

COMMISSION OF THE EUROPEAN COMMUNITIES

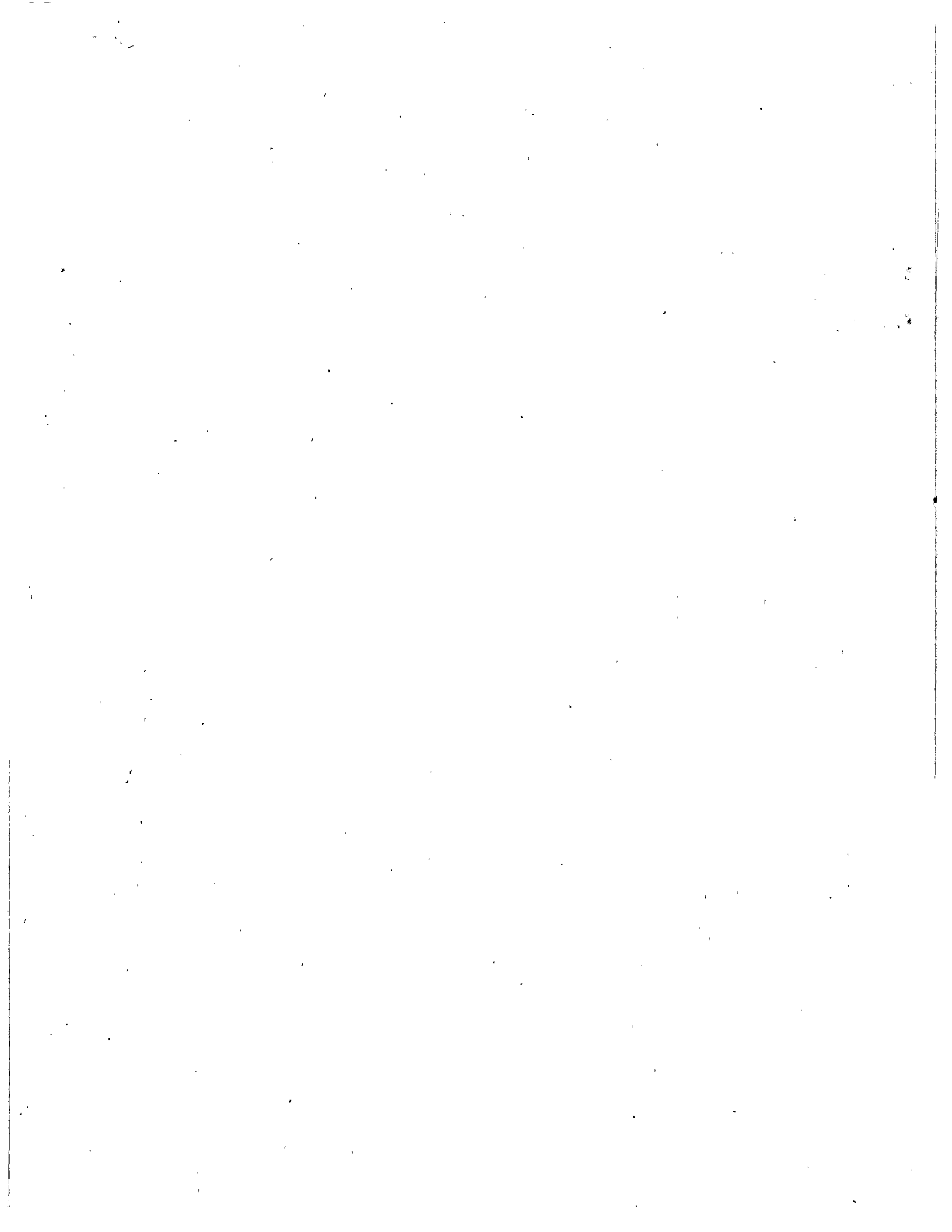
COM(78) 263 final.

Brussels, 12 June 1978.

Proposal for a
COUNCIL REGULATION (EURATOM, ECSC, EEC)

amending the Financial Regulation of
21 December 1977
applicable to the General Budget of the European Communities

(submitted to the Council by the Commission)



EXPLANATORY MEMORANDUM

During the conciliation procedure in November and December 1977 on the draft amendments of the Financial Regulation, it was agreed that new amendments would be proposed by the Commission in the second quarter of 1978 to take account of the three principle problems which arose during the conciliation :-

- to introduce into the Financial Regulation the provisions which the Court of Auditors might decide to recommend in the supplementary opinion which it should give on the whole of the Financial Regulation;
- to improve the budgetary presentation of borrowing and lending operations;
- to simplify the structure of the part of the budget dealing with research and investment expenditure.

The Commission cannot any longer delay sending to the Council and Parliament its proposals for amendments to take account of these two latter problems. In fact, the two areas in question (research and investment expenditure and borrowing and lending operations) have been treated in the preliminary draft budget in accordance with the new provisions which are the subject of the present proposal for amendment of the Financial Regulation. This proposal will be sent to the Court of Auditors for advice, as provided in Article 209/EEC. The necessity to have, at the appropriate time, the required legal authority makes it essential that this proposal should be adopted before, or, at the latest, at the same time as, the adoption of the 1979 Budget.

I. BORROWING AND LENDING OPERATIONS

1. Current method of entry in the budget

Until now, because these operations are by definition self-balancing, the Budgetary Authority has entered a heading for each financial instrument under both the expenditure and the revenue sides of the General Budget, giving the heading a token entry accompanied by a remark which is binding in nature and supplemented by an Annex with the details of the operations carried out.

Nevertheless, from the point of view of the Budgetary Authority, this method does not give the required transparency as concerns the repayment of sums borrowed and lent and the payment of costs.

From the point of view of the original lenders of the funds, the method does not define how the guarantee provided by the Communities would operate so that the obligations contracted could be met out of own resources.

In the light of experience gained in extending this type of operation over the last few financial years¹ the method requires certain improvements.

2. Commission proposal

In application of Article 199 of the EEC Treaty (which states that "all items of revenue and expenditure of the Community shall be shown in the Budget"), the Commission now proposes to add a second part to the General Budget and include in this the headings concerned with borrowing and lending. These give the following facts for the financial year in question, the current financial year and the one prior to that:

- the annual amounts of borrowing and related lending;
- annual capital repayments to the Community, and by the Community to the original lenders;
- annual interest payments due to the Community, and paid by the Community to the original lenders;
- annual instalments payable against the emission costs paid once and for all by the Community, and the sums due annually to the Community to cover the cost of managing these borrowing and lending operations as well as, on the expenditure side, payment of the same costs by the Community.

¹In addition to the 1959 Agreement between Euratom and Eximbank there are the following operations:

Under the Regulation of 17 February 1975 the Council authorized the Commission to raise loans intended to help Member States overcome balance of payments difficulties caused by the rise in the price of oil products. On 29 March 1977 the Council then decided to authorize the Commission to raise loans with a view to contributing to the financing of nuclear power stations. On 30 January 1978 the Commission submitted a draft decision to the Council authorizing the Commission to raise loans with a view to generating investment in the Community.

3. Authorization to raise loans

The entry in Part II of the General Budget of the _____ sums involved in borrowing and lending operations and capital and interest payments constitutes the authorization - within the limits fixed by the basic Regulation - to raise loans, lend on the funds thus received and pay off the capital, interest and costs annually.

Generally speaking, beneficiaries of lending-on operations will repay the Community in time for the latter to be able in its turn to repay the original lenders. Nevertheless, where a debtor is unable to pay in time, the Commission is authorized immediately to pay the sums which fall due.

Payments of this type might necessitate a transfer or the introduction of a supplementary budget, and provision has therefore been made to keep in Part I - on both the expenditure and the revenue sides - the present budget headings which, provided with a token entry, could if necessary be used to record any expenditure not covered by repayments from beneficiaries of lending-on operations, and any revenue resulting from the Communities exercising their right to proceed against defaulters.

Combining the procedures described in the preceding paragraphs with that of entering in Part II of the Budget the sums representing the authorization for the Commission to contract and repay loans, as well as the obligation arising out of Article 1(4) of the Financial Regulation as amended by this Regulation - namely to enter the necessary appropriations in successive budgets - constitutes a clearer and more convincing guarantee for the original lenders.

In order to cover the possibility that the transactions authorised may not be carried out before the end of the financial year, it is proposed that the authorisations written into Part II of the Budget but not used shall be automatically carried forward to the following year.

4. Scope of the new method of presentation in the Budget

For the Commission the new method of presenting this operation in the Budget entails the delicate task of providing some sort of estimates for operations which do not lend themselves easily to rigid forecasts.

On the one hand, potential beneficiaries apply for loans because of the advantageous terms offered: the need to take up loans on terms best suited to the requirements of the beneficiary sector at times considerably restricts the choice on the capital market. On the other hand, any premature announcement of an intention to borrow can put the borrower at a disadvantage on the capital market where discretion and the ability to keep up with changing situations in the market are synonymous with effectiveness. Moreover, the Commission, unlike a bank, does not have funds which would allow it to adjust the terms of lending to what the customer can afford.

In spite of these difficulties, and in the interests of sound and effective financial management, greater clarity and legal certainty in the Budget, the Commission considers that a distinct section of the Budget should be devoted to the appropriations relating to borrowing and lending operations.

Thanks to this new formula, which draws on ideas expressed repeatedly by the European Parliament¹, the Budgetary Authority will have at its disposal a body of information enabling it to exercise to the full its powers of authorization and control.

II. RESEARCH AND INVESTMENT APPROPRIATIONS

1. In formulating this proposal, the Commission has been guided by the principle that the advantages of presenting the research and investment appropriations functionally should under no circumstances be lost. The Commission also had to take into account certain features which are specific to these appropriations and arise out of the provisions of the EAEC Treaty.

¹ Reports by Mr Bangemann (PE 52.571), Mr Spinelli (PE 52.694) - approved on 17 March 1978 and 14 April 1978 respectively - and Lord Bruce of Donington (PE 52.449).

2. Under the circumstances, the Commission takes as a basic hypothesis that:-

- the research and investment appropriations in chapter 33 of section III of the budget will continue to be classified by "destination", that is to say that for each item in the chapter there will exist a corresponding objective defined in the relevant programme-decision.

- the "financial plans" (one for direct activities, that is the Joint Research Centre (JRC) and the other for indirect and joint activities, which are originated and controlled by the headquarters of the Commission) brought in by the financial regulation of 21.12.1977 as working documents which must be produced in support of the draft preliminary budget will not be changed;

The schedule indicative of the incidence of the overall allocation to each objective, the appropriations that have been made available, together with the estimated incidence of the use of commitment and payment appropriations for the duration of the programme, will be maintained and will form an integral part of the budget.

3. Nevertheless, in order to cover the points causing concern to the budgetary authority, the Commission is proposing the following changes to the budgetary presentation of research and investment appropriations :

(a) the alignment in chapter 33 of the budgetary presentation of these appropriations with that generally in use for differentiated appropriations. This means in particular that the sub-items which currently give the breakdown of the appropriations by nature of expenditure for each item, (i.e. for each action in a programme) will disappear and also that the budgetary remarks will be changed to give a uniform presentation of all differentiated appropriations;

(b) the creation of an annex to section III - Commission - of the budget concerning the research and investment appropriations (chapter 33).

This will contain :

- a new comparative table which splits up chapter 33 expenditure by programme action (i.e. by the "destination" of the expenditure) and, at the same time, gives an analysis by the nature of the expenditure, using for this latter purpose the sub-items that have been eliminated from chapter 33 (see point (2) above).

This table, then, on the one hand, brings together for the budgetary authority the analysis of appropriations by programme action and, on

the other hand, makes easy an end-of-year comparison of the estimated appropriations with those actually used.

In the view of the Commission such a presentation constitutes a major innovation towards greater budgetary transparency in this field.

- the schedule of estimated commitments and foreseeable payments currently appearing at the end of chapter 33. (1)

- the decision authorising the Commission to proceed with certain transfers which appear currently in the budget after the schedule referred to above (2).

4. In addition to these proposals, a provision will be introduced into the text of the financial regulation to emphasise the indicative nature of the amounts and figures for personnel appearing in programme-decisions. In effect, the Commission shares in this respect the views which the European Parliament has repeatedly expressed, that the quantification of the necessary finance for the operation of research programmes which is embodied in the relevant programme decisions can be regarded as no more than an estimate when the budget is drawn up and, for this reason, is not binding upon the budgetary authority. The Commission considers that this provision is an appropriate way to eliminate all future ambiguity in this matter.

5. The Commission has devoted considerable attention to the examination of the suggestion of the European Parliament that, for research and investment expenditure, the commitment appropriations for expenditure on staff and running expenses should be discontinued and is still of the opinion that in this respect there exists some misunderstanding.

Indeed, to split the research and investment appropriations between differentiated and non-differentiated appropriations -- the probable consequence of what is apparently the Parliamentary suggestion -- would inevitably make the management of these appropriations much more complicated, and, by introducing a lack of clarity into the way the budget is carried out, render it more difficult to monitor. This would, indeed, bring into question the budget "by objectives" as an instrument of management and control of results.

1) JO No. L 36 of 6 Feb 1978, pages 302 to 309

2) JO No. L 36 of 6 Feb 1978, page 311

Now, this is certainly not the object of the Parliament as expressed recently in the report of Mr. BANGEMANN concerning the guidelines laid down by the European Parliament for financial and budgetary policy in the Community for 1979⁽¹⁾. This document under the heading "budgetary nomenclature" calls for the drawing up of a research budget, that is a chapter 33, made more simple, clear and more easily controllable, giving a clear indication of the total cost of research projects and making a more flexible management of these activities possible.

Furthermore, it must be pointed out that article 176, paragraph 1, EAEC expressly indicates that the "financial allocations for research and investment expenditure" include commitment and payment appropriations. The financial regulation cannot then modify the Treaty.

For all these reasons, the Commission thinks that the current practice which ensures that all the appropriations for research and investment are covered by commitment appropriations should not be changed.

6. Summarising, the Commission considers that the further amendments proposed here go a long way towards meeting the wishes of the Budgetary Authority, since they are likely to increase budgetary transparency and therefore make it easier to monitor the research and investment appropriations.

III. APPROPRIATIONS CARRIED OVER

The application of the second subparagraph of Article 6(3) by which the Council has to authorise the applications for appropriations to be carried over, causes practical difficulties.

The delay of one month in which the Council has to pronounce on applications is hardly sufficient, since this has to include consultation of the European Parliament. The latter takes its decision at a plenary session following a report by the Budget Committee which, in its turn, first has to devote a meeting to the examination of applications to carry over authorisations.

The delay should therefore be extended. It is proposed that the same period be adopted as in the case of transfers of appropriations - i.e. six weeks.

(1) Doc. EP 52.571

PROPOSAL FOR A

COUNCIL REGULATION (EURATOM, ECSC, EEC)

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,
and in particular Article 78(9) thereof,

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

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Court of Auditors,

Whereas the budgetary presentation of borrowing and lending transactions should
be improved by showing more clearly in a separate part of the Budget the
estimates and the authorisations relating to these transactions.

Whereas the borrowing and lending operations represent commitments the Community
must honour; whereas these operations have therefore been entered in the
General Budget of the European Communities in order to express the Communities'
undertaking to use their own resources, in case of default or delay in
repayment by the beneficiary, to honour the obligations arising out of the
loan contracts;

Whereas it would be desirable to simplify the presentation of the research and
investment appropriations in Chapter 33 of the Commission section of the Budget;

Whereas in respect of decisions to carry over appropriations it would be
advisable to adopt the same period as for transfers of appropriations in order
to give the Council time to consult the European Parliament during that period;

Whereas it is therefore necessary to amend certain provisions of the Financial
Regulation of 21 December 1977,

HAS ADOPTED THIS REGULATION:

ARTICLE 1

The Financial Regulation of 21 December 1977 applicable to the General Budget of the European Communities shall be amended as follows:

1. Second indent of Article 1(1): substitute the following wording for the text of the second indent of the second subparagraph:

"- the revenue and expenditure of the European Economic Community, particularly any loans contracted, sums lent and the relevant repayments and costs."

2. Article 1(4): substitute the following wording for the text of the second subparagraph:

"Operating expenditure arising from contracts which have been concluded, in accordance with local usage, for periods going beyond the financial year, and expenditure for repayment of loans and related costs, is not subject to the provisions of the preceding subparagraph. Such expenditure shall be charged to the Budget for the financial year in which it is effected."

3. Article 3(2): substitute the following wording for the text of the first subparagraph:

"Notwithstanding paragraph (1), revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts, bequests, and the product of any loans raised, repayment of sums lent and related costs, shall not be used for any other purpose."

4. Article 6(3): substitute the following wording for the text of the second subparagraph:

"Should the Council, acting by a qualified majority, fail to take a contrary decision within six weeks of receiving the application
, the carrying over of these appropriations shall be deemed to be approved.

The Council shall consult the European Parliament immediately upon receiving the application to carry over appropriations."

5. Article 6(4): add the following subparagraph:

"Authorizations entered in Part II of the Budget shall be carried over automatically to the following financial year where the operations have not been implemented by the end of the financial year for which they were authorized."

6. Article 7: add the following subparagraph:

"The lendings authorized in Part II of the Budget shall be covered solely by the product of borrowings."

7. Article 12: substitute the following wording for the text of paragraph 1:

"(1). The Commission shall, in the preliminary draft budget which it shall place before the Council not later than 1 September of each year:

- draw up Part I of the Budget which shall include a general statement of revenue of the Communities and the consolidated estimates referred to in Article 11;
- draw up Part II of the Budget which shall include the borrowing and lending operations.

It shall at the same time forward the preliminary draft budget to the European Parliament."

8. Article 15: substitute the following wording for the text of paragraph 1:

"The Budget shall consist of two parts:

Part I shall consist of:

- a general statement of the revenue of the Communities, and
- separate sections subdivided into statements of revenue and expenditure of the European Parliament, the Council, the Commission, the Court of Justice and the Court of Auditors. The revenue and expenditure of the Economic and Social Committee shall be entered in the section dealing with the Council and presented in the form of a statement of revenue and expenditure, subdivided in the same way as the sections of the Budget and subject to the same rules.

Part II shall consist of:

- the borrowing and lending operations."

9. Article 15(5): delete the second subparagraph:

10. Article 16: substitute the following wording for the text of paragraph (3):

"(3). as regards borrowing and lending operations:

in Part II, two Titles divided into Chapters, Articles and Items accompanied by appropriate remarks.

These remarks shall, in particular, express the Communities' undertaking to use their own resources, in case of default or delay in repayment by a beneficiary, to honour the obligations arising out of the loan contracts.

Title I shall include:

- authorizations for loans to be contracted in the financial year concerned;

- estimated capital and interest repayments to the Community by beneficiaries of lending operations;
- estimated contributions by beneficiaries to the costs of the borrowing and lending operations;
- broken down as above, the revenue entered in the Budget for the preceding financial year, and the actual revenue for the last financial year for which the accounts have been closed.

Title II shall include:

- authorizations for Community lending operations during the financial year concerned;
- appropriations to cover the repayment of Community borrowings and of interest thereon;
- appropriations to cover the costs of borrowing and lending operations;
- broken down as above, the appropriations entered in the Budget for the preceding financial year, and the actual expenditure for the last financial year for which the accounts have been closed."

11. Article 73: substitute the following wording for the text of paragraph (5):

"(5) Tables showing capital operations and debt management, indicating:

- total loans raised;
- total capital, plus interest and costs repaid in respect of lending-on operations;
- total loans granted;
- total capital, plus interest and costs, repaid in respect of borrowings;
- Community indebtedness."

12. Article 88: substitute the following wording for the text of paragraph (3):

"(2) The figures given in programme decisions or corresponding decisions shall be merely indicative."

- the present paragraph (2) becomes paragraph (3),
- paragraph (3) becomes paragraph (4), and
- paragraph (4) becomes paragraph (5).

13. Article 89: substitute the following wording for the text of the second and third subparagraphs:

"Appropriate remarks on each subdivision shall include, in particular:

- (a) a summary description of the action involved;
- (b) in respect of budget implementation:
 - the number of personnel authorized for the current financial year;
 - a simplified version of the schedule of amounts and due dates for commitments and payments referred to in paragraph (3) below.

The following shall be annexed to Section III - Commission - of the Budget:

- a comparative table giving a breakdown by destination and type of expenditure of the appropriations entered in Chapter 33;
- an indicative schedule of amounts and due dates for commitments and payments by Article, Item and amount per tranche indicating the rate of use of the appropriations for commitment and the corresponding appropriations for payment. The schedule shall be revised each year;
- the decision authorizing the Commission to make the transfers referred to in Article 94(2)."

14. Article 90(2): substitute the following wording for the text of the last subparagraph:

"For the research and investment objectives or other activities of Part I, the appropriation accounts of Part II and the accounts showing staff expenditure of Part III, the expenditure shall be broken down by type into sub-items as follows:

Sub-item	Heading
1	Staff expenditure
2	Administrative expenditure
3	Technical operating expenditure
4	Investment
5	Expenditure under contracts
9	Reserve appropriations

For management purposes, the sub-items may be subdivided into categories and headings which, as regards expenditure, correspond similarly to the Chapters and Items of the Budget nomenclature fixed in accordance with the provisions of Article 15(3)."

15. Article 91: substitute the following wording for the text of the present Article 90(3), (4), (5) and (6):

Paragraph (3) becomes paragraph (1), with the first sentence reading as follows:

"An appropriation account shall be provided for each instrument of implementation referred to in Article 90(2)(b)."

Paragraph (4) becomes paragraph (2), paragraph (5) becomes paragraph (3) and paragraph (6) becomes paragraph (4).

16. Article 94: delete paragraph (3).

- the present paragraph (4) becomes paragraph (3),
- paragraph (5) becomes paragraph (4), and
- paragraph (6) becomes paragraph (5).

17. Annex giving "Budgetary nomenclature provided for in Article 89 of the Financial Regulation": delete.

ARTICLE 2

This Financial Regulation shall enter into force on 11 December 1978.

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