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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1945/93

of 30 June 1993

amending Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 and Regulation (EEC) No 1247/92 amending Regulation (EEC) No 1408/71

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 51 and 235 thereof,

Having regard to the proposal from the Commission, drawn up after consulting the Administrative Commission on Social Security for Migrant Workers ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas there is a need for certain amendments to be made to Regulations (EEC) No 1408/71 ⁽⁴⁾, (EEC) No 574/72 ⁽⁵⁾, and (EEC) No 1247/92 ⁽⁶⁾; whereas some of these amendments relate to changes made by the Member States to their social security legislation while others are of a technical nature and are designed to refine the said Regulations;

Whereas there is a need for certain amendments to be made to section 'G. Ireland', in Part I of Annex I to Regulation (EEC) No 1408/71 in order to take account of the interpretation by the Irish authorities of the term 'self-employed person';

Whereas it has become necessary to adapt section 'G. Ireland', in Annex VI to Regulation (EEC) No 1408/71 as a result of amendments to Irish legislation on sickness and maternity benefits;

Whereas, as a result of changes to the Netherlands rules on statutory health insurance for pensioners, for those drawing early retirement pensions and for the family members of employed and self-employed persons, there is a need to amend section 'J. Netherlands' in Annex VI to Regulation (EEC) No 1408/71;

Whereas it would appear necessary to clarify the application, in particular as regards equality of the sexes, of the provisions in Netherlands legislation relating to the taking into account of periods of marriage of a worker's spouse for entitlement to an old-age pension for that spouse; whereas there is a need therefore to specify the scope of the entries in section 'J. Netherlands' in Annex VI to Regulation (EEC) No 1408/71;

Whereas it has become necessary to specify, in section 'J. Netherlands' in Annex VI to Regulation (EEC) No 1408/71, the requirement that a Netherlands worker posted abroad must pay at least the minimum contribution for his Netherlands spouse to be able to be taken into consideration under the general old-age insurance scheme;

Whereas there is a need for certain amendments to be made to section 'J. Netherlands' in Annex VI to Regulation (EEC) No 1408/71 with a view to preventing the retention of a system whereby contributions continue to be levied for voluntary general old-age insurance and general widows' and orphans' insurance during a period in which the spouse of a worker has an autonomous right to an old-age pension;

Whereas there is a need to make an amendment to section 'L. United Kingdom' in Annex VI to Regulation (EEC) No 1408/71 as a result of amendments made to United Kingdom legislation;

⁽¹⁾ OJ No C 251, 28. 9. 1992, p. 51.

⁽²⁾ OJ No C 305, 23. 11. 1992, p. 575.

⁽³⁾ OJ No C 332, 16. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 149, 5. 7. 1971, p. 2. Regulation as last amended by Regulation (EEC) No 1249/92 (OJ No L 136, 19. 5. 1992, p. 28).

⁽⁵⁾ OJ No L 74, 27. 3. 1972, p. 1. Regulation as last amended by Regulation (EEC) No 1249/92 (OJ No L 136, 19. 5. 1992, p. 28).

⁽⁶⁾ OJ No L 136, 19. 5. 1992, p. 1.

Whereas there is a need for a provision apportioning the share of the costs of family benefits where such benefits are, for the same period and the same family member, due from two Member States pursuant to Articles 73 and/or 74 of Regulation (EEC) No 1408/71;

Whereas there is a need to make certain amendments to section 'B. Denmark' in Annexes 1, 4 and 10 to Regulation (EEC) No 574/72 in order to take into account new powers of the authorities in Denmark;

Whereas there is a need for heading 'C. Germany' in Annex 2 to Regulation (EEC) No 574/72 to be amended to take account of certain reallocations of powers between certain German bodies;

Whereas it is necessary to amend certain provisions in section 'D. Spain' in Annexes 2 and 4 to Regulation (EEC) No 574/72 with regard to non-contributory old-age and invalidity pensions;

Whereas it is necessary to amend certain provisions in section 'G. Ireland' in Annexes 2, 3 and 4 to Regulation (EEC) No 574/72 as a result of organizational changes to the Irish bodies responsible for administering the pension schemes for widows and orphans and old-age pension schemes, and for the family benefits scheme;

Whereas, the address of one of the Netherlands bodies having changed, there is a need to update the references to the address of that body in section 'J. Netherlands' in Annexes 2, 3 and 4 to Regulation (EEC) No 574/72;

Whereas, as a result of reorganization of the services responsible for the provision of cash benefits in the United Kingdom, there is a need to amend section 'L. United Kingdom' in Annexes 3, 4 and 10 to Regulation (EEC) No 574/72;

Whereas there is a need to amend section '7. Belgium-Italy' in Annex 5 to Regulation (EEC) No 574/72 to take account of a new agreement on the reimbursement of reciprocal claims, concluded by an exchange of letters between these two countries;

Whereas there is a need to amend section '41. France-Italy' in Annex 5 to Regulation (EEC) No 574/72 as a result of an exchange of letters between these two countries on the procedures for settling reciprocal claims;

Whereas, as a result of the denunciation by the French authorities of the agreement between France and Ireland, France and the Netherlands and France and the United Kingdom waiving reimbursement of benefits in kind, there is a need to amend section '40. France-Ireland', '43. France-Netherlands' and '45. France-United Kingdom' in Annex 5 to Regulation (EEC) No 574/72;

Whereas there is a need to adapt section 'F. Greece' in Annex 6 to Regulation (EEC) No 574/72 in order to generalize the direct payment procedure;

Whereas account should be taken in Annex 8 to Regulation (EEC) No 574/72 of amendments made to Article 10a of that Regulation;

Whereas provision should be made, in the case of overlapping entitlement, during the same period and for the same person, to special non-contributory benefits pursuant to the joint application of Article 10a of Regulation (EEC) No 1408/71 and Article 2 of Regulation (EEC) No 1247/92, for measures to be taken relating to the aggregation of those benefits and to the application of clauses for the reduction, suspension or abolition of benefits provided for under the legislations of the Member States concerned,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1408/71 is hereby amended as follows:

1. in Annex I, part I, section 'G. IRELAND', point 2, shall be replaced by the following:
 2. Any person who is compulsorily or voluntarily insured pursuant to the provisions of section 17A of the Social Welfare (Consolidation) Act 1981 shall be considered a self-employed person within the meaning of Article 1 (a) (ii) of the Regulation.;
2. in Annex IIa, section 'L. UNITED KINGDOM', subparagraph (a) shall be deleted;
3. in Annex IV, part A, section 'L. UNITED KINGDOM' shall be replaced by the following:

'L. UNITED KINGDOM

(a) *Great Britain*

Sections 15 and 36 of the Social Security Act 1975.

Sections 14, 15 and 16 of the Social Security Pensions Act 1975.

(b) *Northern Ireland*

Sections 15 and 36 of the Social Security (Northern Ireland) Act 1975.

Articles 16, 17 and 18 of the Social Security Pensions (Northern Ireland) Order 1975.;

4. Annex VI shall be amended as follows:

(a) in 'G. IRELAND':

- (i) in point 5 'sickness, maternity and unemployment benefits' shall be replaced by 'unemployment benefit';

- (ii) point 8 shall be deleted;

(b) in 'J. NETHERLANDS':

- (i) point 1 (b) shall be deleted;

- (ii) the fifth indent of point 1 (c) shall be replaced by the following:

— benefits in respect of a pension before the age of 65 under a pension scheme designed to provide old-age assistance to workers and former workers, or benefits in respect of an early retirement pension from work under a scheme for early retirement set up by the State or by or under an industrial agreement, or a scheme to be designated by the Sickness Fund Council.;

- (iii) the following subparagraph shall be added to point 1:

'(d) Members of the family as referred to in Article 19 (2) who reside in the Netherlands and employed or self-employed workers and the members of their families as referred to in Article 22 (1) (b) and (3) read in conjunction with Article 22 (1) (b), and Articles 25 and 26 who are entitled to benefits under the legislation of another Member State shall not be insured under the Algemene Wet Bijzondere Ziektekosten (Law on general insurance against special medical expenses) (AWBZ).';

- (iv) point 2 (b) shall be replaced by the following:

'(b) The reduction referred to in Article 13 (1) of the AOW shall not apply to calendar years or parts thereof prior to 2 August 1989 during which, between his 15th and 65th birthdays the person who is or was married was not insured under the abovementioned legislation despite being resident in the territory of a Member State other than the Netherlands, if these calendar years or parts thereof coincide, on the one hand, with the periods of insurance completed by the person's spouse

under that legislation provided that the couple's marriage subsisted during these periods, and, on the other, with the calendar years or parts thereof to be taken into account under subparagraph (a).

By way of derogation from Article 7 of the AOW, this person shall be considered a pensioner.;

- (v) point 2 (c) shall be replaced by the following:

'(c) the reduction referred to in Article 13 (2) of the AOW shall not apply to calendar years or parts thereof prior to 1 January 1957 during which the spouse of a pensioner who fails to satisfy the conditions for having these years treated as periods of insurance resided in the Netherlands between the spouse's 15th and 65th birthdays or during which, despite being resident in the territory of another Member State, the spouse pursued an activity as an employed person in the Netherlands for an employer established in the Netherlands.;

- (vi) point 2 (d) shall be replaced by the following:

'(d) The reduction referred to in Article 13 (2) of the AOW shall not apply to calendar years or parts thereof prior to 2 August 1989 during which, between his 15th and 65th birthdays, the pensioner's spouse was resident in a Member State other than the Netherlands and was not insured under the abovementioned legislation if these calendar years or parts thereof coincide, on the one hand, with the periods of insurance completed by the spouse under that legislation provided that the couple's marriage subsisted during these periods, and, on the other, with the calendar years or parts thereof to be taken into account under subparagraph (a).';

- (vii) the following sentence shall be added to point 2 (g):

'The authorization referred to in point 4 of (f) may not be granted to a spouse not residing in the Netherlands of an employed or self-employed person to whom the provisions of Article 14 (1), Article 14a (1) or Article 17 of the Regulation apply if that spouse, in accordance with the provisions of Netherlands legislation alone, is or was authorized to take out voluntary insurance.;

(viii) point 2 (h) shall be replaced by the following:

'(h) Points (a), (b), (c), (d) and (f) shall not apply either to those periods which coincide with periods which may be taken into account for calculating pension rights under the old-age insurance legislation of a

Member State other than the Netherlands or to those periods during which the person concerned has drawn an old-age pension under such legislation.';

(c) in 'L. UNITED KINGDOM', point 5 'mobility allowance' shall be replaced by 'invalid care allowance'.

Article 2

Regulation (EEC) No 574/72 is hereby amended as follows:

1. the following paragraph shall be added to Article 10:

'3. Where family benefits are due, over the same period and for the same member of the family, from two Member States pursuant to Articles 73 and/or 74 of the Regulation, the competent institution of the Member State with legislation providing for the highest levels of benefit shall pay the full amount of such benefit and be reimbursed half this sum by the competent institution of the other Member State up to the limit of the amount provided for in the legislation of the latter Member State.';

2. in Annex 1, Section 'B. DENMARK', point 3, the terms 'Indenrigsministeren (Minister of the Interior)' shall be replaced by the terms 'Sundhedsministeren (Minister of Health)';

3. Annex 2 shall be amended as follows:

(a) in 'C. GERMANY':

(i) point 2 (a) (ii) shall be replaced by the following:

'(ii) If the last contribution was paid into the pension insurance scheme for clerical staff:

— if no contribution was paid into the Seekasse (Mariners' Insurance Fund), Hamburg, or if the last contribution was not paid to the Bundesbahnversicherungsanstalt (Federal Railways Insurance Office), Frankfurt am Main:

Bundesversicherungsanstalt für Angestellte (Federal Insurance Office for Clerical Staff), Berlin;

— if a contribution was paid into the Seekasse (Rentenversicherung der Arbeiter oder der Angestellten) (Mariners' Insurance Fund (pension insurance scheme for manual workers or clerical staff)), Hamburg:

Seekasse (Mariners' Insurance Fund), Hamburg;

— if the last contribution was paid to the Bundesbahnversicherungsanstalt (Federal Railways Insurance Office), Frankfurt am Main:

Bundesbahnversicherungsanstalt (Federal Railways Insurance Office), Frankfurt am Main.';

(ii) point 2 (b) (ii) shall be replaced by the following:

'(ii) If the last contribution was paid into the pension insurance scheme for clerical staff:

— if no contribution was paid into the Seekasse (Mariners' Insurance Fund), Hamburg, or if the last contribution was not paid to the Bundesversicherungsanstalt (Federal Railways Insurance Office), Frankfurt am Main:

Bundesversicherungsanstalt für Angestellte (Federal Insurance Office for Clerical Staff), Berlin;

— if a contribution was paid into the Seekasse (Rentenversicherung der Arbeiter oder der Angestellten) (Mariners' Insurance Fund

(Pension insurance scheme for manual workers or clerical staff)),
Hamburg;

Seekasse (Mariners' Insurance Fund), Hamburg;

— if the last contribution was paid to the
Bundesbahnversicherungsanstalt (Federal Railways Insurance
Office), Frankfurt am Main:

Bundesbahnversicherungsanstalt (Federal Railways Insurance
Office), Frankfurt am Main.';

(b) in 'D. SPAIN' the following point shall be added:

'3. For non-contributory old-age and invalidity pensions:

Instituto Nacional de Servicios Sociales, (National Social Services Institute),
Madrid.';

(c) in 'G. IRELAND', point 2 shall be replaced by the following:

2. Cash benefits

(a) Unemployment benefits:

Department of Social Welfare, Dublin, including the provisional offices
responsible for unemployment benefits.

(b) Old-age and death (pensions):

Department of Social Welfare, Pensions Services Office, Sligo.

(c) Family benefits:

Department of Social Welfare, Child Benefit Section, St Oliver Plunkett
Road, Letterkenny, Co. Donegal.

(d) Other cash benefits:

Department of Social Welfare, Dublin';

(d) in 'J. NETHERLANDS':

(i) point 3 (a) shall be replaced by the following:

'(a) general scheme:

Sociale Verzekeringsbank (Social Insurance Bank), Postbus 1100, 1180
BH Amstelveen';

(ii) point 5 (c) shall be replaced by the following:

'(c) other cases:

Sociale Verzekeringsbank (Social Insurance Bank), Postbus 1100, 1180
BH Amstelveen';

(iii) point 6 (a) shall be replaced by the following:

'(a) where the benefit is awarded from a date prior to 1 July 1967:

Sociale Verzekeringsbank (Social Insurance Bank), Postbus 1100, 1180
BH Amstelveen';

4. Annex 3 shall be amended as follows:

(a) in 'B. DENMARK', point 1 (e), 'Socialministeriet (Ministry of Social Affairs)' shall
be replaced by 'Sundhedsministeriet (Ministry of Health)';

- (b) in 'G. IRELAND' point 2 shall be replaced by the following:

'2. Cash benefits

- (a) Unemployment benefits:

Department of Social Welfare, Dublin, including the provincial offices responsible for unemployment benefits.

- (b) Old-age and death (pensions):

Department of Social Welfare, Pensions Services Office, Sligo.

- (c) Family benefits:

Department of Social Welfare, Child Benefit Section, St Oliver Plunkett Road, Letterkenny, Co. Donegal.

- (d) Other cash benefits:

Department of Social Welfare, Dublin';

- (c) in 'J. NETHERLANDS' point 3 (a) shall be replaced by the following:

- '(a) as a general rule:

Sociale Verzekeringsbank (Social Insurance Bank), Postbus 1100, 1180 BH Amstelveen';

- (d) in 'L. UNITED KINGDOM':

- (i) point 2 shall be replaced by the following:

'2. Cash benefits (except for family benefits)

Great Britain: Department of Social Security, Benefits Agency, Overseas Branch, Newcastle upon Tyne, NE98 1YX.

Northern Ireland: Department of Health and Social Services, Northern Ireland Social Security Agency, Overseas Branch, Belfast, BT1 1DX.

Gibraltar: Department of Labour and Social Security, Gibraltar';

- (ii) point 3 shall be replaced by the following:

'3. Family benefits

For the purposes of applying Articles 73 and 74 of the Regulation:

Great Britain: Department of Social Security, Benefits Agency, Child Benefit Centre, Newcastle upon Tyne, NE88 1AA.

Northern Ireland: Department of Health and Social Services, Northern Ireland Social Security Agency, Child Benefit Office, Belfast, BT1 1SA.

Gibraltar: Department of Labour and Social Security, Gibraltar';

5. Annex 4 shall be amended as follows:

(a) in 'B. DENMARK':

1. point 1 shall be replaced by:

'1. (a) Sickness, maternity and birth benefits in kind:

Sundhedsministeriet (Ministry of Health), København;

(b) Sickness, maternity and birth benefits in cash:

Socialministeriet (Ministry of Social Affairs), København';

2. in point 6, the terms 'Socialministeriet (Ministry of Social Affairs)' shall be replaced by the terms 'Sundhedsministeriet (Ministry of Health)';

(b) in 'D. SPAIN', the following point shall be added:

'4. For non-contributory old-age and invalidity pensions:

Instituto Nacional de Servicios Sociales (National Social Services Institute), Madrid.';

(c) in 'G. IRELAND', point 2 shall be replaced by the following:

'2. Cash benefits:

(a) Old-age and death (pensions):

Department of Social Welfare, Pensions Services Office, Sligo.

(b) Family benefits:

Department of Social Welfare, Child Benefit Section, St Oliver Plunkett Road, Letterkenny, Co. Donegal.

(c) other cash benefits:

Department of Social Welfare, Dublin';

(d) in 'J. NETHERLANDS', point 2 (a) shall be replaced by the following:

'(a) as a general rule:

Sociale Verzekeringsbank (Social Insurance Bank), Postbus 1100, 1180 BH Amstelveen.';

(e) 'L. UNITED KINGDOM', shall be replaced by the following:

'L. UNITED KINGDOM'

Great Britain:

(a) contributions and benefits

in kind for posted workers: Department of Social Security, Contributions Agency, Overseas Contributions, Newcastle upon Tyne, NE98 1YX.

(b) all other questions:

Department of Social Security, Benefits Agency, Overseas Branch, Newcastle upon Tyne, NE98 1YX.

Northern Ireland: Department of Health and Social Services, Northern Ireland
Social Security Agency, Overseas Branch, Belfast, BT1 1DX.

Gibraltar: Department of Social Security, Benefits Agency, Overseas
Branch, Newcastle upon Tyne, NE98 1YX;

6. Annex 5 shall be amended as follows:

- (a) in '7. BELGIUM — ITALY' point (e) shall be replaced by the following:

'(e) The exchange of letters of 10 December 1991 and 10 February 1992 concerning the reimbursement of reciprocal claims under Article 93 of the implementing Regulation.';

- (b) '14. DENMARK — FRANCE' shall be replaced by the following:

'14. DENMARK — FRANCE

The Agreement of 29 June 1979 waiving the reimbursement of benefits in kind in respect of sickness, maternity and accidents at work, with the exception of benefits granted pursuant to Articles 28, 28a, 29 (1) and 31 of the Regulation, the Agreement of 29 June 1979 waiving the reimbursement of unemployment benefits and the Agreement of 29 June 1979 waiving the reimbursement of the costs of administrative checks and medical examinations.';

- (c) '40. FRANCE — IRELAND' shall be replaced by the following:

'40. FRANCE — IRELAND

The exchange of letters of 30 July and 26 September 1980 concerning reciprocal waiver of the reimbursement of unemployment benefits (Article 70 (3) of the Regulation).';

- (d) in '41. FRANCE — ITALY', point (b) shall be replaced by the following:

'(b) The exchange of letters of 14 May and 2 August 1991 concerning the terms for settling reciprocal claims under Article 93 of the implementing Regulation.';

- (e) in '43. FRANCE — NETHERLANDS', point (a) shall be deleted;

- (f) in '45. FRANCE — UNITED KINGDOM', point (b) shall be deleted;

7. in Annex 6, heading 'F. GREECE' shall be replaced by the following:

'F. GREECE

Direct payment';

8. in Annex 8, second and third lines, the figure '(1)' shall be deleted;

9. Annex 10 shall be amended as follows:

- (a) in 'B. DENMARK':

1. point 1 shall be replaced by the following:

'1. For the purposes of applying Article 11 (1), Article 11a (1), Article 12a, Article 13 (2) and (3) and Article 14 (1), (2) and (3) of the implementing Regulation:

Socialministeriet (Ministry of Social Affairs), København.

For the purposes of applying Article 113 (2) of the implementing Regulation:

Sundhedsministeriet (Ministry of Health), København;

2. in point 6 (a), 'Socialministeriet (Ministry of Social Affairs)' shall be replaced by 'Sundhedsministeriet (Ministry of Health)';

3. in point 7:

- (i) point (a) shall be replaced by the following:

'(a) benefits under Chapter 1 and 5 of Title III of the Regulation:

Sundhedsministeriet (Ministry of Health), København;

- (b) benefits under Chapters 2, 3, 7 and 8 of Title III of the Regulation:

Socialministeriet (Ministry of Social Affairs), København;

- (ii) points (b) and (c) shall become points (c) and (d);

- (b) 'L. UNITED KINGDOM' shall be replaced by the following:

'L. UNITED KINGDOM

1. For the purposes of applying Articles 14c, 14d (3) and 17 of the Regulation and Articles 6 (1), 11 (1), 11a (1), 12a, 13 (2) and (3), 14 (1), (2) and (3), and Articles 80 (2), 81, 82 (2) and 109 of the implementing Regulation:

Great Britain: Department of Social Security, Contributions Agency, Overseas Contributions, Newcastle upon Tyne, NE98 1YX.

Northern Ireland: Department of Health and Social Services, Northern Ireland Social Security Agency, Overseas Branch, Belfast, BT1 1DX.

2. For the purposes of applying Articles 36 and 63 of the Regulation and Articles 8, 38 (1), 70 (1), 91 (2), 102 (2), 110 and 113 (2) of the implementing Regulation:

Great Britain: Department of Social Security, Benefits Agency, Overseas Branch, Newcastle upon Tyne, NE98 1YX.

Northern Ireland:
(except for Articles 36 and 63 of the Regulation and Article 102 (2) and Article 113 (2) of the implementing Regulation, for which see the section for Great Britain):

Department of Health and Social Services, Northern Ireland Social Security Agency, Overseas Branch, Belfast, BT1 1DX.

3. For the purposes of applying Article 85 (2), Article 86 (2) and Article 89 (1) of the implementing Regulation:

Great Britain: Department of Social Security, Benefits Agency, Child Benefit Centre, Newcastle upon Tyne, NE88 1AA.

Northern Ireland: Department of Health and Social Services, Northern Ireland Social Security Agency, Child Benefit Office, Belfast BT1 1SA'.

Article 3

The following Article is hereby inserted in Regulation (EEC) No 1247/92:

'Article 2a

1. Where special non-contributory benefits as referred to in Article 4 (2a) of Regulation (EEC) No 1408/71 may, during the same period and for the same person, be granted pursuant to Article 10a of that Regulation by the competent institution of the Member State in the territory of which that person is resident and pursuant to Article 2 of this Regulation by the competent institution of another Member State, the person concerned may only aggregate those benefits up to the limit of the highest amount of the special benefit he could claim under one of the Regulations concerned.

2. The detailed rules of application of paragraph 1, and in particular the application, with regard to the benefits referred to in that paragraph, of the clauses for reduction, suspension or abolition provided for under the legislation of one or more Member States and the allocation of the differential additional amounts shall be set by decision of the Administrative Commission on Social Security for Migrant Workers and, where appropriate, by common accord of the Member States concerned or their competent authorities.'

Article 4

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

2. Article 1, point 1, shall apply from 6 April 1988.

3. Article 1, points 2 and 3 shall apply from 1 June 1992.

4. Article 1, point 4 (b) (iv), (v) and (vi), shall apply from 1 April 1985.

5. Article 1, point 4 (b) (vii) and (viii), shall apply from 2 August 1989.

6. Article 2, point 6 (a), shall apply from 10 February 1992.

7. Article 2, point 6 (c), shall apply from 1 April 1993.

8. Article 2, point 6 (d), shall apply from 14 March 1991.

9. Article 2, point 6 (f), shall apply from 1 July 1992.

10. Article 3 shall apply from 1 June 1992.

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

Done at Luxembourg, 30 June 1993.

For the Council
The President
S. BERGSTEIN

COUNCIL REGULATION (EEC) No 1946/93

of 30 June 1993

amending Regulation (EEC) No 337/75 establishing a European Centre for the Development of Vocational Training

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Court of Auditors ⁽³⁾,

Whereas the Treaty of 22 July 1975, amending certain financial provisions of the Treaties establishing the European Communities and of the Treaty establishing a single Council and a single Commission of the European Communities, modified the procedure for giving a discharge to the Commission in respect of the implementation of the general budget of the European Communities; whereas therefore it is appropriate to update the procedure for giving a discharge to the Management Board of the European Centre for the Development of Vocational Training, set up by Regulation (EEC) No 337/75 ⁽⁴⁾ by reference to the procedure so modified, as set out in Article 206b of the EEC Treaty;

Whereas the Treaty of 22 July 1975 substituted the Court of Auditors for the Audit Board in all the texts referring to the Audit Board;

Whereas the Acts of Accession of Greece, Spain and Portugal changed the composition of the Management Board;

Whereas it is desirable to provide for the transmission of the annual general report on the Centre to all interested Community bodies;

Whereas Regulation (EEC) No 337/75 should therefore be amended;

Whereas the EEC Treaty does not provide powers of action other than those contained in Article 235 for the adoption of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 337/75 is hereby amended as follows:

1. Article 4 (1) shall be replaced by the following:

'1. The Centre shall be administered by a Management Board comprising 39 members of whom:

- (a) 12 members shall represent the Governments of the Member States;
- (b) 12 members shall represent the employers' professional organizations;
- (c) 12 members shall represent the employees' trade union organizations;
- (d) three members shall represent the Commission.

The members referred to in (a), (b) and (c) shall be appointed by the Council on the basis of one member per Member State for each of those groups.

The Commission shall appoint the members who are to represent it.;

2. Article 9 shall be deleted;

3. Article 11 (1) and (2) shall be replaced by the following:

'1. The Management Board shall, by 31 March each year at the latest, send the Commission an estimate of revenue and expenditure. This estimate, which shall include an establishment plan, shall be forwarded by the Commission to the European Parliament and the Council with the preliminary draft budget of the European Communities.

2. The budgetary authority shall determine the appropriations available for the subsidy for the Centre.

The procedure in force for the transfer of appropriations from one chapter to another shall apply to these appropriations.

The budgetary authority shall draw up the establishment plan of the Centre.;

4. in Article 12, paragraphs (2) and (3) shall be deleted.

Paragraph 4 shall become paragraph 2;

⁽¹⁾ OJ No C 23, 31. 1. 1991, p. 26.

⁽²⁾ OJ No C 13, 20. 1. 1992, p. 523.

⁽³⁾ OJ No C 152, 10. 6. 1991, p. 1.

⁽⁴⁾ OJ No L 39, 13. 2. 1975, p. 1.

5. the following Article shall be inserted after Article 12:

'Article 12a

1. The Director shall draw up and the Management Board shall adopt, not later than 31 March, the annual general report on the activities, financial situation and future guidelines of the Centre and shall send it to the European Parliament, the Council, the Commission, the Economic and Social Committee and the Court of Auditors.

It shall also, not later than 31 March, send the revenue and expenditure accounts, the analysis of financial management and the balance sheet of the Centre for the preceding financial year to the European Parliament, the Council, the Commission and the Court of Auditors.

The Court of Auditors shall examine them as provided for in Article 206a of the Treaty.

2. The Court of Auditors shall transmit to the authorities responsible for giving discharge and to the Commission, by 30 November at the latest, its annual report accompanied by the replies of the Centre to its

comments, and shall ensure publication thereof in the *Official Journal of the European Communities*.

The European Parliament, upon a recommendation from the Council acting by a qualified majority, shall, before 30 April of the following year, give a discharge to the Management Board of the Centre in accordance with the procedures laid down in Article 206b of the Treaty.';

6. Article 13 shall be replaced by the following:

'Article 13

The provisions governing the staff of the Centre shall be adopted by the Council, acting on a proposal from the Commission and after consulting the European Parliament.'

Article 2

This Regulation shall enter into force on the third 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 Luxembourg, 30 June 1993.

For the Council
The President
S. BERGSTEIN

COUNCIL REGULATION (EEC) No 1947/93

of 30 June 1993

amending Regulation (EEC) No 1365/75 on the creation of a European Foundation for the Improvement of Living and Working Conditions

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Court of Auditors ⁽³⁾,

Whereas the Treaty of 22 July 1975, amending certain financial provisions of the Treaties establishing the European Communities and of the Treaty establishing a single Council and a single Commission of the European Communities, modified the procedure for giving a discharge to the Commission in respect of the implementation of the budget; whereas therefore it is appropriate to update the procedure for giving a discharge to the Administrative Board of the European Foundation for the Improvement of Living and Working Conditions, set up by Regulation (EEC) No 1365/75 ⁽⁴⁾ by reference to the procedure so modified, as set out in Article 206b of the EEC Treaty;

Whereas the Treaty of 22 July 1975 substituted the Court of Auditors for the Audit Board in all the texts referring to the Audit Board;

Whereas the Acts of Accession of Greece, Spain and Portugal changed the composition of the Administrative Board of the Foundation;

Whereas it is desirable to provide for the transmission of the annual general report on the Foundation to all interested Community bodies;

Whereas Regulation (EEC) No 1365/75 should therefore be amended;

Whereas the EEC Treaty does not provide powers of action other than those contained in Article 235 for the adoption of this Regulation,

Article 1

Regulation (EEC) No 1365/75 is hereby amended as follows:

1. Article 6 (1) shall be replaced by the following:

'1. The Administrative Board shall consist of 39 members, of whom:

- (a) 12 members shall represent the Governments of the Member States;
- (b) 12 members shall represent the employer's organizations;
- (c) 12 members shall represent the employee's organizations;
- (d) three members shall represent the Commission.'

2. Article 13 is replaced by the following:

'Article 13

The Director shall draw up and the Administrative Board shall adopt, not later than 31 March, the annual general report on the activities, financial situation and future guidelines of the Foundation and shall send it to the European Parliament, the Council, the Commission, the Economic and Social Committee and the Court of Auditors.'

3. Article 15 (1) and (2) shall be replaced by the following:

'1. The Administrative Board shall, by 31 March each year at the latest, send the Commission an estimate of revenue and expenditure. This estimate, which shall include an establishment plan, shall be forwarded by the Commission to the European Parliament and the Council with the preliminary draft budget of the European Communities.

2. The budgetary authority shall determine the appropriations available for the subsidy for the Foundation.

The procedure in force for the transfer of appropriations from one chapter to another shall apply to these appropriations.

The budgetary authority shall draw up the establishment plan of the Foundation.'

⁽¹⁾ OJ No C 23, 31. 1. 1991, p. 26.

⁽²⁾ OJ No C 13, 20. 1. 1992, p. 524.

⁽³⁾ OJ No C 152, 10. 6. 1991, p. 1.

⁽⁴⁾ OJ No L 139, 30. 5. 1975, p. 1.

4. Article 16 shall be replaced by the following:

'Article 16

1. The financial provisions applying to the Foundation shall be adopted pursuant to Article 209 of the Treaty.

The financial controller of the Commission shall be responsible for checking the commitment and payment of all expenditure and the recording and recovery of all revenue of the Foundation.

2. The Administrative Board shall, not later than 31 March, send the revenue and expenditure accounts, the analysis of financial management and the balance sheet of the Foundation for the preceding financial year to the European Parliament, the Council, the Commission and the Court of Auditors.

The Court of Auditors shall examine them as provided for in Article 206a of the Treaty.

3. The Court of Auditors shall transmit to the authorities responsible for giving discharge and to the Commission, by 30 November at the latest, its annual

report accompanied by the replies of the Foundation to its comments, and shall ensure publication thereof in the *Official Journal of the European Communities*.

The European Parliament, upon a recommendation from the Council acting by a qualified majority, shall, before 30 April of the following year, give a discharge to the Administrative Board of the Foundation in accordance with the procedure laid down in Article 206b of the Treaty.';

5. Article 17 shall be replaced by the following:

'Article 17

The provisions governing the staff of the Foundation shall be adopted by the Council, acting on a proposal from the Commission and after consulting the European Parliament.'

Article 2

This Regulation shall enter into force on the third 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 Luxembourg, 30 June 1993.

For the Council
The President
S. BERGSTEIN

COUNCIL REGULATION (EEC) No 1948/93

of 30 June 1993

amending Regulation (EEC) No 1416/76 on the financial provisions applying to the European Centre for the Development of Vocational Training

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

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

Having regard to Council Regulation (EEC) No 337/75 of 10 February 1975 establishing a European Centre for the Development of Vocational Training⁽¹⁾ and in particular Article 11 thereof,

Having regard to the proposal from the Commission⁽²⁾,

Having regard to the opinion of the European Parliament⁽³⁾,

Having regard to the opinion of the Court of Auditors⁽⁴⁾,

Whereas, pursuant to Article 130 of the Financial Regulation applicable to the general budget of the European Communities of 21 December 1977⁽⁵⁾, the financial provisions governing the Centre should approximate as closely as possible to the provisions of the Financial Regulation and must therefore be updated;

Whereas the Treaty of 22 July 1975 amending certain financial provisions of the Treaties establishing the European Communities and of the Treaty establishing a single Council and a single Commission of the European Communities modified the procedure for giving a discharge to the Commission in respect of the implementation of the budget and substituted the Court of Auditors for the Audit Board in all the texts referring to the Audit Board;

Whereas Regulation (EEC) No 1416/76⁽⁶⁾ should be amended accordingly,

Article 1

Regulation (EEC) No 1416/76 is hereby amended as follows:

1. Article 1 (2) is replaced by the following paragraphs 2 and 3:

2. Expenditure may not be authorized for a period extending beyond the financial year.

3. Administrative expenditure arising from:

- contracts which have been concluded, in accordance with local usage, or

- contractual provisions relating, in particular, to the supply of equipment,

for the periods extending beyond the financial year shall be charged to the statement of revenue and expenditure for the financial year in which it is effected.';

2. Article 2 is replaced by the following:

Article 2

The budget appropriations must be used in accordance with the principles of sound financial management, and in particular those of economy and cost-effectiveness. Quantified objectives must be identified and the progress of their realization monitored.';

3. Article 3 (1) is replaced by the following:

1. Subject to Article 22, all revenue and expenditure shall be entered in full in the statement of revenue and expenditure and in the accounts without any adjustment against each other.';

4. Article 3 (2):

- (a) the first subparagraph is replaced by the following:

2. Total revenue shall cover total expenditure.

However, certain revenues shall not be used for any other purpose, notably:

- revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests,

⁽¹⁾ OJ No L 39, 13. 2. 1975, p. 1. Regulation as amended by Regulation (EEC) No 1946/93 (See page 11 of this Official Journal).

⁽²⁾ OJ No C 23, 31. 1. 1991, p. 28 and OJ No C 130, 21. 5. 1992, p. 25.

⁽³⁾ OJ No C 13, 20. 1. 1992, p. 526.

⁽⁴⁾ OJ No C 152, 10. 6. 1991, p. 3.

⁽⁵⁾ OJ No L 356, 31. 12. 1977, p. 1. Regulation as last amended by Regulation (EEC) No 610/90 (OJ No L 70, 16. 3. 1990, p. 1.).

⁽⁶⁾ OJ No L 164, 24. 6. 1976, p. 1.

— revenue from third parties in respect of work carried out at their request.’;

(b) the second and third subparagraphs become paragraph 3;

5. Article 4 is replaced by the following:

‘Article 4

No revenue shall be collected and no expenditure effected unless credited to or charged against an article in the statement of revenue and expenditure.

No expenditure may be committed or authorized in excess of the authorized appropriations, without prejudice to Article 22.’;

6. Article 6 is replaced by the following:

‘Article 6

The following rules shall govern the utilization of appropriations:

1. (a) appropriations still uncommitted at the end of the financial year for which they were entered, shall, as a rule, lapse;
 - (b) appropriations relating to remunerations and allowances of staff may not be carried over;
 - (c) the appropriations not committed at 31 December may be carried over to the next financial year only;
 - (d) the appropriations in respect of payments still outstanding at 31 December by virtue of commitments duly entered into between 1 January and 31 December shall be carried over automatically to the next financial year only.
2. In the case of appropriations mentioned in point 1 (c), the Commission shall forward to the budgetary authority, not later than 15 February, the duly substantiated requests to carry over appropriations which the Centre has sent to it before 1 February.

The carry-over of such appropriations can be proposed only for exceptional reasons in order to cope with compelling needs which cannot be met by appropriations from the following financial year. In principle, such carry-overs are intended to cover needs normally coming under the previous financial year but which, due to delays for which the authorizing officer was not responsible, could not be used in due time.

The European Parliament shall consult the Council and shall act on these requests for carry-overs.

In the absence of a decision by the budgetary authority within a period of six weeks, the

requests for carry-overs shall be deemed to be approved.

3. Unused revenue and appropriations still available on 31 December, arising out of the donations referred to in Article 3 (2), shall be carried over automatically.

4. The following appropriations shall lapse at the end of the year:

(a) appropriations from the previous financial year:

— appropriations carried over by decision under point 1 (c) which have been neither committed nor paid,

— appropriations carried over automatically under point 1 (d) which have not been paid;

(b) appropriations of the financial year which have not been carried over.

5. The Commission shall be provided, for its information, before 1 March, with a list of the appropriations to be carried forward automatically. The Commission shall forward this list to the European Parliament and the Council for their information.

6. For the purposes of implementing the statement of revenue and expenditure, the use of appropriations carried forward shall be shown separately, for each budget item, in each article in the accounts for the current financial year.’;

7. the following paragraph is added to Article 7:

‘Expenditure relating to rents or certain associated expenditure which is payable in advance in accordance with provisions laid down by law or contracts may give rise to payments from 20 December onwards to be charged to the appropriations for the next financial year.’;

8. Article 8 is replaced by the following:

‘Article 8

1. If the statement of revenue and expenditure is not finally adopted at the beginning of the financial year, Article 204 of the Treaty shall apply to commitment and payment of expenditure already approved in principle in the last statement duly adopted.

An item of expenditure shall be considered as having been approved in principle in the last statement duly adopted if it could have been charged to a specific budget heading under the financial year concerned.

2. Payments may be made monthly in respect of any chapter up to one-twelfth of the total appropriations entered in the chapter in question for

the preceding financial year, account being taken of transfers, as long as this measure does not have the effect of placing at the disposal of the Centre, for any month, appropriations in excess of one-twelfth of the amount of the subsidy reserved for the Centre in the draft budget or, in the absence thereof, in the preliminary draft budget of the Communities. Commitments may be entered into in respect of any chapter for up to one-quarter of the total appropriations entered in the relevant chapter for the preceding financial year, account being taken of all transfers, plus one-twelfth for each completed month, without exceeding the amount of the subsidy reserved for the Centre in the draft budget or, in the absence thereof, in the preliminary draft budget of the Communities.

3. At the request of the Management Board, the Commission may, in the light of administrative needs, authorize simultaneously two or more provisional twelfths, provided that the amount authorized for each chapter does not exceed the maximum annual limit provided for in paragraph 2.

4. If, for a given chapter, the authorization of two or more provisional twelfths granted in the circumstances provided for in paragraph 3 does not enable the expenditure necessary to avoid a break in continuity of the Centre's activity in the area in question to be met, an overstepping of the total provided for in paragraph 3 may, exceptionally, be authorized in accordance with the same procedure, provided that the overall total of the appropriations opened in the statement of revenue and expenditure of the preceding year is not exceeded.';

9. Article 9 is deleted;

10. Article 10 is replaced by the following:

'Article 10

The statement of revenue and expenditure shall be drawn up in ecus. The value of the ecu and the arrangements for its conversion into national currencies shall be that laid down in the Financial Regulation applicable to the general budget of the European Communities.';

11. the first subparagraph of Article 11 (2) is replaced by the following:

'2. In the event of unavoidable, exceptional or unforeseen circumstances, the Management Board of the Centre may send supplementary or amending estimates to the Commission. Such estimates shall be submitted and adopted in the same form and according to the same procedure as the statement whose estimates they are amending. They must be substantiated by reference to the latter.';

12. the following paragraph is added to Article 14:

'The statement and the list of posts shall be published in the *Official Journal of the European Communities*, at the same time as the budget of the Communities.';

13. Article 15 is replaced by the following:

'Article 15

The statement of revenue and expenditure shall be subdivided into titles, chapters, articles and items according to the nature of the revenue or expenditure or the intended purpose thereof, following a decimal classification system.

It shall show:

1. as regards the statement of revenue:

- (a) the revenue for the financial year in question;
- (b) the revenue entered for the preceding financial year and the revenue established for the last financial year for which accounts have been closed;
- (c) appropriate remarks on each revenue heading;

2. as regards the statement of expenditure:

- (a) the appropriations made available for the financial year in question divided into titles, chapters, articles and items;
- (b) the appropriations made available for the preceding financial year and the actual expenditure in the last financial year for which the accounts have been closed, increased by the amounts carried forward, using the same classification;
- (c) appropriate remarks on each subdivision;
- (d) in an annex, an establishment plan setting the number of permanent and temporary posts for each grade in each category and indicating the number of posts authorized for the preceding year.';

14. Article 16 is replaced by the following:

'Article 16

The establishment plan drawn up by the budgetary authority shall constitute an absolute limit for the Centre; no appointment may be made in excess of the limit set.

Instances of half-time work authorized by the Director in accordance with Article 29a of Council Regulation (ECSC, EEC, Euratom) No 1859/76 of 29 June 1976 laying down the conditions of employment of staff of the European Centre for the Development of Vocational Training⁽¹⁾ may be compensated for by the recruitment of other staff

within the limits laid down by the budget authority in the budgetary procedure.

(¹) OJ No L 214, 6. 8. 1976, p. 1.;

15. Article 17 is replaced by the following:

'Article 17

The statement of revenue and expenditure shall be implemented in accordance with the principle that the authorizing officers and accounting officers are different individuals.

The appropriations shall be administered by the authorizing officer who alone is empowered to enter into commitments regarding expenditure, establish entitlements to be collected and issue recovery orders and payment orders. The operations of collection or payment shall be carried out by the accounting officer. The duties of authorizing officer, financial controller and accounting officers shall be mutually incompatible.;

16. Article 18 is replaced by the following:

'Article 18

The Management Board of the Centre shall implement the statement of revenue and expenditure on its own responsibility in accordance with this Regulation and within the limits of the appropriations allotted.

With the exception of the cases provided for in Articles 23, 30, 38 and 41 involving decisions overruling the financial controller, the Management Board shall delegate its powers under conditions to be laid down by it and within the limits which it lays down in the act of delegation which shall be communicated to the delegatee, the accounting officers, the financial controller and the Court of Auditors.

Those so empowered may act only within the limits of the powers expressly conferred upon them.;

17. the following Article is inserted after Article 18:

'Article 18a

Where revenue and expenditure operations are managed by means of integrated computer systems, the provisions of Sections II and III and of Title VI shall apply with due allowance for the possibilities and requirements deriving from computerized management. To this end:

- the supporting documents may remain with the authorizing officer or the accounting officer for the purposes of checking,
- signatures and approvals may be added in appropriate computerized form.

The conditions for implementing this Article shall be determined by the implementing rules provided for in Article 76.;

18. Article 19 is replaced by the following:

'Article 19

The financial controller of the Commission shall be responsible for checking the commitment and payment of all expenditure and the establishment and recovery of all revenue of the Centre, in accordance with the principles laid down in Article 2.

Monitoring shall be carried out by that official by means of inspection of the files relating to expenditure and revenue and, if necessary, on the spot.

The financial controller may be assisted in his duties by one or more assistant financial controllers.

The financial controller must be consulted on the setting up of the accounting systems of the Centre. He shall have access to the data of such systems.;

19. in Article 20:

- (a) the following paragraph is inserted after the second paragraph:

'He shall be responsible for preparing the financial statement provided for in Articles 66 and 67.;

- (b) the following paragraph is added:

'The special rules applicable to the accounting officer and to assistant accounting officers shall be laid down in the implementing rules provided for in Article 76.;

20. the following paragraph is inserted in Article 21:

'4a. Appropriations may be transferred only to budget headings for which the statement of expenditure has authorized appropriations or carried a token entry.;

21. points (b) and (c) of Article 22 are replaced by the following:

'(b) the following sums may be reused under the heading to which the initial expenditure was charged:

- revenue arising from the refund of amounts paid in error against appropriations entered in the statement of revenue and expenditure,
- proceeds from the supply of goods and services to other institutions or bodies, including refunds by such institutions or bodies of mission allowances paid on their behalf,
- insurance payments received,
- revenue from payments connected with lettings,
- revenue from the sale of publications and films,

- refunds of taxes — incorporated in the price of the products or services provided to the Centre — effected by Member States pursuant to the provisions of the Protocol on the Privileges and Immunities of the European Communities,
- revenue from the supply of goods and services against payment;
- proceeds from the sale of vehicles, equipment and installations and scientific and technical apparatus, equipment and materials which are being replaced or scrapped.

Such sums must be reused before the end of the financial year following that in which the revenue was collected.

The chart of accounts shall include suspense accounts to record reuse operations in both revenue and expenditure;

- (c) adjustments may be made in respect of exchange differences occurring in budget operations. The final gain or loss shall be included in the balance for the year.;

22. Article 23 is replaced by the following:

'Article 23

1. All measures which may give rise to or modify a debt due to the Centre must be preceded by a proposal from the authorizing officer. Such proposals shall be sent to the financial controller for his approval and to the accounting officer for provisional registration. They shall mention, in particular, the type of revenue, the estimated amount thereof and the item to which it is to be booked and also the name and description of the debtor. They shall be registered after approval by the financial controller. The purpose of the approval of the financial controller shall be to establish that:

- (a) the revenue is booked to the correct item;
- (b) the proposal is in order and conforms to the relevant provisions, in particular in the statement of revenue and expenditure, the rules applying to the Centre and all acts made in implementation of those regulations, and to the principles of sound financial management referred to in Article 2.

The financial controller may withhold his approval. The Management Board may, by a decision stating the full reasons therefor, and on its sole responsibility, overrule this refusal. This decision shall be final and binding; it shall be communicated for information to the financial controller. The

Management Board shall inform the Court of Auditors of all such decisions within one month.

2. The competent authorizing officer shall draw up, in respect of every debt established, a recovery order which shall be sent with supporting documents to the financial controller for his prior approval. Such recovery orders shall, after they have received the approval of the financial controller, be registered by the accounting officer.

The purpose of the approval of the financial controller shall be to establish that:

- (a) the revenue is booked to the correct item;
- (b) the order is in order and conforms to the relevant provisions;
- (c) the supporting documents are in order;
- (d) the debtor is correctly described;
- (e) the due date is indicated;
- (f) the principles of sound financial management referred to in Article 2 have been applied;
- (g) the amount and currency of the sum to be recovered are correct.

If the financial controller's approval is withheld, the second subparagraph of paragraph 1 shall apply.;

23. Article 24 is replaced by the following:

'Article 24

1. The accounting officer shall assume responsibility for the recovery orders duly drawn up.

He shall exercise all due diligence to ensure that the resources due to the Centre are recovered at the due dates indicated in the recovery orders, and shall ensure that the rights of the Centre are safeguarded.

The accounting officer shall inform the authorizing officer and the financial controller of any revenue not recovered within the time limits laid down.

2. If the authorizing officer waives the right to recover an established debt, he shall send beforehand a proposal for cancellation to the financial controller for his approval and to the accounting officer for information.

The purpose of the approval of the financial controller shall be to establish that the waiver is in order and conforms with the principles of sound financial management referred to in Article 2. The proposal concerned shall be registered by the accounting officer.

If approval is withheld, the Management Board may, by a decision stating the full reasons therefor, and on its sole responsibility, overrule

this refusal. This decision shall be final and binding; it shall be communicated for information to the financial controller.

The Management Board shall inform the Court of Auditors of all such decisions within one month.

When the financial controller finds that a document establishing a debt has not been drawn up, or that a sum due has not been recovered, he shall inform the Management Board thereof.;

24. Article 27 (2) is replaced by the following:

'2. The implementing conditions in respect of paragraph 1 above shall be determined by the implementing rules provided for in Article 76. These conditions shall ensure that an exact account is kept of commitments and authorizations in terms of actual needs.;

25. Article 28 is replaced by the following:

'Article 28

Without prejudice to the provisions of Article 18a, proposals for commitments, accompanied by supporting documents, shall be transmitted to the financial controller and to the accounting officer; they shall show, in particular, the purpose of the expenditure, the estimated amount involved, indicating the currency where possible, the budget item to which it is to be charged and also the name and description of the creditor; they shall be registered, after approval by the financial controller, in accordance with the implementing rules provided for in Article 76.;

26. in Article 29:

(a) point (d) is replaced by the following:

'(d) the principles of sound financial management referred to in Article 2 have been applied.;

(b) the second paragraph is replaced by the following:

'Approval may not be conditional.;

27. in Article 30, the last sentence of the third paragraph is replaced by the following:

'The Management Board shall inform the Court of Auditors of all such decisions within one month.;

28. (this amendment to Article 33 does not affect the English text);

29. (a) (this amendment to Article 34 does not affect the English text);

(b) in Article 34, the third indent of the first paragraph is replaced by the following:

'— the amount to be paid (in figures and words), expressed in ecus or in national currency.;

30. (this amendment to Article 35 does not affect the English text);

31. Article 36 is replaced by the following:

'Article 36

1. For payments by instalment, the first payment order shall be accompanied by documents establishing the creditor's claim to payment of the instalment in question. Subsequent payment orders shall refer to the supporting documents already furnished, and repeat the reference number of the first payment order.

2. The authorizing officer may grant advances to personnel if a provision laid down by regulation specifically provides therefor.

The authorizing officer may grant advances to cover disbursements to be effected by a member of the staff on behalf of the Centre.

Apart from the imprest accounts referred to in Article 43, no advance may be paid unless it has been approved beforehand by the financial controller.;

32. Article 37 is replaced by the following:

'Article 37

Without prejudice to Article 18a, payment orders shall be sent for prior approval to the financial controller.

The purpose of this prior approval shall be to establish that:

(a) the payment order was properly issued;

(b) the payment order agrees with the commitment of expenditure and that the amount thereof is correct, taking account of the principles and requirements of sound financial management referred to in Article 2;

(c) the expenditure is charged to the correct item;

(d) the appropriations are available;

(e) the supporting documents are in order;

(f) the payee is correctly named and described.;

33. (this amendment to Article 39 does not affect the English text);

34. in Article 42, the second paragraph is replaced by the following:

'The procedure for opening, administering and using such accounts shall be determined by the implementing measures provided for in Article 76. These measures shall, in particular, indicate expenditure the payment of which must necessarily be effected either by cheque or by post office or bank transfer order, and shall receive the joint

signature on cheques and on post office or bank transfer orders of two duly authorized officials, one signature necessarily being that of the accounting officer, an assistant accounting officer, or an administrator of an imprest account.';

35. Article 43 is replaced by the following:

'Article 43

For the payment of certain categories of expenditure, imprest accounts may be set up in accordance with the implementing measures provided for in Article 76.

Only the accounting officer may replenish the imprest accounts, save in exceptional cases defined in the implementing rules of this Regulation.

These measures shall contain specific provisions concerning in particular:

- the appointment of administrators of imprest accounts,
- the nature and maximum amount of each item of expenditure to be incurred,
- the maximum amount of the imprest which may be advanced,
- the time within which supporting documents must be produced,
- the responsibility of the administrators of imprest accounts.';

36. the following section is inserted after Article 43:

'SECTION IIIa

MANAGEMENT OF POSTS

Article 43a

1. The following shall be established:

- (a) a file identifying the posts and containing a job description for each category A post;
- (b) an organization chart showing the organization of the departments detailing the tasks of each administrative unit.

2. If the note "to be abolished" is placed against a post in the statement of revenue and expenditure, it may no longer be filled when the next vacancy arises in the same career.';

37. Article 44 (1) is replaced by the following:

'1. Contracts for the purchase or hiring of buildings or goods, for the provision of services or for the performance of construction work shall be in writing. Apart from contracts relating to the purchase of a building already constructed or to the leasing of a building, all such contracts shall be concluded after an invitation to tender has been issued either by the automatic public tendering procedure or the discretionary tendering procedure.

However, contracts may be made by private treaty in the circumstances referred to in Article 46.

Contracts may be made against invoice or bill of costs in cases provided for in Article 50.';

38. in Article 46, point (a) is replaced by the following:

'(a) where the contract for the purchase or hiring of goods, for the provision of services or for building works involves an amount not exceeding the limit laid down in the implementing rules provided for in Article 126 of the Financial Regulation applicable to the general budget of the Communities, the Centre being bound, however, as far as possible and by all appropriate means, to enable suppliers who are likely to be able to supply the goods and services in question to compete.';

39. Article 48 is replaced by the following:

'Article 48

Contracts involving amounts exceeding the amount laid down in the implementing rules provided for in Article 126 of the Financial Regulation applicable to the general budget of the Commission shall be subject to the authorization of the Management Board.';

40. in the third paragraph of Article 49, 'exceeding 100 000 units of account' is replaced by: 'exceeding the limit laid down in the implementing rules provided for in Article 126 of the Financial Regulation applicable to the general budget of the Communities';

41. Article 50 is replaced by the following:

'Article 50

Contracts may be made against invoice or bill of costs where the estimated value of the goods, services or works does not exceed the limits laid down by the implementing rules provided for in Article 126 of the Financial Regulation applicable to the general budget of the Communities.';

42. Article 51 is replaced by the following:

'Article 51

When concluding contracts referred to in this Regulation, the Centre shall comply with the directives adopted by the Council in implementation of the Treaty with respect to public works, supplies and services whenever the amounts involved are equal to or greater than the amounts provided for in those directives.';

43. Article 52 is replaced by the following:

'Article 52

Permanent inventories showing the quantity and value of all movable and immovable property belonging to the Centre shall be kept in accordance with a model drawn up by the Commission. Only movable property exceeding a specific value laid down in the implementing rules provided for in Article 76 shall be entered in those inventories.

The Centre shall carry out its own inspection to ascertain that entries in the inventory correspond to the facts.';

44. the first paragraph of Article 54 is replaced by the following:

'A statement or record shall be drawn up by the authorizing officer and authenticated by the financial controller 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.';

45. Article 56 is replaced by the following:

'Article 56

The accounts shall be kept in ecus by the double entry method, on the basis of the calendar year. They shall show all revenue and expenditure for the financial year; they shall be authenticated by supporting documents. They may in addition be kept in the currency of the country where the Centre has its seat.

The revenue and expenditure account and the balance sheet shall be drawn up in ecus.';

46. Article 57 is replaced by the following:

'Article 57

The chart of accounts shall make a clear distinction between budgetary accounts and cash accounts.

It shall comprise two parts:

- (a) accounts of budgetary expenditure and revenue, which show the detailed implementation of the statement of revenue and expenditure;
- (b) the balance sheet accounts, which disclose the assets of the Centre.

These accounts shall show the expected effect of the Centre's legal obligations.

The accounts shall make it possible to draw up an annual balance of assets and a monthly statement of revenue and expenditure by chapter and article.

These statements shall be forwarded to the financial controller, the authorizing officer and the Court of Auditors.';

47. Article 58 is replaced by the following:

'Article 58

Any advance, other than regular advances which are periodically re-examined, shall be entered in a suspense account and settled at the latest during the financial year which follows the payment of this advance.

However, the advances referred to in the second subparagraph of Article 36 (2) shall be settled as a general rule within six weeks following completion of the project for which they were granted.';

48. Article 59 is replaced by the following:.

'Article 59

The detailed conditions for the establishment and operation of the chart of accounts for transactions relating both to assets and to the implementation of the budget shall be determined by the implementing rules provided for in Article 76.';

49. in Article 61:

(a) 'receivable orders' is replaced by 'recovery orders'. (A further amendment does not affect the English text);

(b) the following paragraph is added:

'The same shall apply if they neglect to issue payment orders or are, without justification, late in issuing them, thereby rendering the Centre liable to civil action by third parties.';

50. Article 62 is replaced by the following:

'Article 62

1. Accounting officers and assistant accounting officers shall render themselves liable to disciplinary action and, where appropriate, to payment of compensation as regards payments made by them in disregard of the third paragraph of Article 40.

They shall render themselves liable to disciplinary action and to payment of compensation as regards any loss or deterioration of the monies, assets and documents in their charge where such loss or deterioration result from an intentional mistake or serious negligence on their part.

Under the same conditions, they shall be responsible for the correct execution of orders received by them

in respect of the use and the administration of bank and post office giro accounts, and in particular:

- (a) where the recoveries or payments made by them do not agree with the amounts on the corresponding recovery or payment orders;
- (b) where they effect payment to a party other than the payee entitled.

2. Administrators of advance funds shall render themselves liable to disciplinary action and, where appropriate, to payment of compensation in the following cases:

- (a) where they cannot show due warrant with proper documents for payments made by them;
- (b) where they effect payments to parties other than entitled payees.

They shall be liable to disciplinary action and to payment of compensation in respect of any loss or deterioration of the monies, assets and documents in their charge where such loss or deterioration results from an intentional mistake or serious negligence on their part.

3. The accounting officer, assistant accounting officers and administrators of advanced funds shall insure themselves against the risks arising under this Article.

The Centre shall cover the insurance costs relating thereto.';

51. Article 63 is replaced by the following:

'Article 63

The liability to payment of compensation and disciplinary action of authorizing officers, accounting officers, assistant accounting officers and administrators of advance funds may be determined in accordance with the provisions of Regulation No 1859/76.';

52. Article 65 is replaced by the following:

'Article 65

The Management Board shall draw up each year a revenue and expenditure account of the Centre.

The revenue and expenditure account shall cover all revenue and expenditure transactions relating to the preceding financial year. It shall be submitted in the same form and following the same subdivisions as the statement of revenue and expenditure.

The revenue and expenditure account shall be preceded by an analysis of the financial management in respect of the year in question. For the drawing up of this analysis, the Centre shall supply details on the realization of the principles and objectives as referred to in Article 2.';

53. Article 66 is replaced by the following:

'Article 66

The revenue and expenditure account shall include the following tables subdivided in accordance with the nomenclature of the Centre's statement of revenue and expenditure:

1. a table of revenue comprising:

- estimated revenue for the financial year,
- amendments to the revenue estimates as a result of supplementary or amending statements,
- entitlements established in the course of the financial year,
- entitlements still to be collected from the preceding financial year,
- revenue collected during the financial year and revenue carried over pursuant to Article 6 (3),
- amounts still to be collected at the end of the financial year,
- the cancellation of established entitlements.

Statements shall be attached, where appropriate, to this table, showing the balances and gross amounts of the transactions referred to in Article 22;

2. a table showing the movement in appropriations for the financial year, indicating:

- the initial appropriations,
- any amendments to appropriations made by means of transfers,
- any amendments made by means of supplementary or amending statements,
- the final appropriations for the financial year,
- appropriations carried over under Article 6;

3. a table showing the use of the appropriations allocated for the financial year, indicating:

- the commitments entered into and chargeable to the financial year,
- the payments made and chargeable to the financial year,
- the sums still to be paid at the close of the financial year,
- the appropriations carried over pursuant to Article 6,
- cancelled appropriations.

Where appropriate, a statement shall be attached to this table, showing the balances and gross payments arising from the transactions referred to in Article 22;

4. a table showing the use of appropriations carried over from the preceding financial year, indicating:

- the amount of appropriations carried over,
- the payments made from appropriations which have been carried over,
- the unused appropriations to be cancelled.’;

54. Article 67 is replaced by the following:

‘Article 67

1. The Management Board shall also draw up a balance sheet of assets and liabilities of the Centre as at 31 December of the preceding financial year.

A statement of accounts showing the movements and balances of the accounts at the same date shall be attached thereto.

The balance sheet shall include, on the assets side, the amount of revenue to be collected and, on the liabilities side, the amount of expenditure chargeable to the financial year, which have not yet been entered in the accounts.

2. These documents shall be submitted to the financial controller.’;

55. Article 68 is replaced by the following:

‘Article 68

The Management Board shall, by 31 March at the latest, send the revenue and expenditure account, the financial analysis and the balance sheet of the Centre for the preceding financial year to the European Parliament, the Council, the Commission and the Court of Auditors.’;

56. in Article 69, ‘Audit Board’ is replaced by ‘Court of Auditors’;

57. in Article 70, ‘Audit Board’ is replaced by ‘Court of Auditors’;

58. in Article 71:

(a) ‘Audit Board’ is replaced by ‘Court of Auditors’;

(b) the second paragraph is replaced by the following:

‘In particular, the Centre shall place at the disposal of the Court of Auditors all documents concerning the conclusion of contracts and all accounts of cash or materials, all accounting records or supporting documents, and also administrative documents pertaining thereto, all documents relating to revenue and expenditure, all inventories, all lists of posts in the departments, which the Court of Auditors may consider necessary for auditing the revenue and

expenditure account on the basis of records or on the spot and all documents and data created or stored on a magnetic medium.’;

(c) the fourth paragraph is replaced by the following:

‘The information supplied under (b) may be requested only by the Court of Auditors.’;

(d) the seventh paragraph is replaced by the following:

‘The grant of aid to beneficiaries outside the Centre shall be subject to the agreement in writing by the recipients of an audit being carried out by the Court of Auditors on the utilization of the amounts granted.’;

59. Article 72 is replaced by the following:

‘Article 72

The report of the Court of Auditors established in accordance with Article 206a of the EEC Treaty shall be governed by the following provisions:

1. the Court of Auditors shall transmit to the Centre and the Commission, by 15 July at the latest, any comments on the accounts and the balance sheet which are, in its opinion, of such a nature that they should appear in the annual reports. These comments must remain confidential. The Centre shall address its reply to the Court of Auditors and simultaneously to the Commission by 31 October at the latest;
2. the Court of Auditors’ report shall contain an assessment of the soundness of financial management;
3. the Court shall take all necessary steps to ensure that the replies of the Centre to its comments are published immediately following those comments;
4. the Court of Auditors shall transmit to the authorities responsible for giving discharge, to the Centre and to the Commission, by 30 November at the latest, its annual report accompanied by the replies and it shall ensure publication thereof in the *Official Journal of the European Communities*.’;

60. Article 73 is deleted;

61. Article 74 is replaced by the following:

‘Article 74

1. The European Parliament, upon a recommendation from the Council acting by a qualified majority, shall, before 30 April of the following year, give a discharge to the Management Board in respect of the implementation of the statement of revenue and expenditure. If that date cannot be met, the Parliament or the Council shall inform the Management Board of the reasons for the postponement.

If the European Parliament postpones the decision giving discharge, the Management Board shall make every effort to take measures, as soon as possible, to facilitate removal of the obstacles to that decision.

2. The discharge decision shall cover the accounts of all revenue and expenditure of the Centre, the resulting balance and the assets and liabilities of the Centre shown in the balance sheet. It shall include an assessment of the responsibility of the Management Board's budgetary management over the past financial year.

3. The financial controller shall take account of the comments in the decisions giving discharge.

4. The Management Board shall take all appropriate steps to act on the comments appearing in the decisions giving discharge.

5. By 15 December of the year in which the decision giving discharge is taken, the Centre shall report on the measures taken in the light of these comments, and, in particular, on the instructions given to those of its departments which are responsible for the implementation of the budget. Such reports shall be transmitted to the European Parliament, the Council, the Commission and the Court of Auditors.

The Centre must also give an account, in an annex to the revenue and expenditure account for the next financial year, of the measures taken in the light of the comments appearing in the decisions giving discharge.

6. Supporting documents pertaining to the accounts and the preparation of the revenue and expenditure account and the balance sheet shall be kept for a period of five years following the date of the decision giving discharge in respect of the implementation of the statement of revenue and expenditure.

However, the documents relating to transactions not finally closed shall be kept for longer than the said period until the end of the year following the year in which such transactions are finally closed.';

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

Done at Luxembourg, 30 June 1993.

62. Article 75 is replaced by the following:

'Article 75

The Management Board shall inform the Court of Auditors, as soon as possible, of all decisions and rules taken pursuant to Articles 3, 6, 8, 14 and 21.

The Court of Auditors and the financial controller shall be informed of the appointment of authorizing officers, the accounting officer, assistant accounting officers and administrators of advance funds and of the acts of delegation or appointment pursuant to Articles 18, 20 and 43.

The Management Board shall transmit to the Court of Auditors any rules of procedure they adopt in respect of financial matters.';

63. the following Article is inserted:

'Article 75a

Until the entry into force of the implementing rules provided for in Article 126 of the Financial Regulation applicable to the general budget of the Communities, the limit values to be specified for the purposes of Articles 46, 48, 49 and 50 shall be as follows:

- Article 46, point (a): the limit below which contracts may be made by private treaty shall be ECU 10 000,
- Article 48: the limit above which the authorization of the Management Board shall be required shall be ECU 35 000,
- third paragraph of Article 49: the threshold for compulsory security shall be ECU 250 000,
- Article 50: the limits below which contracts may be made against invoice or bill of costs shall be ECU 750 and 2 000 respectively for expenditure away from the Centre.'

Article 2

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

For the Council
The President
S. BERGSTEIN

COUNCIL REGULATION (EEC) No 1949/93

of 30 June 1993

amending Regulation (EEC) No 1417/76 on the financial provisions applying to the European Foundation for the Improvement of Living and Working Conditions

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

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

Having regard to Council Regulation (EEC) No 1365/75 of 26 May 1975 establishing a European Foundation for the Improvement of Living and Working Conditions ⁽¹⁾, and in particular Article 16 thereof,

Having regard to the proposal from the Commission ⁽²⁾,

Having regard to the opinion of the European Parliament ⁽³⁾,

Having regard to the opinion of the Court of Auditors ⁽⁴⁾,

Whereas, pursuant to Article 130 of the Financial Regulation applicable to the general budget of the European Communities of 21 December 1977 ⁽⁵⁾, the financial provisions governing the Foundation should approximate as closely as possible to the provisions of the Financial Regulation and must therefore be updated;

Whereas the Treaty of 22 July 1975 amending certain financial provisions of the Treaties establishing the European Communities and of the Treaty establishing a single Council and a single Commission of the European Communities modified the procedure for giving a discharge to the Commission in respect of the implementation of the budget and substituted the Court of Auditors for the Audit Board in all the texts referring to the Audit Board;

Whereas Regulation (EEC) No 1417/76 ⁽⁶⁾ should be amended accordingly,

Article 1

Regulation (EEC) No 1417/76 is hereby amended as follows:

1. Article 1 (2) is replaced by the following paragraphs 2 and 3:

'2. Expenditure may not be authorized for a period extending beyond the financial year.

3. Administrative expenditure arising from:

- contracts which have been concluded, in accordance with local usage, or
- contractual provisions relating, in particular, to the supply of equipment,

for the periods extending beyond the financial year shall be charged to the statement of revenue and expenditure for the financial year in which it is effected.';

2. Article 2 is replaced by the following:

'Article 2

The budget appropriations must be used in accordance with the principles of sound financial management, and in particular those of economy and cost-effectiveness. Quantified objectives must be identified and the progress of their realization monitored.';

3. Article 3 (1) is replaced by the following:

'1. Subject to Article 22, all revenue and expenditure shall be entered in full in the statement of revenue and expenditure and in the accounts without any adjustment against each other.';

4. Article 3 (2):

(a) the first subparagraph is replaced by the following:

'2. Total revenue shall cover total expenditure.

However, certain revenues shall not be used for any other purpose, notably:

- revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests,

⁽¹⁾ OJ No L 139, 30. 5. 1975, p. 1. Regulation as amended by Regulation (EEC) No 1947/93 (See page 13 of this Official Journal).

⁽²⁾ OJ No C 23, 31. 1. 1991, p. 38 and
OJ No C 130, 21. 5. 1992, p. 37.

⁽³⁾ OJ No C 13, 20. 1. 1992, p. 527.

⁽⁴⁾ OJ No C 152, 10. 6. 1991, p. 3.

⁽⁵⁾ OJ No L 356, 31. 12. 1977, p. 1. Regulation as last amended by Regulation (EEC) No 610/90 (OJ No L 70, 16. 3. 1990, p. 1.).

⁽⁶⁾ OJ No L 164, 24. 6. 1976, p. 16.

— revenue from third parties in respect of work carried out at their request.’;

(b) the second and third subparagraphs become paragraph 3;

5. Article 4 is replaced by the following:

‘Article 4

No revenue shall be collected and no expenditure effected unless credited to or charged against an article in the statement of revenue and expenditure.

No expenditure may be committed or authorized in excess of the authorized appropriations, without prejudice to Article 22.’;

6. Article 6 is replaced by the following:

‘Article 6

The following rules shall govern the utilization of appropriations:

1. (a) appropriations still uncommitted at the end of the financial year for which they were entered, shall, as a rule, lapse;
- (b) appropriations relating to remunerations and allowances of staff may not be carried over;
- (c) the appropriations not committed at 31 December may be carried over to the next financial year only;
- (d) the appropriations in respect of payments still outstanding at 31 December by virtue of commitments duly entered into between 1 January and 31 December shall be carried over automatically to the next financial year only.
2. In the case of appropriations mentioned in point 1 (c), the Commission shall forward to the budgetary authority, not later than 15 February, the duly substantiated requests to carry over appropriations which the Foundation has sent to it before 1 February.

The carry-over of such appropriations can be proposed only for exceptional reasons in order to cope with compelling needs which cannot be met by appropriations from the following financial year. In principle, such carry-overs are intended to cover needs normally coming under the previous financial year but which, due to delays for which the authorizing officer was not responsible, could not be used in due time.

The European Parliament shall consult the Council and shall act on these requests for carry-overs.

In the absence of a decision by the budgetary authority within a period of six weeks, the

requests for carry-overs shall be deemed to be approved.

3. Unused revenue and appropriations still available on 31 December, arising out of the donations referred to in Article 3 (2), shall be carried over automatically.

4. The following appropriations shall lapse at the end of the year:

(a) appropriations from the previous financial year:

— appropriations carried over by decision under point 1 (c) which have been neither committed nor paid,

— appropriations carried over automatically under point 1 (d) which have not been paid;

(b) appropriations of the financial year which have not been carried over.

5. The Commission shall be provided, for its information, before 1 March, with a list of the appropriations to be carried forward automatically. The Commission shall forward this list to the European Parliament and the Council for their information.

6. For the purposes of implementing the statement of revenue and expenditure, the use of appropriations carried forward shall be shown separately, for each budget item, in each article in the accounts for the current financial year.’;

7. the following paragraph is added to Article 7:

‘Expenditure relating to rents or certain associated expenditure which is payable in advance in accordance with provisions laid down by law or contracts may give rise to payments from 20 December onwards to be charged to the appropriations for the next financial year.’;

8. Article 8 is replaced by the following:

‘Article 8

1. If the statement of revenue and expenditure is not finally adopted at the beginning of the financial year, Article 204 of the Treaty shall apply to commitment and payment of expenditure already approved in principle in the last statement duly adopted.

An item of expenditure shall be considered as having been approved in principle in the last statement duly adopted if it could have been charged to a specific budget heading under the financial year concerned.

2. Payments may be made monthly in respect of any chapter up to one-twelfth of the total appropriations entered in the chapter in question for

the preceding financial year, account being taken of transfers, as long as this measure does not have the effect of placing at the disposal of the Foundation, for any month, appropriations in excess of one-twelfth of the amount of the subsidy reserved for the Foundation in the draft budget or, in the absence thereof, in the preliminary draft budget of the Communities. Commitments may be entered into in respect of any chapter for up to one-quarter of the total appropriations entered in the relevant chapter for the preceding financial year, account being taken of all transfers, plus one-twelfth for each completed month, without exceeding the amount of the subsidy reserved for the Foundation in the draft budget or, in the absence thereof, in the preliminary draft budget of the Communities.

3. At the request of the Management Board, the Commission may, in the light of administrative needs, authorize simultaneously two or more provisional twelfths, provided that the amount authorized for each chapter does not exceed the maximum annual limit provided for in paragraph 2.

4. If, for a given chapter, the authorization of two or more provisional twelfths granted in the circumstances provided for in paragraph 3 does not enable the expenditure necessary to avoid a break in continuity of the Foundation's activity in the area in question to be met, an overstepping of the total provided for in paragraph 3 may, exceptionally, be authorized in accordance with the same procedure, provided that the overall total of the appropriations opened in the statement of revenue and expenditure of the preceding year is not exceeded.';

9. Article 9 is deleted;

10. Article 10 is replaced by the following:

'Article 10

The statement of revenue and expenditure shall be drawn up in ecus. The value of the ecu and the arrangements for its conversion into national currencies shall be that laid down in the Financial Regulation applicable to the general budget of the European Communities.';

11. the first subparagraph of Article 11 (2) is replaced by the following:

'2. In the event of unavoidable, exceptional or unforeseen circumstances, the Management Board of the Foundation may send supplementary or amending estimates to the Commission. Such estimates shall be submitted and adopted in the same form and according to the same procedure as the statement whose estimates they are amending. They must be substantiated by reference to the latter.';

12. the following paragraph is added to Article 14:

'The statement and the list of posts shall be published in the *Official Journal of the European Communities*, at the same time as the budget of the Communities.';

13. Article 15 is replaced by the following:

'Article 15

The statement of revenue and expenditure shall be subdivided into titles, chapters, articles and items according to the nature of the revenue or expenditure or the intended purpose thereof, following a decimal classification system.

It shall show:

1. as regards the statement of revenue:

- (a) the revenue for the financial year in question;
- (b) the revenue entered for the preceding financial year and the revenue established for the last financial year for which accounts have been closed;
- (c) appropriate remarks on each revenue heading;

2. as regards the statement of expenditure:

- (a) the appropriations made available for the financial year in question divided into titles, chapters, articles and items;
- (b) the appropriations made available for the preceding financial year and the actual expenditure in the last financial year for which the accounts have been closed, increased by the amounts carried forward, using the same classification;
- (c) appropriate remarks on each subdivision;
- (d) in an annex, an establishment plan setting the number of permanent and temporary posts for each grade in each category and indicating the number of posts authorized for the preceding year.';

14. Article 16 is replaced by the following:

'Article 16

The establishment plan drawn up by the budgetary authority shall constitute an absolute limit for the Foundation; no appointment may be made in excess of the limit set.

Instances of half-time work authorized by the Director in accordance with Article 29a of Council Regulation (ECSC, EEC, Euratom) No 1860/76 of 29 June 1976 laying down the conditions of employment of staff of the European Foundation for the Improvement of Living and Working Conditions⁽¹⁾ may be compensated for by the

recruitment of other staff within the limits laid down by the budget authority in the budgetary procedure.

(¹) OJ No L 214, 6. 8. 1976, p. 24.;

15. Article 17 is replaced by the following:

'Article 17

The statement of revenue and expenditure shall be implemented in accordance with the principle that the authorizing officers and accounting officers are different individuals.

The appropriations shall be administered by the authorizing officer who alone is empowered to enter into commitments regarding expenditure, establish entitlements to be collected and issue recovery orders and payment orders. The operations of collection or payment shall be carried out by the accounting officer. The duties of authorizing officer, financial controller and accounting officers shall be mutually incompatible.;

16. Article 18 is replaced by the following:

'Article 18

The Management Board of the Foundation shall implement the statement of revenue and expenditure on its own responsibility in accordance with this Regulation and within the limits of the appropriations allotted.

With the exception of the cases provided for in Articles 23, 30, 38 and 41 involving decisions overruling the financial controller, the Management Board shall delegate its powers under conditions to be laid down by it and within the limits which it lays down in the act of delegation which shall be communicated to the delegatee, the accounting officers, the financial controller and the Court of Auditors.

Those so empowered may act only within the limits of the powers expressly conferred upon them.;

17. the following Article is inserted after Article 18:

'Article 18a

Where revenue and expenditure operations are managed by means of integrated computer systems, the provisions of Sections II and III and of Title VI shall apply with due allowance for the possibilities and requirements deriving from computerized management. To this end:

- the supporting documents may remain with the authorizing officer or the accounting officer for the purposes of checking,
- signatures and approvals may be added in appropriate computerized form.

The conditions for implementing this Article shall be determined by the implementing rules provided for in Article 76.;

18. Article 19 is replaced by the following:

'Article 19

The financial controller of the Commission shall be responsible for checking the commitment and payment of all expenditure and the establishment and recovery of all revenue of the Foundation, in accordance with the principles laid down in Article 2.

Monitoring shall be carried out by that official by means of inspection of the files relating to expenditure and revenue and, if necessary, on the spot.

The financial controller may be assisted in his duties by one or more assistant financial controllers.

The financial controller must be consulted on the setting up of the accounting systems of the Foundation. He shall have access to the data of such systems.;

19. in Article 20:

- (a) the following paragraph is inserted after the second paragraph:

'He shall be responsible for preparing the financial statement provided for in Articles 66 and 67.;

- (b) the following paragraph is added:

'The special rules applicable to the accounting officer and to assistant accounting officers shall be laid down in the implementing rules provided for in Article 76.;

20. the following paragraph is inserted in Article 21:

'4a. Appropriations may be transferred only to budget headings for which the statement of expenditure has authorized appropriations or carried a token entry.;

21. points (b) and (c) of Article 22 are replaced by the following:

'(b) the following sums may be reused under the heading to which the initial expenditure was charged:

- revenue arising from the refund of amounts paid in error against appropriations entered in the statement of revenue and expenditure,
- proceeds from the supply of goods and services to other institutions or bodies, including refunds by such institutions or bodies of mission allowances paid on their behalf,
- insurance payments received,
- revenue from payments connected with lettings,
- revenue from the sale of publications and films,

- refunds of taxes — incorporated in the price of the products or services provided to the Foundation — effected by Member States pursuant to the provisions of the Protocol on the Privileges and Immunities of the European Communities,
- revenue from the supply of goods and services against payment;
- proceeds from the sale of vehicles, equipment and installations and scientific and technical apparatus, equipment and materials which are being replaced or scrapped.

Such sums must be reused before the end of the financial year following that in which the revenue was collected.

The chart of accounts shall include suspense accounts to record reuse operations in both revenue and expenditure;

- (c) adjustments may be made in respect of exchange differences occurring in budget operations. The final gain or loss shall be included in the balance for the year.;

22. Article 23 is replaced by the following:

'Article 23

1. All measures which may give rise to or modify a debt due to the Foundation must be preceded by a proposal from the authorizing officer. Such proposals shall be sent to the financial controller for his approval and to the accounting officer for provisional registration. They shall mention, in particular, the type of revenue, the estimated amount thereof and the item to which it is to be booked and also the name and description of the debtor. They shall be registered after approval by the financial controller. The purpose of the approval of the financial controller shall be to establish that:

- (a) the revenue is booked to the correct item;
- (b) the proposal is in order and conforms to the relevant provisions, in particular in the statement of revenue and expenditure, the rules applying to the Foundation and all acts made in implementation of those regulations, and to the principles of sound financial management referred to in Article 2.

The financial controller may withhold his approval. The Management Board may, by a decision stating the full reasons therefor, and on its sole responsibility, overrule this refusal. This decision shall be final and binding; it shall be communicated for information to the financial controller. The

Management Board shall inform the Court of Auditors of all such decisions within one month.

2. The competent authorizing officer shall draw up, in respect of every debt established, a recovery order which shall be sent with supporting documents to the financial controller for his prior approval. Such recovery orders shall, after they have received the approval of the financial controller, be registered by the accounting officer.

The purpose of the approval of the financial controller shall be to establish that:

- (a) the revenue is booked to the correct item;
- (b) the order is in order and conforms to the relevant provisions;
- (c) the supporting documents are in order;
- (d) the debtor is correctly described;
- (e) the due date is indicated;
- (f) the principles of sound financial management referred to in Article 2 have been applied;
- (g) the amount and currency of the sum to be recovered are correct.

If the financial controller's approval is withheld, the second subparagraph of paragraph 1 shall apply.;

23. Article 24 is replaced by the following:

'Article 24

1. The accounting officer shall assume responsibility for the recovery orders duly drawn up.

He shall exercise all due diligence to ensure that the resources due to the Foundation are recovered at the due dates indicated in the recovery orders, and shall ensure that the rights of the Foundation are safeguarded.

The accounting officer shall inform the authorizing officer and the financial controller of any revenue not recovered within the time limits laid down.

2. If the authorizing officer waives the right to recover an established debt, he shall send beforehand a proposal for cancellation to the financial controller for his approval and to the accounting officer for information.

The purpose of the approval of the financial controller shall be to establish that the waiver is in order and conforms with the principles of sound financial management referred to in Article 2. The proposal concerned shall be registered by the accounting officer.

If approval is withheld, the Management Board may, by a decision stating the full reasons therefor, and on its sole responsibility, overrule

this refusal. This decision shall be final and binding; it shall be communicated for information to the financial controller.

The Management Board shall inform the Court of Auditors of all such decisions within one month.

When the financial controller finds that a document establishing a debt has not been drawn up, or that a sum due has not been recovered, he shall inform the Management Board thereof.;

24. Article 27 (2) is replaced by the following:

'2. The implementing conditions in respect of paragraph 1 above shall be determined by the implementing rules provided for in Article 76. These conditions shall ensure that an exact account is kept of commitments and authorizations in terms of actual needs.;

25. Article 28 is replaced by the following:

'Article 28

Without prejudice to the provisions of Article 18a, proposals for commitments, accompanied by supporting documents, shall be transmitted to the financial controller and to the accounting officer; they shall show, in particular, the purpose of the expenditure, the estimated amount involved, indicating the currency where possible, the budget item to which it is to be charged and also the name and description of the creditor; they shall be registered, after approval by the financial controller, in accordance with the implementing rules provided for in Article 76.;

26. in Article 29:

(a) point (d) is replaced by the following:

'(d) the principles of sound financial management referred to in Article 2 have been applied.;

(b) the second paragraph is replaced by the following:

'Approval may not be conditional.;

27. in Article 30, the last sentence of the third paragraph is replaced by the following:

'The Management Board shall inform the Court of Auditors of all such decisions within one month.;

28. (this amendment to Article 33 does not affect the English text);

29. (a) (this amendment to Article 34 does not affect the English text);

(b) in Article 34, the third indent of the first paragraph is replaced by the following:

'— the amount to be paid (in figures and words), expressed in ecus or in national currency.;

30. (this amendment to Article 35 does not affect the English text);

31. Article 36 is replaced by the following:

'Article 36

1. For payments by instalment, the first payment order shall be accompanied by documents establishing the creditor's claim to payment of the instalment in question. Subsequent payment orders shall refer to the supporting documents already furnished, and repeat the reference number of the first payment order.

2. The authorizing officer may grant advances to personnel if a provision laid down by regulation specifically provides therefor.

The authorizing officer may grant advances to cover disbursements to be effected by a member of the staff on behalf of the Foundation.

Apart from the imprest accounts referred to in Article 43, no advance may be paid unless it has been approved beforehand by the financial controller.;

32. Article 37 is replaced by the following:

'Article 37

Without prejudice to Article 18a, payment orders shall be sent for prior approval to the financial controller.

The purpose of this prior approval shall be to establish that:

(a) the payment order was properly issued;

(b) the payment order agrees with the commitment of expenditure and that the amount thereof is correct, taking account of the principles and requirements of sound financial management referred to in Article 2;

(c) the expenditure is charged to the correct item;

(d) the appropriations are available;

(e) the supporting documents are in order;

(f) the payee is correctly named and described.;

33. (this amendment to Article 39 does not affect the English text);

34. in Article 42, the second paragraph is replaced by the following:

'The procedure for opening, administering and using such accounts shall be determined by the implementing measures provided for in Article 76. These measures shall, in particular, indicate expenditure the payment of which must necessarily be effected either by cheque or by post office or bank transfer order, and shall receive the joint

signature on cheques and on post office or bank transfer orders of two duly authorized officials, one signature necessarily being that of the accounting officer, an assistant accounting officer, or an administrator of an imprest account.';

35. Article 43 is replaced by the following:

'Article 43

For the payment of certain categories of expenditure, imprest accounts may be set up in accordance with the implementing measures provided for in Article 76.

Only the accounting officer may replenish the imprest accounts, save in exceptional cases defined in the implementing rules of this Regulation.

These measures shall contain specific provisions concerning in particular:

- the appointment of administrators of imprest accounts,
- the nature and maximum amount of each item of expenditure to be incurred,
- the maximum amount of the imprest which may be advanced,
- the time within which supporting documents must be produced,
- the responsibility of the administrators of imprest accounts.';

36. the following section is inserted after Article 43:

'SECTION IIIa

MANAGEMENT OF POSTS

Article 43a

1. The following shall be established:

- (a) a file identifying the posts and containing a job description for each category A post;
- (b) an organization chart showing the organization of the departments detailing the tasks of each administrative unit.

2. If the note "to be abolished" is placed against a post in the statement of revenue and expenditure, it may no longer be filled when the next vacancy arises in the same career.';

37. Article 44 (1) is replaced by the following:

'1. Contracts for the purchase or hiring of buildings or goods, for the provision of services or for the performance of construction work shall be in writing. Apart from contracts relating to the purchase of a building already constructed or to the leasing of a building, all such contracts shall be concluded after an invitation to tender has been issued either by the automatic public tendering procedure or the discretionary tendering procedure.

However, contracts may be made by private treaty in the circumstances referred to in Article 46.

Contracts may be made against invoice or bill of costs in cases provided for in Article 50.';

38. in Article 46, point (a) is replaced by the following:

'(a) where the contract for the purchase or hiring of goods, for the provision of services or for building works involves an amount not exceeding the limit laid down in the implementing rules provided for in Article 126 of the Financial Regulation applicable to the general budget of the Communities, the Foundation being bound, however, as far as possible and by all appropriate means, to enable suppliers who are likely to be able to supply the goods and services in question to compete;';

39. Article 48 is replaced by the following:

'Article 48

Contracts involving amounts exceeding the amount laid down in the implementing rules provided for in Article 126 of the Financial Regulation applicable to the general budget of the Commission shall be subject to the authorization of the Management Board.';

40. in the third paragraph of Article 49, 'exceeding 100 000 units of account' is replaced by: 'exceeding the limit laid down in the implementing rules provided for in Article 126 of the Financial Regulation applicable to the general budget of the Communities';

41. Article 50 is replaced by the following:

'Article 50

Contracts may be made against invoice or bill of costs where the estimated value of the goods, services or works does not exceed the limits laid down by the implementing rules provided for in Article 126 of the Financial Regulation applicable to the general budget of the Communities.';

42. Article 51 is replaced by the following:

'Article 51

When concluding contracts referred to in this Regulation, the Foundation shall comply with the directives adopted by the Council in implementation of the Treaty with respect to public works, supplies and services whenever the amounts involved are equal to or greater than the amounts provided for in those directives.';

43. Article 52 is replaced by the following:

'Article 52

Permanent inventories showing the quantity and value of all movable and immovable property belonging to the Foundation shall be kept in accordance with a model drawn up by the Commission. Only movable property exceeding a specific value laid down in the implementing rules provided for in Article 76 shall be entered in those inventories.

The Foundation shall carry out its own inspection to ascertain that entries in the inventory correspond to the facts.';

44. the first paragraph of Article 54 is replaced by the following:

'A statement or record shall be drawn up by the authorizing officer and authenticated by the financial controller 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.';

45. Article 56 is replaced by the following:

'Article 56

The accounts shall be kept in ecus by the double entry method, on the basis of the calendar year. They shall show all revenue and expenditure for the financial year; they shall be authenticated by supporting documents. They may in addition be kept in the currency of the country where the Foundation has its seat.

The revenue and expenditure account and the balance sheet shall be drawn up in ecus.';

46. Article 57 is replaced by the following:

'Article 57

The chart of accounts shall make a clear distinction between budgetary accounts and cash accounts.

It shall comprise two parts:

- (a) accounts of budgetary expenditure and revenue, which show the detailed implementation of the statement of revenue and expenditure;
- (b) the balance sheet accounts, which disclose the assets of the Foundation.

These accounts shall show the expected effect of the Foundation's legal obligations.

The accounts shall make it possible to draw up an annual balance of assets and a monthly statement of revenue and expenditure by chapter and article.

These statements shall be forwarded to the financial controller, the authorizing officer and the Court of Auditors.';

47. Article 58 is replaced by the following:

'Article 58

Any advance, other than regular advances which are periodically re-examined, shall be entered in a suspense account and settled at the latest during the financial year which follows the payment of this advance.

However, the advances referred to in the second subparagraph of Article 36 (2) shall be settled as a general rule within six weeks following completion of the project for which they were granted.';

48. Article 59 is replaced by the following:

'Article 59

The detailed conditions for the establishment and operation of the chart of accounts for transactions relating both to assets and to the implementation of the budget shall be determined by the implementing rules provided for in Article 76.';

49. in Article 61:

(a) 'receivable orders' is replaced by 'recovery orders'. (A further amendment does not affect the English text);

(b) the following paragraph is added:

'The same shall apply if they neglect to issue payment orders or are, without justification, late in issuing them, thereby rendering the Foundation liable to civil action by third parties.';

50. Article 62 is replaced by the following:

'Article 62

1. Accounting officers and assistant accounting officers shall render themselves liable to disciplinary action and, where appropriate, to payment of compensation as regards payments made by them in disregard of the third paragraph of Article 40.

They shall render themselves liable to disciplinary action and to payment of compensation as regards any loss or deterioration of the monies, assets and documents in their charge where such loss or deterioration result from an intentional mistake or serious negligence on their part.

Under the same conditions, they shall be responsible for the correct execution of orders received by them

in respect of the use and the administration of bank and post office giro accounts, and in particular:

- (a) where the recoveries or payments made by them do not agree with the amounts on the corresponding recovery or payment orders;
- (b) where they effect payment to a party other than the payee entitled.

2. Administrators of advance funds shall render themselves liable to disciplinary action and, where appropriate, to payment of compensation in the following cases:

- (a) where they cannot show due warrant with proper documents for payments made by them;
- (b) where they effect payments to parties other than entitled payees.

They shall be liable to disciplinary action and to payment of compensation in respect of any loss, or deterioration of the monies, assets and documents in their charge where such loss or deterioration results from an intentional mistake or serious negligence on their part.

3. The accounting officer, assistant accounting officers and administrators of advanced funds shall insure themselves against the risks arising under this Article.

The Foundation shall cover the insurance costs relating thereto.;

51. Article 63 is replaced by the following:

'Article 63

The liability to payment of compensation and disciplinary action of authorizing officers, accounting officers, assistant accounting officers and administrators of advance funds may be determined in accordance with the provisions of Regulation No 1860/76.;

52. Article 65 is replaced by the following:

'Article 65

The Management Board shall draw up each year a revenue and expenditure account of the Foundation.

The revenue and expenditure account shall cover all revenue and expenditure transactions relating to the preceding financial year. It shall be submitted in the same form and following the same subdivisions as the statement of revenue and expenditure.

The revenue and expenditure account shall be preceded by an analysis of the financial management in respect of the year in question. For the drawing up of this analysis, the Foundation shall supply details on the realization of the principles and objectives as referred to in Article 2.;

53. Article 66 is replaced by the following:

'Article 66

The revenue and expenditure account shall include the following tables subdivided in accordance with the nomenclature of the Foundation's statement of revenue and expenditure:

1. a table of revenue comprising:

- estimated revenue for the financial year,
- amendments to the revenue estimates as a result of supplementary or amending statements,
- entitlements established in the course of the financial year,
- entitlements still to be collected from the preceding financial year,
- revenue collected during the financial year and revenue carried over pursuant to Article 6 (3),
- amounts still to be collected at the end of the financial year,
- the cancellation of established entitlements.

Statements shall be attached, where appropriate, to this table, showing the balances and gross amounts of the transactions referred to in Article 22;

2. a table showing the movement in appropriations for the financial year, indicating:

- the initial appropriations,
- any amendments to appropriations made by means of transfers,
- any amendments made by means of supplementary or amending statements,
- the final appropriations for the financial year,
- appropriations carried over under Article 6;

3. a table showing the use of the appropriations allocated for the financial year, indicating:

- the commitments entered into and chargeable to the financial year,
- the payments made and chargeable to the financial year,
- the sums still to be paid at the close of the financial year,
- the appropriations carried over pursuant to Article 6,
- cancelled appropriations.

Where appropriate, a statement shall be attached to this table, showing the balances and gross payments arising from the transactions referred to in Article 22;

4. a table showing the use of appropriations carried over from the preceding financial year, indicating:

- the amount of appropriations carried over,
- the payments made from appropriations which have been carried over,
- the unused appropriations to be cancelled.;

54. Article 67 is replaced by the following:

'Article 67

1. The Management Board shall also draw up a balance sheet of assets and liabilities of the Foundation as at 31 December of the preceding financial year.

A statement of accounts showing the movements and balances of the accounts at the same date shall be attached thereto.

The balance sheet shall include, on the assets side, the amount of revenue to be collected and, on the liabilities side, the amount of expenditure chargeable to the financial year, which have not yet been entered in the accounts.

2. These documents shall be submitted to the financial controller.;

55. Article 68 is replaced by the following:

'Article 68

The Management Board shall, by 31 March at the latest, send the revenue and expenditure account, the financial analysis and the balance sheet of the Foundation for the preceding financial year to the European Parliament, the Council, the Commission and the Court of Auditors.;

56. in Article 69, 'Audit Board' is replaced by 'Court of Auditors';

57. in Article 70, 'Audit Board' is replaced by 'Court of Auditors';

58. in Article 71:

(a) 'Audit Board' is replaced by 'Court of Auditors';

(b) the second paragraph is replaced by the following:

'In particular, the Foundation shall place at the disposal of the Court of Auditors all documents concerning the conclusion of contracts and all accounts of cash or materials, all accounting records or supporting documents, and also administrative documents pertaining thereto, all documents relating to revenue and expenditure, all inventories, all lists of posts in the departments, which the Court of Auditors may consider necessary for auditing the revenue and

expenditure account on the basis of records or on the spot and all documents and data created or stored on a magnetic medium.;

(c) the fourth paragraph is replaced by the following:

'The information supplied under (b) may be requested only by the Court of Auditors.;

(d) the seventh paragraph is replaced by the following:

'The grant of aid to beneficiaries outside the Foundation shall be subject to the agreement in writing by the recipients of an audit being carried out by the Court of Auditors on the utilization of the amounts granted.;

59. Article 72 is replaced by the following:

'Article 72

The report of the Court of Auditors established in accordance with Article 206a of the EEC Treaty shall be governed by the following provisions:

1. the Court of Auditors shall transmit to the Foundation and the Commission, by 15 July at the latest, any comments on the accounts and the balance sheet which are, in its opinion, of such a nature that they should appear in the annual reports. These comments must remain confidential. The Foundation shall address its reply to the Court of Auditors and simultaneously to the Commission by 31 October at the latest;
2. the Court of Auditors' report shall contain an assessment of the soundness of financial management;
3. the Court shall take all necessary steps to ensure that the replies of the Foundation to its comments are published immediately following those comments;
4. the Court of Auditors shall transmit to the authorities responsible for giving discharge, to the Foundation and to the Commission, by 30 November at the latest, its annual report accompanied by the replies and it shall ensure publication thereof in the *Official Journal of the European Communities*.;

60. Article 73 is deleted;

61. Article 74 is replaced by the following:

'Article 74

1. The European Parliament, upon a recommendation from the Council acting by a qualified majority, shall, before 30 April of the following year, give a discharge to the Management Board in respect of the implementation of the statement of revenue and expenditure. If that date cannot be met, the Parliament or the Council shall inform the Management Board of the reasons for the postponement.

If the European Parliament postpones the decision giving discharge, the Management Board shall make every effort to take measures, as soon as possible, to facilitate removal of the obstacles to that decision.

2. The discharge decision shall cover the accounts of all revenue and expenditure of the Foundation, the resulting balance and the assets and liabilities of the Foundation shown in the balance sheet. It shall include an assessment of the responsibility of the Management Board's budgetary management over the past financial year.

3. The financial controller shall take account of the comments in the decisions giving discharge.

4. The Management Board shall take all appropriate steps to act on the comments appearing in the decisions giving discharge.

5. By 15 December of the year in which the decision giving discharge is taken, the Foundation shall report on the measures taken in the light of these comments, and, in particular, on the instructions given to those of its departments which are responsible for the implementation of the budget. Such reports shall be transmitted to the European Parliament, the Council, the Commission and the Court of Auditors.

The Foundation must also give an account, in an annex to the revenue and expenditure account for the next financial year, of the measures taken in the light of the comments appearing in the decisions giving discharge.

6. Supporting documents pertaining to the accounts and the preparation of the revenue and expenditure account and the balance sheet shall be kept for a period of five years following the date of the decision giving discharge in respect of the implementation of the statement of revenue and expenditure.

However, the documents relating to transactions not finally closed shall be kept for longer than the said period until the end of the year following the year in which such transactions are finally closed.;

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

Done at Luxembourg, 30 June 1993.

62. Article 75 is replaced by the following:

'Article 75

The Management Board shall inform the Court of Auditors, as soon as possible, of all decisions and rules taken pursuant to Articles 3, 6, 8, 14 and 21.

The Court of Auditors and the financial controller shall be informed of the appointment of authorizing officers, the accounting officer, assistant accounting officers and administrators of advance funds and of the acts of delegation or appointment pursuant to Articles 18, 20 and 43.

The Management Board shall transmit to the Court of Auditors any rules of procedure they adopt in respect of financial matters.;

63. the following Article is inserted:

'Article 75a

Until the entry into force of the implementing rules provided for in Article 126 of the Financial Regulation applicable to the general budget of the Communities, the limit values to be specified for the purposes of Articles 46, 48, 49 and 50 shall be as follows:

- Article 46, point (a): the limit below which contracts may be made by private treaty shall be ECU 10 000,
- Article 48: the limit above which the authorization of the Management Board shall be required shall be ECU 35 000,
- third paragraph of Article 49: the threshold for compulsory security shall be ECU 250 000,
- Article 50: the limits below which contracts may be made against invoice or bill of costs shall be ECU 750 and 2 000 respectively for expenditure away from the Foundation.'

Article 2

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

For the Council
The President
S. BERGSTEIN

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL RECOMMENDATION

of 30 June 1993

on access to continuing vocational training

(93/404/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 128 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the first principle established by Council Decision 63/266/EEC of 2 April 1963 laying down general principles for implementing a common vocational training policy ⁽⁴⁾ states that every person should receive adequate training, with particular reference to the need to promote basic and advanced vocational training and, where appropriate, retraining suitable for the various stages of working life, and the need to offer to every person, by means of permanent facilities for vocational advancement, the opportunity to gain promotion or to receive instruction for a new and higher level of activity;

Whereas, under the terms of Decision 63/266/EEC, it is the responsibility of the Member States and the

competent institutions of the Community to apply such general principles within the framework of the Treaty;

Whereas the development of human resources by means of vocational training is one of the essential elements in increasing the competitiveness of the European economy; whereas, as affirmed by the European Council meeting in Hanover on 27 and 28 June 1988, the achievement of the Single Market must be accompanied by increased access to continuing training;

Whereas technological developments, their impact on employees' skills and the growth of unemployment make it necessary to develop access to continuing vocational training;

Whereas point 15 of the Community Charter of the fundamental social rights of workers, adopted by the Heads of State and Government of 11 Member States at the European Council meeting in Strasbourg on 9 December 1989, states in particular that:

'Every worker of the European Community must be able to have access to vocational training and to benefit therefrom throughout his working life. In the conditions governing access to such training there may be no discrimination on grounds of nationality.'

The competent public authorities, undertakings or the two sides of industry, each within their own sphere of competence, should set up continuing and permanent training systems enabling every person to undergo retraining, more especially through leave for training purposes, to improve his skills or to acquire new skills, particularly in the light of technical developments.'

⁽¹⁾ OJ No C 23, 27. 1. 1993, p. 8.

⁽²⁾ OJ No C 150, 31. 5. 1993.

⁽³⁾ OJ No C 129, 10. 5. 1993, p. 57.

⁽⁴⁾ OJ No 63, 20. 4. 1963, p. 1338/63.

Whereas vocational training remains of constant concern to both employers and workers in the context of the dialogue between the two sides of industry ⁽¹⁾;

Whereas the Economic and Social Committee adopted a report on 22 October 1992 on vocational training as a means of promoting vocational qualifications and a strategic instrument for the economic and social development of the European Community;

Whereas on 21 April 1993 the European Parliament adopted an own-initiative report on vocational training policy in the European Community for the 1990s, in which the subject of access to continuing training is considered;

Whereas transnational cooperation measures have been undertaken at Community level ⁽²⁾;

Whereas demographic trends will significantly reduce the number of young people entering the Community labour

⁽¹⁾ See following texts:

- joint opinion of 6 March 1987 on training and motivation, information and consultation,
- joint opinion of 13 February 1990 on the creation of a European occupational and geographical mobility area and improving the operation of the labour market in Europe,
- joint opinion of 19 June 1990 on basic education and initial, vocational and adult training,
- joint opinion of 21 September 1991 on ways of facilitating the broadest possible effective access to training opportunities,
- agreement of 31 October 1991 between the two sides of industry at European level,
- European Framework Agreement of 6 September 1990 between the European Trade Union Confederation (ETUC) and the European Centre of Public Enterprises (CEEP) on training in public enterprises.

⁽²⁾ See following texts:

- Council Decision 90/267/EEC of 29 May 1990 establishing an action programme for the development of continuing vocational training in the European Community (Force) (OJ No L 156, 21. 6. 1990, p. 1),
- Council Decision 89/657/EEC of 18 December 1989 establishing an action programme to promote innovation in the field of vocational training resulting from technological change in the European Community (Eurotecnet) (OJ No L 393, 30. 12. 1989, p. 29), both as amended by Decision 92/170/EEC (OJ No L 75, 21. 3. 1992, p. 51),
- Council Decision 89/27/EEC of 16 December 1988 adopting the second phase of the programme on cooperation between universities and industry regarding training in the field of technology (Comett II) (OJ No L 13, 17. 1. 1989, p. 28),
- Council Decision 91/387/EEC of 22 July 1991 amending Decision 87/569/EEC concerning an action programme for the vocational training of young people and their preparation for adult and working life (Petra) (OJ No L 214, 2. 8. 1991, p. 69),
- Council Regulation (EEC) No 4255/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Social Fund (OJ No L 374, 31. 12. 1988, p. 21).

market, which, together with changes in the working environment, must lead to an updating and greater adaptation of skills among the working population;

Whereas it has been noted throughout the Community that the problems faced by women in gaining access to employment are largely attributable to their limited access to vocational training; whereas particular attention must be devoted to ensuring that women have effective access to continuing vocational training; whereas the increase in the number of working women should also be taken into account ⁽³⁾;

Whereas cooperation in the field of continuing vocational training should also be based on existing provisions in force in the Member States, while respecting the diversity of national legal systems and practices, the powers under national law of the parties concerned and contractual autonomy; whereas the initiatives taken at national level by the Member States and the two sides of industry are many and varied; whereas it appears, as regards the Community Charter of the fundamental social rights of workers, and taking into account the international dimension of the action, that they should be supported at Community level; whereas, finally, it is essential to encourage a synergy of resources and promote partnerships between the public and private sectors;

Whereas the Advisory Committee on Vocational Training has been consulted; whereas it has recognized the strategic importance of the question of continuing vocational training in undertakings, for the Member States and for the Community, and the necessity for the Community to be seen to play an active role in this area,

- I. RECOMMENDS that Member States, taking into account the resources available and the respective responsibilities of the competent public authorities, undertakings and the two sides of industry, while respecting the diversity of national legal systems and/or practices, gear their vocational training policies to ensuring that every worker of the Community must be able to have access to continuing vocational training without any form of discrimination and to benefit therefrom throughout his or her working life;
- II. RECOMMENDS that, in order to provide easy access for as many employees as possible, Member States:
 1. raise awareness among undertakings about the links between workers' skills and the competitiveness of undertakings to encourage them to give priority to improving the quality and skills of their employees and to establish

⁽³⁾ Commission of the European Communities: *Employment in Europe* (1992).

training plans and programmes appropriate to their size and business objectives, making their managers aware of requirements in this respect and informing them accordingly.

These plans and programmes may be established by taking into account available human and financial resources, the organization of work, future skill requirements, the need to anticipate industrial and technological change and the transnational dimension of continuing vocational training;

2. make provision for specific incentives and technical support measures for small and medium-sized undertakings.

These could include, for example, assistance with regard to advice on training and assistance with regard to analysis of training needs;

3. encourage undertakings to give impetus to the continuing vocational training necessary for their development, taking account of the particular situation of the employees of the undertakings, particularly in order to promote, where appropriate, the measures described below;
4. make provision for specific incentives and technical support measures which are appropriate, necessary and adequate for undertakings facing industrial change, in order to encourage vocational training and retraining for their employees;
5. develop continuing vocational training in order to make it an important feature of regional and local development, taking into account the specific needs of employees and undertakings;

support the establishment of partnerships, particularly at regional or local level, to analyse the requirements of undertakings and employees and to provide up-to-date information on training opportunities in order to match supply and demand as closely as possible;

6. impress on employers that they should inform their employees as soon as possible and, if necessary, at the time of their recruitment, about the undertaking's policy and activities in the field of continuing vocational training and staff development and about the terms of access to continuing vocational training, including the possibility of being assigned non-active status for the purpose of continuing vocational training;

7. support initiatives which enable workers who so desire to assess their continuing vocational training needs.

This assessment should be carried out within or outside the undertaking and/or in partnership with specialized institutions.

The use of the results must be confidential;

8. encourage the information and consultation of employees' representatives or, in the absence of such representatives, the employees themselves on the development and implementation of the training plans and programmes of the undertaking concerned;
9. make employees and undertakings more aware of the importance of continuing vocational training leading to qualifications relevant to the employment market.

To this end, it should be ensured that training is not directed specifically towards the post in question alone but that it provides the means of anticipating and mastering developments in production systems and the organization of work in order to strengthen the competitiveness of undertakings and improve employees' job prospects;

10. encourage the development of the most suitable teaching and learning methods in continuing vocational training which will facilitate access to continuing vocational training for employees, e.g. methods of self-training on the job, distance learning, media-assisted learning, etc;
11. help less-qualified employees, whatever their status, to benefit from continuing vocational training measures enabling them to achieve a basic level of qualification and giving them the basis for mastery of new technologies.

Particular attention should be paid to providing access to continuing training for employees or groups of employees who have not benefited from training for a certain length of time or who have limited opportunities for employment and job prospects;

12. encourage access for, and effective participation by, women in continuing vocational training.

This may in particular help to open up new professional fields to women and encourage the resumption of a professional activity after a break in such activity;

13. promote access to continuing vocational training for young people with a vocational qualification or work experience, whatever their level of skills, and encourage their participation therein, in order to enable them to realise their full potential and acquire skills for the present and the future;
 14. encourage access to, and participation in, continuing vocational training by the unemployed.

Particular attention should be paid to the long-term unemployed with inadequate and/or unsuitable qualifications, in order to improve their occupational integration or reintegration.

The continuing vocational training of the unemployed which involves action by undertakings is particularly suited to promoting reintegration into the labour market;
 15. encourage, in policies on access to continuing vocational training, a transnational dimension, in particular to assist the free movement of workers;
- III. 1. INVITES the Commission to reinforce cooperation with Member States and the two sides of industry, in particular within the Advisory Committee on Vocational Training, in order to support the implementation of point II;
2. INVITES the Commission to this end, in concert with the Member States and by utilizing the existing Community action programmes and initiatives in the field of training including, where appropriate, the European Social Fund, and specialized bodies within the Community such as the European Centre for the Development of Vocational Training (Cedefop), to:
- (a) disseminate and add to the body of comparative information on continuing vocational training systems, including existing provisions and methods for integrating young job-seekers and the long-term unemployed into the labour market;
 - (b) facilitate suitable exchanges of experience in and methods for significant innovations in continuing training;
- (c) support transfers of know-how between Member States, which are important for implementing point II, by means of transnational partnerships and networks, especially for the benefit of regions, sectors, types of undertaking and groups of employees for whom access to continuing training is least developed;
3. Also INVITES the Commission to support moves by both sides of industry at Community level, within the dialogue between them, to discuss access to continuing training in greater depth; such dialogue could, if the two sides consider it desirable, lead to relations based on agreement;
- IV. 1. INVITES Member States to provide the Commission, three years after the date of adoption of this recommendation, with a report setting out the measures taken under the terms of points I and II;
2. INVITES the Commission:
- (a) on the basis of the reports from the Member States and the results of the dialogue between the two sides of industry, to draw up an assessment report on progress made on the basis of the recommendation in points I and II in the sphere of access to continuing vocational training in the Community;
 - (b) to submit this assessment report, not later than one year after the date referred to in point IV.1, to the Advisory Committee on Vocational Training;
3. INVITES the Commission to submit this report to the European Parliament, the Council and the Economic and Social Committee and to send it to the two sides of industry at Community level.

Done at Luxembourg, 30 June 1993.

For the Council
The President
S. BERGSTEIN