HIV/AIDS in developing countries | 12.500.000 |
| B7-5050 | Aid for population policies and programmes in developing countries | 6.000.000 |
| B7-5070 (*) | Programme of positive measures regarding South Africa | 100.000.000 |
| B7-5071 | Rehabilitation programmes in southern Africa | 15.000.000 |
| B7-5076 | Rehabilitation and reconstruction measures for the developing countries | 55.000.000 |
| B7-5077 | Decentralized cooperation in the developing countries | 5.000.000 |
| B7-5080 | North-South cooperation schemes in the context of the campaign against drug abuse | 10.000.000 |

(*) A legal basis will be proposed as soon as the debate in Council to define the new relations between the European Union and South Africa will be finished.