II

(Preparatory Acts)

COMMISSION

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

COM(88) 148 final

(Submitted by the Commission to the Council on 21 March 1988)

(88/C 99/07)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Treaty establishing the European 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 conciliation provided for in the Joint Declaration of 4 March 1975 of the European Parliament, the Council and the Commission (1) took place in a Conciliation Committee;

Whereas the Financial Regulation of 21 December 1977 (2), as last amended by Regulation (ECSC, EEC, Euratom), must be amended to give effect to the conclusions of the Brussels European Council of 11 to 13 February 1988 concerning stricter annual management of appropriations, the financing arrangements for the common agricultural policy and the possibility of entering a 'negative reserve' when the budget is established;

Whereas, in the interests of improved budgetary management and greater transparency of appropriations, differentiated appropriations should no longer be carried over automatically; whereas, however, the Commission should be empowered to effect some carryovers on the basis of specific criteria; whereas certain appropriations which have been released from commitment may be made available again only on the basis of specific criteria and only after a Commission decision;

Whereas the Financial Regulation must reflect the arrangements for financing the Guarantee Section of the European Agricultural Guidance and Guarantee Fund to take account of the amendments to Council Regulation (EEC) No 729/70 (3), as last amended by Regulation . . .;

Whereas an appropriate provision must be inserted to allow a negative reserve to be entered in the budget to cover the discrepancies which inevitably arise during implementation between the total appropriations authorized and the total appropriations used,

HAS ADOPTED THIS REGULATION:

Article 1

The Financial Regulation of 21 December 1977 is hereby amended as follows:

1. In Article 1, the following paragraph 3a is inserted:

'3 a. The legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted.'

2. In Article 6, paragraph 2 is replaced by the following:

'2. In the case of budget headings where a distinction is made between commitment appropriations and payment appropriations, commitment appropriations and payment appropriations which

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

(2) OJ No L 356, 31. 12. 1977, p. 1.

(3) OJ No L 94, 28. 4. 1970, p. 13.

have not been used at the end of the financial year for which they were entered may, by decision of the Commission taken not later than 15 February, be carried over to the next financial year only, in accordance with the following criteria:

(a) in the case of commitment appropriations:
   — amounts which relate to operations for which preliminaries have been virtually completed at 31 December but for which accounting commitments have not yet been made: these amounts must in principle be committed by 31 March of the following year,
   — amounts which are necessary when the Council has adopted a basic instrument towards the end of the financial year and the Commission has been unable to commit the appropriations provided for this purpose in the budget by 31 December;

(b) in the case of payment appropriations:
   — amounts needed to cover existing commitments or relating to commitment appropriations carried over, when the appropriations provided for the headings concerned in the budget for the following financial year do not cover requirements: in exercising its powers to implement the budget the Commission shall, depending on management requirements, endeavour to use first the appropriations authorized for the current financial year and not use the appropriations carried over until the former are exhausted.

The Commission shall inform the budgetary authority of the decision taken and state the reasons for carrying over the appropriations.

3. In Article 6, paragraph 6 is replaced by the following:

'6. When commitments in budget headings where there is a distinction between commitment appropriations and payment appropriations are cancelled in any financial year after that in which the commitment appropriations were entered in the budget, the appropriations concerned shall, as a rule, lapse.

However, the commitment appropriation corresponding to the amount of the commitment cancelled may, exceptionally, be made available again, in accordance with the specific criteria laid down in the implementing measures provided for in Article 106, when it is essential to carry out the programme originally planned, unless the budget for the current financial year contains funds available for this purpose.

At the beginning of each financial year, the Commission shall therefore examine the cancellations which have taken place in the previous financial year and assess, in the light of requirements, the need for making the appropriations available again.

The Commission shall take this decision by 15 February of each financial year.

The Commission shall inform the budgetary authority of the decision taken and state the reasons for maintaining these appropriations.'

4. In Article 15, the following paragraph 4a is inserted:

'4 a. The chapter for provisional appropriations in the Commission Section may include a negative reserve limited to a maximum of 200 million ECU.

This reserve may include both appropriations for commitments and appropriations for payments.

This reserve shall be drawn upon by means of transfer in accordance with the procedure laid down in Article 21.'

5. In Article 73 (2), the final indent is replaced by the following:

'— appropriations carried over under Articles 6 and 88;'

6. In Article 73 (3), the fourth and fifth indents are replaced by the following:

'— the commitment appropriations and payment appropriations carried over under Articles 6 and 88;'

7. In Article 73 (4), the first indent is replaced by the following:

'— the amount of appropriations carried over, a distinction being made between commitment appropriations, payment appropriations and non-differentiated appropriations;'

8. In Article 73 (4), the fifth indent is deleted.

9. In Article 88 (3), the final subparagraph is replaced by the following:

'The payment appropriations represent the upper limit of expenditure which may be paid or authorized for payment during each financial year to cover commitments entered into during the current year or earlier financial years.'

10. In Article 88, paragraph 4 is replaced by the following:

'4. The commitment and payment appropriations for this sector shall, as a rule, be carried over pursuant to Article 6 (2) of this Regulation in view of the special requirements of these activities, in order to:

— maintain the continuity of budgetary execution from one year to the next,

— safeguard the budgetary allocations which enable multiannual programme decisions to be respected.'

11. Article 98 is replaced by the following:

'Article 98

Expenditure shall be booked to the accounts for a financial year on the basis of the advances paid by the Commission to the Member States during that year in accordance with Article 5 of Regulation (EEC) No 729/70, provided that notification of their commitment and authorization have reached the accounting officer not later than 31 January of the following year.'

12. Article 99 is replaced by the following:

'Article 99

1. The object of the clearance of the accounts provided for in Article 5 (2) (b) of Regulation (EEC) No 729/70 shall be to determine the amount of expenditure effected in each Member State during the financial year in question which may be recognized as being chargeable to the EAGGF.

Not later than 1 June of the year following the financial year in question Member States shall, for the purpose of clearance of the accounts, send to the Commission summary annual accounts for the financial year ended, amending where necessary the monthly accounts. The summary accounts shall be accompanied by the appropriate reports drawn up by the competent audit and control departments and dealing with the expenditure referred to in the Articles relating to expenditure covered by the clearance.

If the accounts of a paying agency or department have not reached the Commission by 1 June, the Commission may clear the accounts of that agency or department solely on the basis of the financial statements referred to in Article 5 (1) (a) of Regulation (EEC) No 729/70 as described by implementing measures adopted pursuant to Article 5 (3) of that Regulation.

2. On the basis of the accounts or statements mentioned in paragraph 1 and of the findings of audits of documents and on-the-spot checks under Article 9 of Regulation (EEC) No 729/70, the Commission, after consulting the Fund Committee referred to in Article 13 of that Regulation, shall clear the accounts not later than 15 September of the second year following the financial year in question.

3. The Commission shall transmit the clearance decisions to the Member States and publish them in the *Official Journal of the European Communities.*

4. The outcome of the clearance decision, i.e. any discrepancy which may exist between the total expenditure booked to the accounts for a financial year pursuant to Articles 97 and 98 and the total expenditure recognized as allowable by the Commission when clearing the accounts shall be booked, under a single article, as additional expenditure, or a reduction in expenditure.'

13. In Article 100 (1), '1 April of the following financial year' is replaced by '1 February of the following financial year'.

14. In the second subparagraph of Article 101 (1) and the first subparagraph of Article 101 (2) '31 March of the following financial year' is replaced by '31 January of the following financial year'.

Article 2

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

It shall apply from ... 1988.

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