



FUSION FOR ENERGY

The European Joint Undertaking for ITER and the Development of Fusion Energy

THE GOVERNING BOARD

DECISION OF THE GOVERNING BOARD OF THE EUROPEAN JOINT UNDERTAKING FOR ITER AND THE DEVELOPMENT OF FUSION ENERGY ADOPTING THE FINANCIAL REGULATION

THE GOVERNING BOARD OF THE EUROPEAN JOINT UNDERTAKING FOR ITER
AND THE DEVELOPMENT OF FUSION ENERGY,

Having regard to the Council Decision (EURATOM) No 198/2007 of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy (hereinafter "the Joint Undertaking") and conferring advantages upon it¹ (hereinafter "the Constituent instrument") and in particular Article 5 thereof;

Having regard to the Statutes annexed to the Constituent instrument (hereinafter "the Statutes") and in particular Article 6(3)(h), Article 13, and Annex III thereof;

Having regard to the Council Regulation (EC, EURATOM) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities² (hereinafter "the general Financial Regulation");

Having regard to the Commission Regulation (EC, EURATOM) No 2343/2002, on the framework Financial Regulation for the bodies referred to in Article 185 of the general Financial Regulation³;

Having regard to the positive opinion of the Commission of 29 October 2007⁴,

Whereas:

- (1) The Joint Undertaking set up to carry out certain Community activities in the field of fusion energy research has a legal personality and hence should have its own budget governed by the specific financial rules.
- (2) The main task of the Joint Undertaking should be to discharge certain international commitments of Euratom in the field of fusion energy research, in particular to provide the components and services for experimental purposes to ITER Organisation under the Agreement on the Establishment of the ITER International Fusion Energy Organisation for the Joint Implementation of the ITER Project⁵ (hereinafter "the ITER Agreement") and to Japan for Broader Approach Activities under the Agreement for

¹ OJ L 90, 30.3.2007, p. 58.

² OJ L 248, 15.09.2002, p.1. Regulation as last amended by Regulation 1995/2006/EC/Euratom (OJ L 390, 30.12.2006)

³ OJ L 357, 31.12.2002, p.72

⁴ C(2007) 5200

⁵ OJ L 358, 16.12.2006, p. 62

the Joint Implementation of the Broader Approach Activities⁶ (hereinafter "the Broader Approach Agreement with Japan") as well as to implement progressively programme of activities in preparation for demonstration fusion reactors.

- (3) The Joint Undertaking should have a distinct financial regulation based on the principles of the framework Financial Regulation, which may depart from the latter where the specific operating needs of the Joint Undertaking so require and subject to prior consultation with the Commission.
- (4) Like the general Financial Regulation, this Regulation confines itself to setting out the broad and basic rules governing the whole of the budgetary cycle, while detailed implementing provisions should subsequently be adopted by the Governing Board of the Joint Undertaking (hereinafter "the Governing Board").
- (5) For the purpose of establishing and implementing the budget, the fundamental budgetary principles of unity, budgetary accuracy, annuality as well as the principle of equilibrium, unit of account, universality, specification, sound financial management and transparency should be reasserted.
- (6) Given the high cost and the duration of some individual legal commitments, in particular for the implementation of the ITER Project and notwithstanding the principle of annuality, the commitment appropriations covering the total cost of the legal commitments may be made in annual instalments.
- (7) To ensure the overall implementation of the Joint Undertaking's tasks and activities, in particular the implementation of the ITER Project, the cancelled commitment appropriations should be entered in the estimate of revenue and expenditure of the following financial years.
- (8) It is necessary to define the powers and responsibilities of the accounting officer, the internal auditor and authorising officers.
- (9) The internal audit function within the Joint Undertaking should be performed by its own internal audit service in accordance with Article 5(2) of the Constituent instrument.
- (10) To facilitate the execution of the requests for payment of the Community contributions to the Joint Undertaking, the Joint Undertaking should agree with the Commission terms and intervals of such requests.
- (11) In accordance with Annex III point 9 of the Statutes, the specific operating needs of the Joint Undertaking stemming, in particular, from the contribution of high technological and experimental components and services under the terms of international agreements and associated procedures, require that the Joint Undertaking should apply specific provisions for the award of contracts related to the implementation of its tasks referred to in Article 1(2) of the Constituent instrument.

These procurement provisions, laid down in this Regulation and the detailed rules for implementing this Regulation to be adopted by the Governing Board, partly depart

⁶ OJ L 246 of 21.09.2007, p.32.

from the relevant provisions laid down in the general Financial Regulation and the rules implementing that Regulation.

For the award of contracts other than those implementing the tasks referred to in Article 1(2) of the Constituent instrument, the relevant provisions of the general Financial Regulation and its implementing rules should apply.

- (12) As regards grants, the Joint Undertaking may award grants in furtherance of its tasks and activities under the rules that should observe the same requirements as the Community institutions in the award of public grants.
- (13) Like the Community institutions, the Joint Undertaking may, for the performance of the tasks entrusted to them, employ external private sector bodies only where necessary and not for tasks involving any public service mission or any use of discretionary powers of judgment, in order to guarantee that the Joint Undertaking is accountable for the implementation of its budget and adheres to the objectives assigned to it on its creation.
- (14) In accordance with Article 11 and Annex III of the Statutes, the specific multi-annual nature of the tasks of the Joint Undertakings requires the establishment of a project plan and resource estimates plan.
- (15) The timetable for establishing the budget, presenting the accounts and granting the discharge should be aligned with the equivalent provisions of the general Financial Regulation.
- (16) The accounting rules of the Joint Undertaking should allow for the consolidation of its accounts with the accounts of the Community institutions, and, to this end, they should be adopted by the Commission's accounting officer in accordance with the relevant provisions of the general Financial Regulation.
- (17) The Joint Undertaking should have access to the panel referred to in the general Financial Regulation set up by the Commission to examine irregularities so that a similar assessment might be made of identical cases.
- (18) The Court of Auditors should scrutinise the accounts of the Joint Undertaking and the European Parliament should give a discharge for the implementation of the budget of the Joint Undertaking on the recommendation of the Council.

HAS ADOPTED THIS DECISION:

TITLE I

SUBJECT MATTER

Article 1

This Decision (hereinafter "the Financial Regulation" or "this Regulation") spells out the essential financial rules of the Joint Undertaking for the establishment, implementation, accounting and discharge of the Joint Undertaking's budget.

Article 2

For the purposes of this Decision:

1. "Joint Undertaking" shall mean the European Joint Undertaking for ITER and the Development of Fusion Energy established by the Constituent instrument;
2. "Governing Board" shall mean the main body of the Joint Undertaking taking decisions on financial and budgetary matters;
3. "Director" shall mean the person responsible for implementing the decisions of the Governing Board and the Joint Undertaking's budget as authorising officer;
4. "Constituent instrument" shall mean the Council Decision (Euratom) No 198/2007 of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it⁷;
5. "Statutes" shall mean the Statutes of the Joint Undertaking annexed to the Constituent instrument;
6. "Budgetary authority" shall mean the European Parliament and the Council of the European Union;
7. "General budget" shall mean the general budget of the European Union;
8. "Host state" shall mean the Kingdom of Spain (Spain) as the host country of the Joint Undertaking;
9. "ITER host state" shall mean the French Republic as the host country of the ITER International Fusion Energy Organisation for the Joint Implementation of the ITER Project;

⁷ OJ L 90, 30.3.2007, p. 58.

- 10. "Projects of the Joint Undertaking" shall mean the ITER Project and any other projects implemented by the Joint Undertaking in accordance with its tasks and activities;
- 11. "Member(s)" shall mean the Member(s) of the Joint Undertaking as referred to in Article 2 of the Constituent instrument;
- 12. "Economic operator" shall mean a natural or legal person or public body offering the execution of work and/or supplies and/or services.

TITLE II

BUDGETARY PRINCIPLES

Article 3

The establishment and implementation of the budget of the Joint Undertaking (hereinafter "the budget") shall comply with the principles of unity, budgetary accuracy, annuality, equilibrium, unit of account, universality, specification and sound financial management which requires effective and efficient internal control and transparency as provided for in this Regulation.

CHAPTER 1

PRINCIPLES OF UNITY AND OF BUDGET ACCURACY

Article 4

The budget is the instrument which, for each financial year, forecasts and authorises the revenue and expenditure considered necessary for the Joint Undertaking.

Article 5

- 1. The budget shall comprise:
 - a) revenue made up of Euratom (hereinafter "the Community") contribution as a participation in the financing of the Joint Undertaking in accordance with Article 4 of the Constituent instrument and Article 12 of the Statues;
 - b) revenue made up of annual membership contributions from other members than Euratom in accordance with Article 4 of the Constituent instrument and Article 12 and Annex II of the Statutes;

- c) revenue made up of financial contributions of the ITER host state in accordance with Article 4 of the Constituent instrument and Article 12 of the Statutes;
 - d) own revenue consisting of all fees and charges which the Joint Undertaking is authorised to collect by virtue of the tasks entrusted to it;
 - e) revenue assigned to specific items of expenditure in accordance with Article 19(1);
 - f) revenue made up of additional resources received under terms approved by the Governing Board in accordance with Article 12 of the Statutes;
 - g) any other revenue;
 - h) the expenditure of the Joint Undertaking, including administrative expenditure.
2. Any in-kind contributions to the Joint Undertaking shall be annexed to the budget.

Article 6

1. No revenue shall be collected and no expenditure effected unless booked to a heading in the budget.
2. Any appropriation must not be entered in the budget if it is not for an item of expenditure considered necessary.
3. No expenditure may be committed or authorised in excess of the appropriations authorised by the budget.

CHAPTER 2

PRINCIPLE OF ANNUALITY

Article 7

The appropriations entered in the budget shall be authorised for one financial year which shall run from 1 January to 31 December.

Article 8

1. The budget shall contain non-differentiated appropriations and differentiated appropriations.

The latter shall consist of commitment appropriations and payment appropriations.

2. Commitment appropriations shall cover the total cost of the legal commitments entered into during the current financial year.
3. Payment appropriations shall cover payments made to honour the legal commitments entered into in the current financial year and/or earlier financial years.
4. Administrative appropriations shall be non-differentiated. Administrative expenditure arising from contracts covering periods that extend beyond the financial year, either in accordance with local practice or relating to the supply of equipment, shall be charged to the budget of the financial year in which it is effected.
5. Paragraphs 1 and 2 shall not prevent appropriations to be committed globally nor in annual instalments.

Article 9

1. The revenue of the Joint Undertaking referred to in Article 5 shall be entered in the accounts for the financial year on the basis of the amounts collected during the financial year.
2. The revenue of the Joint Undertaking shall give rise to an equivalent amount of payment appropriations.
3. The appropriations authorised in the budget for a given financial year may be used solely to cover expenditure committed and paid in that financial year, and to cover amounts due against commitments from preceding financial years.
4. Commitments shall be entered in the accounts on the basis of the legal commitments entered into up to 31 December.
5. Payments shall be entered in the accounts for a financial year on the basis of the payments effected by the accounting officer by 31 December of that year at the latest.

Article 10

1. Appropriations which have not been used at the end of the financial year for which they were entered shall be cancelled. Given the needs of the Joint Undertaking, the cancelled appropriations shall be entered in the estimate of revenue and expenditure of the following financial years, in accordance with Article 28.

However, appropriations may, by decision of the Governing Board taken not later than 15 February, be carried over to the next financial year only, in accordance with the paragraphs 2 to 7.

2. Appropriations relating to staff expenditure may not be carried over.
3. Commitment appropriations and non-differentiated appropriations not yet committed at the close of the financial year may be carried over in respect of amounts corresponding to commitment appropriations for which most of the preparatory

stages of the commitment procedure have been completed by 31 December; these amounts may then be committed up to 31 March of the following year.

4. Payment appropriations may be carried over in respect of amounts needed to cover existing commitments or commitments linked to commitment appropriations carried over, when the appropriations provided for the relevant headings in the budget for the following financial year do not cover requirements. The Joint Undertaking shall first use the appropriations authorised for the current financial year and shall not use the appropriations carried over until the former are exhausted.
5. Non-differentiated appropriations corresponding to obligations duly contracted at the close of the financial year shall be carried over automatically to the following financial year only.
6. Appropriations carried over which have not been committed by 31 March of the following year shall be automatically cancelled. Given the needs of the Joint Undertaking, the cancelled appropriations shall be entered in the estimate of revenue and expenditure of the following financial years, in accordance with Article 28.

Appropriations carried over in this way shall be identified in the accounts.

7. The appropriations available at 31 December arising from the assigned revenue referred to in Article 19 shall be carried over automatically.

The appropriations available corresponding to assigned revenue carried over shall be used first.

Article 11

Where amounts are decommitted, as a result of total or partial non-implementation of the actions for which they were earmarked, in any financial year after that in which the appropriations were committed, the appropriations concerned shall be cancelled. Given the needs of the Joint Undertaking, the cancelled appropriations shall be entered in the estimate of revenue and expenditure of the following financial years, in accordance with Article 28.

Article 12

The appropriations entered in the budget may be committed with effect from 1 January, once the budget has become definitive.

Article 13

1. As from 15 November of each year, routine administrative expenditure may be committed in advance against the appropriations provided for the following financial year. Such commitments may not, however, exceed one quarter of the appropriations decided by the Governing Board on the corresponding budget line for the current financial year. They may not apply to new expenditure of a kind not yet approved in principle in the last budget duly adopted.

2. Expenditure which shall be paid in advance, for example rents, may give rise to payments from 1 December onwards to be charged to the appropriations for the following financial year. In this case, the limit referred to in paragraph 1 shall not apply.

Article 14

1. If the budget has not become definitive at the beginning of the financial year, the following rules shall apply to commitment and payment of expenditure which it has been possible to book to a specific heading in the budget as part of implementation of the last budget duly adopted.
2. Commitments may be made per chapter up to a maximum of one quarter of the total appropriations authorised in the chapter in question for the previous financial year, plus one twelfth for each month which has elapsed.

Payments may be made monthly per chapter up to a maximum of one twelfth of the appropriations authorised in the chapter in question for the previous financial year.

The limit of the appropriations provided for in the statement of estimates of revenue and expenditure may not be exceeded.

3. At the request of the Director, if the continuity of action by the Joint Undertaking and management needs so require, the Governing Board may simultaneously authorise two or more provisional twelfths for both commitments and payments over and above those automatically made available by the provisions of paragraphs 1 and 2.

The additional twelfths shall be authorised in full and shall not be divisible.

CHAPTER 3

PRINCIPLE OF EQUILIBRIUM

Article 15

1. The budget revenue and payment appropriations referred to in Article 5 shall be in balance.
2. Commitment appropriations may not exceed the relevant Euratom contribution available through the Community research and training programmes adopted pursuant to Article 7 of the Treaty, plus annual membership contributions from other members than Euratom, revenue from the contribution from ITER-host state and any other revenue referred to in Article 5.
3. The Joint Undertaking may grant or raise loans in accordance with Article 4 and Annex III point 4 of the Statutes.

4. In its payment requests to Euratom, the Joint Undertaking shall submit detailed and updated forecasts on its real cash requirements throughout the year.

Article 16

1. If the balance of the outturn account within the meaning of Article 117 is positive, it shall be repaid to the Commission up to the amount of the Community contribution paid during the financial year. The part of the balance exceeding the amount of the Community contribution paid during the financial year shall be entered in the budget for the following financial year as revenue.

The difference between the Community contribution entered in the general budget and that actually paid to the Joint Undertaking shall be cancelled.

2. If the balance of the outturn account provided for in Article 117 is negative, it shall be entered in the budget for the following financial year.
3. The revenue or payment appropriations shall be entered in the budget during the budgetary procedure using the letter of amendment procedure or, while budget implementation is under way, by means of an amending budget.

CHAPTER 4

PRINCIPLE OF UNIT OF ACCOUNT

Article 17

The budget shall be drawn up and implemented in euro and the accounts shall be presented in euro.

However, for cash-flow purposes, the accounting officer and, in the case of imprest accounts, imprest administrators shall be authorised to carry out operations in national currencies.

CHAPTER 5

PRINCIPLE OF UNIVERSALITY

Article 18

Total revenue shall cover total payment appropriations, subject to Article 19. All revenue and expenditure shall be entered in full without any adjustment against each other, subject to Article 21.

Article 19

1. The following items of revenue shall be used to finance specific items of expenditure:
 - a) revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts, bequests, voluntary contributions or other donations;
 - b) contributions to the activities or projects of the Joint Undertaking from its Member(s), non-member countries or miscellaneous bodies, in so far as this is provided for in the agreement concluded between the Joint Undertaking and the Member, non-member countries or bodies in question;
 - c) revenue from third parties in respect of goods, services or work supplied at their request with exception of fees and charges referred to in Article 5 (d);
 - d) revenue arising from the repayment of amounts wrongly paid;
 - e) proceeds from the supply of goods, services and works for the Community institutions or Community bodies;
 - f) proceeds from the sale of vehicles, equipment, installations, materials, and scientific and technical apparatus which are being replaced or scrapped when the book value is fully depreciated;
 - g) insurance payments received;
 - h) revenue from payments connected with lettings;
 - i) revenue from the sale of publications and films, including those on an electronic medium.
2. All items of revenue within the meaning of paragraph 1 shall cover all direct or indirect expenditure incurred by the activity, project or purpose in question.
3. The budget shall carry items to accommodate the categories of assigned revenue referred to in paragraph 1 and wherever possible shall indicate the amount.

Article 20

1. The Director may accept any donation made to the Joint Undertaking, such as voluntary contributions, foundations, subsidies, gifts and bequests.
2. The value of voluntary contributions in-kind shall be determined by the Joint Undertaking.
3. Acceptance of donations shall be subject to the prior authorisation of the Governing Board, which shall take a decision within two months of the date on which the request is submitted to it. If the Governing Board fails to take a decision within that period, the donation shall be deemed accepted.

Article 21

1. The cases where certain amounts may be deducted from requests for payment, invoices or statements, which shall then be passed for payment of the net amount shall be as follows:
 - a) enforceable court or arbitration order;
 - b) cases where contractual provisions entitle to do so;
 - c) discounts, refunds and rebates on individual invoices and payment requests.
2. The cost of products or services provided to the Joint Undertaking shall be charged to the budget for the full ex-tax amount, where they incorporate taxes refunded:
 - a) either by the Members pursuant to the Protocol on the Privileges and Immunities of the European Communities that applies to the Joint Undertaking or pursuant the advantages provided for in Annex III to the Euratom Treaty conferred on the Joint Undertaking;
 - b) or, in addition, by a Member or non-member country on the basis of other relevant agreements.

Any national taxes temporarily borne by the Joint Undertaking under the first subparagraph shall be entered in a suspense account until they are refunded by the State concerned.

3. Any negative balance shall be entered in the budget as expenditure.
4. Adjustments may be made in respect of exchange differences occurring in the implementation of the budget. The final gain or loss shall be included in the balance for the financial year.

CHAPTER 6

PRINCIPLE OF SPECIFICATION

Article 22

The appropriations in their entirety shall be earmarked for specific purposes by title and chapter; the chapters shall be further subdivided into articles and items.

Article 23

1. The Director may make transfers from one chapter to another and from one article to another without limit and from one title to another up to a maximum of 10 % of the appropriations for the financial year shown on the line from which the transfer is made.

2. Beyond the limit referred in the first paragraph, the Director may propose to the Governing Board transfers of appropriations from one title to another. The Governing Board shall have four weeks in which to oppose such transfers; after this time-limit they shall be deemed to be adopted. In cases of urgency, the Director may shorten the time-limit to at least five working days.
3. Proposals for transfers and transfers carried out under paragraphs 1 and 2 shall be accompanied by appropriate and detailed supporting documents showing the implementation of appropriations and estimates of requirements up to the end of the financial year, both for the headings to be credited and for those from which the appropriations are drawn.
4. The Director shall inform the Governing Board as soon as possible of all transfers made.

Article 24

1. Appropriations may be transferred only to budget items for which the budget has authorised appropriations or carries a token entry (p.m.).
2. Appropriations corresponding to assigned revenue may be transferred only if they are used for the purpose to which the revenue is assigned.

CHAPTER 7

PRINCIPLE OF SOUND FINANCIAL MANAGEMENT

Article 25

1. Budget appropriations shall be used in accordance with the principle of sound financial management, that is to say, in accordance with the principles of economy, efficiency and effectiveness.
2. The principle of economy requires that the resources used by the Joint Undertaking for the pursuit of its tasks and activities shall be made available in due time, in appropriate quantity and quality and at the best price.

The principle of efficiency is concerned with the best relationship between resources employed and results achieved.

The principle of effectiveness is concerned with attaining the specific objectives set and achieving the intended results.

3. Specific, measurable, achievable, relevant and timed objectives shall be set for all chapters of activity covered by the budget. Achievement of those objectives shall be monitored by performance indicators for each activity and information shall be

provided to the Governing Board by the Director. This information shall be provided annually and at the latest in the documents accompanying the draft budget.

4. In order to ensure optimal decision-making, the Director shall regularly carry out *ex ante* and *ex post* evaluations of its programmes or activities. Such evaluations shall be applied to all programmes and activities which entail significant spending and evaluation results shall be sent to the Governing Board.

Article 26

1. The budget shall be implemented in compliance with effective and efficient internal control.
2. For the purposes of the implementation of the budget, internal control is defined as a process applicable at all levels of management and designed to provide reasonable assurance of achieving the following objectives:
 - a) effectiveness, efficiency and economy of operations;
 - b) reliability of reporting;
 - c) safeguarding of assets and information;
 - d) prevention and detection of fraud and irregularities;
 - e) adequate management of the risks relating to the legality and regularity of the underlying transactions taking into account the multi-annual character of programmes as well as the nature of the payments concerned.

CHAPTER 8

PRINCIPLE OF TRANSPARENCY

Article 27

1. The budget shall be drawn up and implemented and the accounts presented in compliance with the principle of transparency.
2. A summary of the budget and of amending budgets shall be published in the *Official Journal of the European Union* within three months following the date on which they become definitive.
3. The budget and amending budgets, as became definitive, shall be transmitted for information to the budgetary authority, the Court of Auditors and the Commission and shall be published on the official internet website of the Joint Undertaking within two months following the date on which they become definitive.

4. The Joint Undertaking shall make available, in an appropriate manner, information on the beneficiaries of funds deriving from its budget. This information shall be made available with due observance of the requirements of confidentiality and security, in particular the protection of personal data as laid down in Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2001⁸.

TITLE III

ESTABLISHMENT AND STRUCTURE OF THE BUDGET

CHAPTER 1

ESTABLISHMENT OF THE BUDGET

Article 28

1. The budget shall be established in accordance with the provisions of the Constituent instrument and the Statutes of the Joint Undertaking.
2. The Director shall prepare the estimate of the revenue and expenditure of the Joint Undertaking for the following year and shall send it to the Governing Board and to the Commission with the resource estimates plan and project plan referred to in Article 30 and adopted in the preceding year, by 31 March each year at the latest.

By the date referred to in subparagraph 1 the Director shall communicate to the ITER host state the estimated amount of its contribution together with the general guidelines underlying that estimate. The Director shall also by the same date communicate to the Members other than Euratom the estimated provisional amount of their individual annual membership contributions calculated in accordance with Annex II to the Statutes.

3. The estimate of revenue and expenditure of the Joint Undertaking shall include:
 - a) an establishment plan setting the number of permanent and temporary posts authorised within the limits of the budget appropriations, by grade and by category;
 - b) where there is a change in the number of persons in post, a statement justifying the request for new posts;
 - c) a quarterly estimate of cash payments and receipts;

- d) information on the achievement of all previously set objectives for the various activities as well as new objectives measured by indicators; evaluation results shall be consulted and referred to as evidence of the likely merits of a proposed budget amendment.
4. As part of the procedure for adopting the general budget, the Commission shall send the Joint Undertaking's statement of estimates to the budgetary authority and propose the amount of the contribution to the Joint Undertaking and the number of staff it considers that the Joint Undertaking needs.
 5. The budgetary authority shall adopt the establishment plan of the Joint Undertaking and any subsequent amendment thereto in accordance with Article 34(1).
 6. The Governing Board shall adopt the budget normally before the end of the previous financial year.

It becomes definitive after final adoption of the general budget setting the amount of the Community contribution and the establishment plan. If necessary the budget and the establishment plan shall be adjusted accordingly.

Article 29

Any amendment to the budget, including to the establishment plan, shall be the subject of an amending budget adopted by the same procedure as the initial budget, in accordance with the provisions of the Statutes and Article 28.

Article 30

1. In accordance with Article 11 and Annex III point 5(b) and (c) of the Statutes, the Director shall prepare and submit to the Governing Board the resource estimates plan and the project plan to be adopted together with the budget.
2. The project plan shall *inter alia* include:
 - a) a statement on the aims and activities of the Joint Undertaking for the following five years;
 - b) a description of the status of the activities and projects of the Joint Undertaking containing the necessary information on changes occurred since the last previous version;
3. The resource estimates plan shall *inter alia* include:
 - a) overall cost estimates for the entire duration of the projects of the Joint Undertaking;
 - b) forecast of annual expenditure of the Joint Undertaking for the following five financial years;

- c) estimates of income, expenditure and staffing of the Joint Undertaking for the following two financial years.

CHAPTER 2

STRUCTURE AND PRESENTATION OF THE BUDGET

Article 31

The budget shall comprise a statement of revenue and a statement of expenditure.

Article 32

The statement of expenditure shall be set out on the basis of a nomenclature with a classification by purpose. This nomenclature shall be determined by the Joint Undertaking and shall make a clear distinction between administrative appropriations and operational appropriations.

Article 33

The budget shall show:

1. In the statement of revenue:
 - a) the estimated revenue of the Joint Undertaking for the financial year in question;
 - b) the estimated revenue for the preceding financial year and the revenue for the second preceding year;
 - c) appropriate remarks on each revenue line.
2. In the statement of expenditure:
 - a) the commitment and payment appropriations for the financial year in question;
 - b) the commitment and payment appropriations for the preceding financial year, and the expenditure committed and the expenditure paid in the second preceding year;
 - c) appropriate remarks on each subdivision.

Article 34

1. The establishment plan referred to in Article 28 shall show, next to the number of posts authorised for the financial year, the number authorised for the preceding financial year and the number of posts actually filled.

It shall constitute an absolute limit for the Joint Undertaking; no appointment may be made in excess of the limit set.

However, save in the case of grades AD 13 and above, the Governing Board may modify the establishment plan by up to 10 % of posts authorised, subject to two conditions:

- a) that the volume of staff appropriations corresponding to a full financial year is not affected;
 - b) that the limit of the total number of posts authorised by the establishment plan is not exceeded.
2. By way of derogation from the second subparagraph of paragraph 1, the effects of part-time work authorised by the appointing authority in accordance with the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities⁹ (hereinafter "the Staff Regulations") may be offset by other appointments. Where a staff member requests the withdrawal of the authorisation before expiry of the granted period, the Joint Undertaking shall take appropriate measures as soon as possible while respecting the limit referred to in paragraph 1(b).

TITLE IV

IMPLEMENTATION OF THE BUDGET

CHAPTER 1

GENERAL PROVISIONS

Article 35

The Director shall perform the duties of authorising officer. He/she shall implement the revenue and expenditure of the budget in accordance with the financial rules of the Joint Undertaking, on his/her own responsibility and within the limits of the appropriations authorised.

⁹ OJ L 56, 4.3.1968, p.1. Regulation as last amended by Regulation (EC, Euratom) No 1895/2006 (OJ L 397, 30.12.2006, p.6)

Article 36

1. The Director may delegate his/her powers of budget implementation to staff of the Joint Undertaking covered by the Staff Regulations. Those so empowered may act only within the limits of the powers expressly conferred upon them.
2. The delegatee may sub-delegate the powers received. Each act of sub-delegation shall require the explicit agreement of the Director.

Article 37

1. All financial actors within the meaning of Chapter 2 of this Title and any other person involved in budget implementation, management, audit or control shall be prohibited from taking any measures of budget implementation which may bring their own interests into conflict with those of the Joint Undertaking. Should such a case arise, the person in question must refrain from such measures and refer the matter to the competent authority.
2. There is a conflict of interest where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with the beneficiary.
3. The competent authority referred to in paragraph 1 shall be the immediate superior of the member of staff concerned. If the member of staff is the Director, the competent authority shall be the Governing Board.

Article 38

1. The budget shall be implemented by the Director in the departments placed under his/her authority.
2. Technical expertise tasks and administrative, preparatory or ancillary tasks involving neither the exercise of public authority nor the use of discretionary powers of judgement may be entrusted by contract to external private-sector entities or bodies, where this proves to be indispensable.

Article 39

Entitlements of the Joint Undertaking in respect of third parties and entitlements of third parties in respect of the Joint Undertaking shall be subject to a limitation period of five years, if agreed with the third parties concerned.

CHAPTER 2

FINANCIAL ACTORS

SECTION 1

PRINCIPLE OF SEGREGATION OF DUTIES

Article 40

The duties of authorising officer and accounting officer shall be segregated and mutually incompatible.

SECTION 2

AUTHORISING OFFICER

Article 41

1. The authorising officer shall be responsible for implementing revenue and expenditure in accordance with the principles of sound financial management and for ensuring that the requirements of legality and regularity are complied with.
2. To implement expenditure, the authorising officer shall make budget commitments and legal commitments, shall validate expenditure and authorise payments and shall undertake the preliminaries for the implementation of appropriations.
3. Implementation of revenue shall comprise drawing up estimates of amounts receivable, establishing entitlements to be recovered and issuing recovery orders. It shall involve waiving established entitlements where appropriate.
4. The authorising officer shall put in place, in compliance with the minimum standards adopted by the Governing Board on the basis of equivalent standards laid down by the Commission for its own departments, and having due regard to the risks associated with the management environment and the nature of the action financed, the organisational structure and the internal management and control systems and procedures suited to the performance of his/her duties, including where appropriate ex post verifications.

The authorising officer shall establish within his/her departments an expertise and advice function designed to help him/her control the risks involved in his/her activities.

5. Before an operation is authorised, the operational and financial aspects shall be verified by members of staff other than the one who initiated the operation. Initiation and the *ex ante* and *ex post* verification of an operation shall be separate functions.
6. The authorising officer shall conserve the supporting documents relating to operations carried out for a period of five years from the date of the decision granting discharge in respect of implementation of the budget.

Personal data contained in supporting documents shall be deleted where possible when those data are not necessary for budgetary discharge, control and audit purposes. In any event as concerns the conservation of traffic data, the relevant provisions of the Regulation (EC) No 45/2001 of the European Parliament and the Council¹⁰ shall apply.

Article 42

1. Initiation of an operation as referred to in Article 41(5) shall be understood to mean all the operations which are preparatory to the adoption of the acts implementing the budget by the authorising officers responsible referred to in Articles 35 and 36.
2. *Ex ante* verification of an operation as referred to in Article 41(5) shall be understood to mean all the *ex ante* checks put in place by the authorising officer responsible in order to verify the operational and financial aspects.
3. Each operation shall be subject of at least one *ex ante* verification. The purpose of this verification shall be to ascertain that:
 - a) the expenditure is in order and conforms to the relevant provisions;
 - b) the principle of sound financial management referred to in Article 25 has been applied.

For the purpose of *ex ante* verification, a series of similar individual transactions relating to routine expenditure on salaries, pensions, reimbursement of mission expenses and medical expenses may be considered by the authorising officer responsible to constitute a single operation.

In the case referred to in the second subparagraph, the authorising officer responsible shall, depending on his risk assessment, carry out an appropriate *ex post* verification, in accordance with paragraph 4.

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

¹⁰ OJ L 8, 12.1.2001, p.1

5. The officials or other staff responsible for the verifications referred to in paragraphs 2 and 4 shall be different from those performing the tasks referred to in paragraph 1 and shall not be their subordinates.
6. All staff responsible for scrutinising the management of financial operations shall have the necessary professional skills. They shall respect a specific code of professional standards adopted by the Joint Undertaking and based on standards laid down by the Commission for its own departments.

Article 43

1. The authorising officer shall report to the Governing Board on the performance of his/her duties in the form of an annual activity report, together with financial and management information confirming that the information contained in the report presents a true and fair view except as otherwise specified in any reservations related to defined areas of revenue and expenditure.

The annual activity report shall indicate the results of his/her operations by reference to the objectives set, the risks associated with these operations, the use made of the resources provided and the efficiency and effectiveness of the internal control system. The internal auditor referred to in Article 75 shall take note of the annual activity report and any other pieces of information identified.

2. By no later than 15 June each year, the Governing Board shall send the Council, the European Parliament and the Court of Auditors an analysis and an assessment of the authorising officer's annual report on the previous financial year. This analysis and assessment shall be included in the annual report of the Joint Undertaking, in accordance with the provisions of the Statutes.

Article 44

Any member of staff involved in the financial management and control of transactions who considers that a decision he/she is required by his/her superior to apply or to agree to is irregular or contrary to the principles of sound financial management or the professional rules he/she is required to observe shall inform the Director in writing and, if the latter fails to take action within a reasonable period, the panel referred to in Article 50(5) and the Governing Board. In the event of any illegal activity, fraud or corruption which may harm the interests of the Community, he/she shall inform the authorities and bodies designated by the applicable legislation.

Article 45

Where powers of budget implementation are delegated or sub delegated in accordance with Article 36, Article 41(1), (2) and (3) shall apply *mutatis mutandis* to the authorising officers by delegation or sub-delegation.

SECTION 3

ACCOUNTING OFFICER

Article 46

1. The Governing Board shall appoint an accounting officer, covered by the Staff Regulations, who shall be functionally independent in the performance of his duties. He/she shall be responsible in the Joint Undertaking for:
 - a) proper implementation of payments, collection of revenue and recovery of amounts established as being receivable;
 - b) preparing and presenting the accounts in accordance with Title VIII;
 - c) keeping the accounts in accordance with Title VIII;
 - d) implementing, in accordance with Title VIII, the accounting rules and methods and the chart of accounts in accordance with the provisions adopted by the Commission's accounting officer;
 - e) laying down and validating the accounting systems and where appropriate validating systems laid down by the authorising officer to supply or justify accounting information.
 - f) treasury management.
2. The accounting officer shall obtain from the authorising officer, who shall guarantee its reliability, all the information necessary for the production of accounts which give a true image of the Joint Undertaking's assets and of budget implementation.
3. Before the adoption of the accounts by the Director, the accounting officer shall sign them off, thereby certifying that he has a reasonable assurance that the accounts present a true and fair view of the financial situation of the Joint Undertaking.

For that purpose, the accounting officer shall satisfy himself that the accounts have been prepared in accordance with the accounting rules, methods and accounting systems established, and that all revenue and expenditure is entered in the accounts.

The accounting officer shall be empowered to check the information received as well as to carry out any further checks he deems necessary in order to sign off the accounts.

The accounting officer shall make reservations, if necessary, explaining exactly the nature and scope of such reservations.

The accounting officer shall sign off its annual accounts and send them to the Commission's accounting officer as provided for in Article 118.

4. The authorising officers shall remain fully responsible for the proper use of the funds they manage as well as the legality and regularity of the expenditure under their control.
5. Subject to paragraph 6 and Article 47, only the accounting officer shall be empowered to manage cash and cash equivalents. He/she shall be responsible for their safekeeping.
6. The accounting officer may, in the performance of his/her duties, delegate certain tasks to subordinate staff, subject to the Staff Regulations, where this is indispensable for the performance of his/her duties.

The instrument of delegation shall lay down the tasks entrusted to the delegates and their rights and obligations.

SECTION 4

IMPREST ADMINISTRATOR

Article 47

1. Where it proves indispensable for the payment of small sums and for the collection of other revenue referred to in Article 5, imprest accounts may be set up which shall be endowed by the accounting officer and shall be placed under the responsibility of imprest administrators designated by him/her.
2. The maximum amount of each item of expenditure or revenue that can be paid by the imprest administrator to third parties may not exceed certain amount to be specified by the Joint Undertaking for each item of expenditure or revenue.
3. Payments from imprest accounts may be made by bank credit transfer, including the direct debit system referred to in Article 70 (2), cheque or other means of payment, in accordance with the instructions laid down by the accounting officer.

CHAPTER 3

LIABILITY OF THE FINANCIAL ACTORS

SECTION 1

GENERAL RULES

Article 48

1. Without prejudice to any disciplinary action, authorising officers by delegation and sub-delegation may at any time have their delegation or sub-delegation withdrawn temporarily or definitively by the authority which appointed them.

The authorising officer may at any time withdraw his/her agreement to a specific sub-delegation.

2. Without prejudice to any disciplinary action, the accounting officer may at any time be suspended temporarily or definitively from his/her duties by the Governing Board. The Governing Board shall appoint an interim accounting officer.
3. Without prejudice to any disciplinary action, imprest administrators may at any time be suspended temporarily or definitively from their duties by the accounting officer.

Article 49

1. The provisions of this chapter shall be without prejudice to any liability under criminal law which the financial actors referred to in Article 48 may incur as provided in the applicable national law and in the provisions in force on the protection of the Communities' financial interests and on the fight against corruption involving officials of the Communities or officials of Member States.
2. Each authorising officer, accounting officer or imprest administrator shall be liable to disciplinary action and payment of compensation as laid down in the Staff Regulations, without prejudice to Articles 50, 51 and 52. In the event of illegal activity, fraud or corruption which may harm the interests of the Community, the matter will be referred to the authorities and bodies designated by the applicable legislation.

SECTION 2

RULES APPLICABLE TO THE AUTHORISING OFFICER AND AUTHORISING OFFICERS BY DELEGATION OR SUBDELEGATION

Article 50

1. The authorising officer shall be liable to payment of compensation as laid down in the Staff Regulations.
2. The obligation to pay compensation shall apply in particular if:
 - a) the authorising officer, whether intentionally or through gross negligence on his part, determines entitlements to be recovered or issues recovery orders, commits expenditure or signs a payment order without complying with this Regulation;
 - b) the authorising officer, whether intentionally or through gross negligence on his part, omits to draw up a document establishing an amount receivable, neglects to issue a recovery order or is late in issuing it or is late in issuing a payment order, thereby rendering the Joint Undertaking liable to civil action by third parties.
3. An authorising officer by delegation or sub-delegation who considers that a decision falling under his/her responsibility is irregular or contrary to the principles of sound financial management shall inform the delegating authority in writing. If the delegating authority then gives a reasoned instruction in writing to the authorising officer by delegation or sub-delegation to implement the decision in question, the latter must implement it and may not be held liable.
4. In the event of delegation within his services, the authorising officer shall continue to be responsible for the efficiency and effectiveness of the internal management and control systems put in place and for the choice of the authorising officer by delegation.
5. The specialised financial irregularities panel set up by the Commission in accordance with the relevant provisions of the general Financial Regulation shall exercise the same powers in respect of the Joint Undertaking as it does in respect of Commission departments.

On the basis of the opinion of this panel, the Director shall decide whether to initiate disciplinary proceedings or proceedings for the payment of compensation. If the panel detects systemic problems, it shall send a report with recommendations to the authorising officer and to the Commission's internal auditor and the internal auditor of the Joint Undertaking. If the opinion implicates the Director, the panel shall send it to the Governing Board and the Commission's internal auditor.

Any member of staff may be required to compensate, in whole or in part, any damage suffered by the Joint Undertaking as a result of serious misconduct on his/her part in the course of or in connection with the performance of his/her duties.

The appointing authority shall take a reasoned decision, after completing the formalities laid down by the Staff Regulations with regard to disciplinary matters.

SECTION 3

RULES APPLICABLE TO ACCOUNTING OFFICERS AND IMPREST ADMINISTRATORS

Article 51

An accounting officer may be liable to disciplinary action and payment of compensation, as laid down in the Staff Regulations, in particular where:

- a) he/she loses or damages monies, assets and documents in his/her keeping or causes them to be lost or damaged by his/her negligence;
- b) he/she alters bank accounts or postal giro accounts without notifying the authorising officer in advance;
- c) he/she recovers or pays amounts which are not in conformity with the corresponding recovery or payment orders;
- d) he/she fails to collect revenue due.

Article 52

An imprest administrator may be liable to disciplinary action and payment of compensation, as laid down in the Staff Regulations, in particular where:

- a) he/she loses or damages monies, assets and documents in his/her keeping or causes them to be lost or damaged by his/her negligence;
- b) he/she cannot provide proper supporting documents for the payments he/she has made;
- c) he/she makes payments to persons other than those entitled;
- d) he/she fails to collect revenue due.

CHAPTER 4

REVENUE OPERATIONS

SECTION 1

GENERAL PROVISIONS

Article 53

1. The Joint Undertaking shall present to the Commission requests for payment of all or part of the Community contribution, supported by a cash-flow forecast, under the terms and the intervals agreed between the Joint Undertaking and the Commission.
2. The Joint Undertaking shall present to the ITER host state requests for payments of all or part of the ITER host state contribution, supported by a cash-flow forecast, at the same intervals as referred to in paragraph 1.
3. The Joint Undertaking shall issue to Members other than Euratom requests for payments corresponding to their annual membership contributions, at the latest three months after the date on which the budget became definitive.

Article 54

The contributions paid to the Joint Undertaking by the Commission shall bear interest for the benefit of the general budget.

All other revenues of the Joint Undertaking shall bear interest for the benefit of the budget.

SECTION 2

ESTIMATE OF AMOUNTS RECEIVABLE

Article 55

An estimate of the amount receivable shall first be made by the authorising officer responsible in respect of any measure or situation which may give rise to or modify an amount owing to the Joint Undertaking.

SECTION 3

ESTABLISHMENT OF AMOUNTS RECEIVABLE

Article 56

1. Establishment of an amount receivable is the act by which the authorising officer or authorising officer by delegation:
 - a) verifies that the debt exists;
 - b) determines or verifies the reality and the amount of the debt;
 - c) verifies the conditions in which the debt is due.
2. Any amount receivable that is identified as being certain, of a fixed amount and due shall be established by a recovery order given to the accounting officer, accompanied by a debit note sent to the debtor. Both of these documents shall be drawn up and sent by the authorising officer responsible.
3. If provided for in the contract or agreement applicable, any debt not repaid on the due date laid down in the debit note shall bear interest.
4. In duly substantiated cases, certain routine revenue items may be established provisionally.

Provisional establishment shall cover the recovery of several individual amounts which need not therefore be established individually.

Before the end of the financial year, the authorising officer shall amend the amounts established provisionally to ensure that they correspond to the amounts receivable actually established.

SECTION 4

AUTHORISATION OF RECOVERY

Article 57

The authorisation of recovery is the act whereby the authorising officer responsible instructs the accounting officer, by issuing a recovery order, to recover an amount receivable which he/she has established.

SECTION 5

RECOVERY

Article 58

1. Amounts wrongly paid shall be recovered.
2. The accounting officer shall act on recovery orders for amounts receivable duly established by the authorising officer or authorising officer responsible. He/she shall exercise due diligence to ensure that the Joint Undertaking receives its revenue and shall see that its rights are safeguarded.
3. Where the authorising officer responsible is planning to waive or partially waive recovery of an established amount receivable, he/she shall ensure that the waiver is in order and complies with the principle of sound financial management and proportionality.

Such a waiver shall be by decision of the authorising officer, which must be substantiated. The authorising officer may not delegate such a decision.

The waiver decision shall state what action has been taken to secure recovery and the points of law and fact on which it is based.

4. The authorising officer responsible shall cancel an established amount receivable when the discovery of a mistake as to a point of law or fact reveals that the amount had not been correctly established. Such cancellation shall be by decision of the authorising officer responsible and shall be suitably substantiated.
5. The authorising officer responsible shall adjust the amount of an established debt upwards or downwards when the discovery of a factual error entails the alteration of the amount of the debt, provided that this correction does not involve the loss of the established entitlement of the Joint Undertaking. Such an adjustment shall be by decision of the authorising officer responsible and shall be suitably substantiated.

Article 59

1. Upon actual recovery of the sum due, the accounting officer shall make an entry in the accounts and shall inform the authorising officer responsible.
2. A receipt shall be issued in respect of all cash payments made to the accounting officer.

Article 60

1. If actual recovery has not taken place by the due date stipulated in the debit note, the accounting officer shall inform the authorising officer responsible and immediately

launch the procedure for effecting recovery by any means offered by the law, including, where appropriate, by offsetting.

2. The accounting officer shall recover amounts by offsetting them against equivalent claims that the Joint Undertaking has on any debtor who himself or herself has a claim on the Joint Undertaking that is certain, of a fixed amount and due, provided that offsetting is legally possible.

Article 61

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

- a) the debtor undertakes to pay interest for the entire additional period allowed, starting from the date set in the debit note;
- b) in order to safeguard the rights of the Joint Undertaking, the debtor provides a financial guarantee covering both the principal sum and the interest.

Article 62

The accounting officer shall keep a list of amounts due to be recovered, in which the Joint Undertaking's entitlements are grouped according to the date of the issue of the recovery order. The list shall be added to the Joint Undertaking's report on budgetary and financial management.

The Joint Undertaking shall establish a list of the Joint Undertaking's entitlements stating the names of the debtors and the amount of the debt, where the debtor has been ordered to pay by a Court decision that has the force of *res judicata* and where no or no significant payment has been made for one year following its pronouncement. The list shall be published, taking account of the relevant legislation on data protection.

SECTION 6

SPECIFIC PROVISION APPLICABLE TO FEES AND CHARGES

Article 63

Where the Joint Undertaking collects fees and charges referred to in Article 5(1)(d), the following shall apply:

- (a) an overall provisional estimate of such fees and charges shall be made at the beginning of each financial year;
- (b) where fees and charges are entirely determined by legislation or decisions of the Governing Board, the authorising officer may abstain from issuing

recovery orders and directly draw up debit notes after having established the amount receivable. In this case all details of the Joint Undertaking's entitlement shall be registered;

(c) as a general rule, the Joint Undertaking shall provide services by virtue of the tasks entrusted to it only after the corresponding fee or charge has been paid in its entirety. If, by way of exception, a service has been provided without prior payment of the corresponding charge or fee, Sections 3, 4 and 5 of this Chapter shall apply.

CHAPTER 5

EXPENDITURE OPERATIONS

Article 64

1. Every item of expenditure shall be committed, validated, authorised and paid.
2. Every commitment of expenditure shall be preceded by a financing decision.
3. The work programme of the Joint Undertaking adopted by the Governing Board shall constitute a financing decision for the activities it covers.
4. Administrative appropriations may be implemented without a prior financing decision.

SECTION 1

COMMITMENT OF EXPENDITURE

Article 65

1. The budget commitment is the operation reserving the appropriations necessary to cover subsequent payments to honour a legal commitment.
2. The legal commitment is the act whereby the authorising officer responsible enters into or establishes an obligation which results in a charge for the budget.
3. The budget commitment is individual when the beneficiary and the amount of the expenditure are known.
4. The budget commitment is global when at least one of the elements necessary to identify the individual commitment is still not known.

5. The budget commitment is provisional when it is intended to cover routine administrative expenditure and either the amount or the final beneficiaries are not definitively known.

The provisional budget commitment shall be implemented either by the conclusion of one or more individual legal commitments giving rise to an entitlement to subsequent payments or, in exceptional cases relating to expenditure on staff management, directly by payments.

6. Budgetary commitments for actions extending over more than one financial year including administrative expenditure may be broken down over several years into annual instalments. Where the budgetary commitment is thus divided into annual instalments, the legal commitment shall stipulate this, except in the case of expenditure on staff.

In accordance with Article 15(2), the total amount of legal commitments may not exceed the relevant Euratom contribution available through the Community research and training programmes adopted pursuant to Article 7 of the Treaty, plus annual membership contributions from other members than Euratom, revenue from the contribution from ITER host state and any other revenue referred to in Article 5.

Article 66

1. In respect of any measure which may give rise to expenditure chargeable to the budget, the authorising officer responsible shall first make a budget commitment before entering into a legal obligation with third parties.
2. Subject to Article 65(6), the global budget commitments shall cover the total cost of the corresponding individual legal commitments concluded up to 31 December of the following year.

Individual legal commitments relating to individual or provisional budget commitments shall be concluded by 31 December of the current year.

At the end of the periods referred to in the first and second subparagraphs, the unused balance of these budget commitments shall be decommitted by the authorising officer responsible.

3. The legal commitments entered into for actions extending over more than one financial year and the corresponding budget commitments shall, save in the case of staff expenditure, have a final date for implementation set in compliance with the principle of sound financial management.

Any parts of such commitments which have not been executed six months after that final date shall be decommitted in accordance with Article 11.

The amount of a budget commitment corresponding to a legal commitment for which no payment within the meaning of Article 71 has been made in a period of three years following the signing of the legal commitment shall be decommitted, except when the Governing Board decides otherwise.

Article 67

When adopting a budget commitment, the authorising officer responsible shall ensure that:

- a) the expenditure has been charged to the correct item in the budget;
- b) the appropriations are available;
- c) the expenditure conforms to the applicable provisions, in particular those of the Constituent instrument, this Regulation and all acts of the Joint Undertaking adopted pursuant to them;
- d) the principle of sound financial management is complied with.

SECTION 2

VALIDATION OF EXPENDITURE

Article 68

Validation of expenditure is the act whereby the authorising officer responsible:

- a) verifies the existence of the creditor's entitlement;
- b) verifies the conditions in which payment is due;
- c) determines or verifies the reality and the amount of the claim.

Article 69

1. Validation of any expenditure shall be based on supporting documents attesting the creditor's entitlement, on the basis of a statement of services actually rendered, supplies actually delivered or work actually carried out, or on the basis of other documents justifying payment.
2. The validation decision shall be expressed by the signing of a "passed for payment" voucher by the authorising officer responsible.
3. In a non-computerised system, "passed for payment" shall take the form of a stamp incorporating the signature of the authorising officer responsible. In a computerised system, "passed for payment" shall take the form of validation using the personal password of the authorising officer responsible.

SECTION 3

AUTHORISATION OF EXPENDITURE

Article 70

1. Authorisation of expenditure is the act whereby the authorising officer responsible, by issuing a payment order, instructs the accounting officer to pay an item of expenditure which he/she has validated.
2. Where periodic payments are made with regard to services rendered, including rental services, or goods delivered, and subject to his risk analysis, the authorising officer responsible may order the application of a direct debit system.
3. The payment order shall be dated and signed by the authorising officer responsible, then sent to the accounting officer. The supporting documents shall be kept by the authorising officer responsible in accordance with Article 41(6).
4. Where appropriate, the payment order sent to the accounting officer shall be accompanied by a document certifying that the goods have been entered in the inventories referred to in Article 126(1).

SECTION 4

PAYMENT OF EXPENDITURE

Article 71

1. Payment shall be made on production of proof that the relevant action has been carried out in accordance with the Constituent instrument or the contract or grant or other agreement, and shall cover one of the following operations:
 - a) payment of the entire amount due;
 - b) payment of the amount due in any of the following ways:
 - i. pre-financing, which may be divided into a number of payments;
 - ii. one or more interim payments;
 - iii. payment of the balance of the amounts due.

Pre-financing shall count in full or in part against the interim payments.

The entire pre-financing and interim payments shall count against the payment of balances.

2. A distinction shall be made in the accounts between the different types of payment referred to in paragraph 1 at the time they are made.

Article 72

Payment of expenditure shall be made by the accounting officer within the limits of the funds available.

SECTION 5

TIME LIMITS FOR EXPENDITURE OPERATIONS

Article 73

The validation, authorisation and payment of expenditure shall be carried out within the time limits specified in, and in accordance with the provisions of the detailed rules for implementing this Regulation as referred to in Article 136 (hereinafter "implementing rules").

CHAPTER 6

IT SYSTEMS

Article 74

Where revenue and expenditure operations are managed by means of computer systems, documents may be signed by a computerised or electronic procedure.

CHAPTER 7

INTERNAL AUDITOR

Article 75

The Joint Undertaking shall have an internal auditing service which must be performed in compliance with the relevant international standards.

Article 76

1. The internal auditor shall advise the Joint Undertaking on dealing with risks, by issuing independent opinions on the quality of management and control systems and

by issuing recommendations for improving the conditions of implementation of operations and promoting sound financial management.

He/she shall be responsible:

- a) for assessing the suitability and effectiveness of internal management systems and the performance of departments in implementing programmes and actions by reference to the risks associated with them; and
 - b) for assessing the efficiency and effectiveness of the internal control and audit systems applicable to every budgetary implementation operation.
2. The internal auditor shall perform his/her duties on all the Joint Undertaking's activities and departments. He/she shall enjoy full and unlimited access to all information required to perform his/her duties.
 3. The internal auditor shall report to the Director and the Governing Board on his/her findings and recommendations. They shall ensure that action is taken on recommendations resulting from audits.
 4. The internal auditor shall submit to the Director and the Governing Board an annual internal audit report setting out, *inter alia*, the number and type of internal audits conducted, the recommendations made and the action taken on these recommendations. This annual report shall also mention any systemic problems detected by the specialised panel referred to in Article 50(5).
 5. Each year the Joint Undertaking shall send to the Commission and the European Parliament, a report drawn up by its Director summarising the number and type of internal audits conducted by the internal auditor, the recommendations made and the action taken on these recommendations.

Article 77

The responsibility of the internal auditor for action taken in the performance of his/her duties shall be *mutatis mutandis* as laid down in special rules applicable to the Commission's internal auditor. The special rules shall guarantee that the internal auditor is totally independent in the performances of his/her duties and shall establish his/her responsibility.

He/she shall assume responsibility as laid down in the Staff Regulations and its implementing rules.

TITLE V

PROCUREMENT

CHAPTER 1

PROVISIONS APPLICABLE TO CONTRACTS AWARDED BY THE JOINT UNDERTAKING FOR IMPLEMENTATION OF ITS OPERATIONAL TASKS

SECTION 1

SCOPE AND AWARD PRINCIPLES

Article 78

1. Contracts covered by this Chapter are contracts for pecuniary interest concluded in writing between one or more economic operators and the Joint Undertaking in order to obtain, against payment of a price paid in whole or in part from the budget, the supply of movable or immovable assets, the execution of works or the provision of services for the implementation of the Joint Undertaking's operational tasks referred to in Article 1(2) of the Constituent instrument.

These contracts comprise:

- a) contracts for the purchase or rental of a building;
 - b) supply contracts;
 - c) works contracts;
 - d) service contracts.
2. Framework contracts covered by this Chapter are contracts concluded between the Joint Undertaking and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. They shall be governed by the provisions of this Chapter concerning the award procedure, including advertising.

Article 79

1. Contracts shall comply with the principles of transparency, proportionality, equal treatment and non-discrimination.
2. Contracts shall be put out to tender on the broadest possible base, except when use of the procedure referred to in Article 81(1)(d).

The Joint Undertaking may not use framework contracts improperly or in such a way that the purpose or effect is to prevent, restrict or distort competition.

SECTION 2

PARTICIPATION TO THE PROCUREMENT PROCEDURES

§

Article 80

Participation in procurement procedures shall be open on equal terms to all natural persons who are nationals of a Member and legal persons who are legally established in the territory of a Member, under the conditions laid down in the implementing rules.

Participation in procurement procedures may also be open to natural and legal persons other than those referred to in sub-paragraph 1, if so decided by the Director, in accordance with and under the conditions laid down in the implementing rules.

SECTION 3

PROCUREMENT PROCEDURES

Article 81

1. In awarding the contracts, procurement procedures shall take one of the following forms:
 - a) open procedure;
 - b) restricted procedure;
 - c) competitive dialogue;
 - d) negotiated procedure;
 - e) contests.

Where the contract or the framework contract is necessary for the implementation of a joint action between the Joint Undertaking and another contracting authority, the procurement procedure may be carried out jointly by the Joint Undertaking and this contracting authority, as specified in the implementing rules.

2. The thresholds below which the Joint Undertaking may use a negotiated procedure shall be determined in the in the implementing rules.

3. For contracts where the value exceeds the thresholds referred to in paragraph 2, the use of the negotiated procedure may be authorised only in cases specified in the implementing rules.
4. The implementing rules shall spell out the use of the procurement procedures referred to in paragraph 1.

Article 82

The documents relating to the call for tenders shall give a full, clear and precise description of the subject of the contract and specify the exclusion, selection and award criteria applicable to the contract.

Article 83

1. Candidates or tenderers shall be excluded from participation in a procurement procedure if:
 - a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
 - b) they have been convicted of an offence concerning their professional conduct by a judgment which has the force of *res judicata*;
 - c) they have been guilty of grave professional misconduct proven by any means which the Joint Undertaking can justify;
 - d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Joint Undertaking or those of the country where the contract is to be performed;
 - e) they have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Joint Undertaking's or the Communities financial interests;
 - f) they are currently subject to an administrative penalty imposed by the Community institutions as referred to in the general Financial Regulation;
 - g) they have been declared to be in a serious breach of their obligations under contracts covered by the budget.

Points (a) to (d) may not apply in the case of purchase of supplies on particularly advantageous terms from either a supplier which is definitively winding up its

business activities, or the receivers or liquidators of a bankruptcy, an arrangement with creditors, or a similar procedure under national law.

2. Candidates or tenderers shall certify that they are not in one of the situations listed in paragraph 1. However, the Joint Undertaking may refrain from requiring such certification as specified in the implementing rules.

For the purpose of the correct application of paragraph 1, the candidate or tenderer, whenever requested by the Joint Undertaking, shall:

- a) where the candidate or tenderer is a legal entity, provide information on the ownership or on the management, control and power of representation of the legal entity;
 - b) where subcontracting is envisaged, certify that the subcontractor is not in one of the situations referred to in paragraph 1.
3. The implementing rules shall determine the maximum period during which the situations referred to in paragraph 1 give rise to the exclusion of candidates or tenderers from participation in a procurement procedure. This maximum period shall not exceed ten years.

Article 84

A Contract shall not be awarded to candidates or tenderers who, during the procurement procedure for this contract:

- a) are subject to a conflict of interest;
- b) are guilty of misrepresentation in supplying the information required by the Joint Undertaking as a condition of participation in the procurement procedure or fail to supply this information;
- c) find themselves in one of the situations of exclusion, referred to in Article 83(1), for this procurement procedure.

Article 85

A central database set up and operated by the Commission containing details of candidates and tenderers which is in one of the situations referred to in Articles 83, 84, 86(1)(b) and (2)(a) shall be common to the Joint Undertaking and shall be used by the Joint Undertaking under the relevant rules adopted by the Commission.

Article 86

If provided for in the call for tender, the Joint Undertaking may impose financial penalties on tenderers in the cases referred to in point (b) of Article 84. Such penalties shall be proportionate to the importance of the contract and the seriousness of the misconduct.

Article 87

1. Contracts shall be awarded on the basis of award criteria applicable to the content of the tender after the capability of economic operators not excluded under Articles 83, 84 and 86(2)(a) has been checked in accordance with the selection criteria contained in the documents relating to the call for tenders.
2. Contracts shall be awarded by the automatic award procedure or by the best-value-for-money procedure as referred to in the implementing rules.

Article 88

1. The arrangements for submitting tenders shall be such as to ensure that there is genuine competition and that the contents of tenders remain confidential until they are all opened simultaneously.
2. If deemed appropriate and proportionate, the Joint Undertaking may require tenderers to lodge a security in advance as a guarantee that the bids made will not be withdrawn.
3. With the exception of the contracts involving small amounts as defined in the implementing rules, applications and tenders shall be opened by an opening board appointed for this purpose. Any tender or application declared by the opening board not to satisfy the conditions laid down shall be rejected.
4. All request to participate or all tenders declared by the opening board as satisfying the conditions laid down shall be evaluated, on the basis of the criteria provided in the documents relating to the call for tenders, in order to propose to the Joint Undertaking the award of the contract.

Article 89

While the procurement procedure is under way, all contacts between the Joint Undertaking and candidates or tenderers shall satisfy conditions ensuring transparency and equal treatment. They may not lead to substantial amendment of the conditions of the contract or the terms of the original tender as laid down in the implementing rules.

Article 90

1. The authorising officer shall decide to whom the contract is to be awarded, in compliance with the selection and award criteria laid down in advance in the documents relating to the call for tenders and the procurement rules.
2. The Joint Undertaking shall notify all the candidates or tenderers whose applications or tenders are rejected of the grounds on which the decision was taken, and all tenderers whose tenders are admissible and who make a request in writing of the characteristics and relative advantages of the successful tender and the name of the tenderer to whom the contract is awarded.

However, certain details need not be disclosed where disclosure would hinder application of the law, would be contrary to the public interest or would harm the legitimate business interests of public or private undertakings or could distort fair competition between those undertakings.

Article 91

The Joint Undertaking may, before the contract is signed, either abandon the procurement or cancel the award procedure without the candidates or tenderers being entitled to claim any compensation, if provided for in the call for tender.

The decision must be substantiated and be brought to the attention of the candidates or tenderers.

SECTION 4

ADVERTISING

Article 92

1. Contracts shall be advertised by appropriate means as specified in the implementing rules.
2. Contract notices shall be published in advance except in the cases referred to in Article 81(1) (d), as specified in the in the implementing rules.
3. Advertising of certain information after the contract has been awarded may be dropped where it would hinder application of the law, would be contrary to the public interest or would harm the legitimate business interests of public or private undertakings or could distort fair competition between them.

SECTION 5

GUARANTEES AND CONTROL

Article 93

1. The Joint Undertaking may require contractors to lodge a guarantee in advance.
2. The Joint Undertaking may, if it deems appropriate and proportionate, require contractors to lodge such a guarantee in order to:
 - a) ensure full performance of the contract;
 - b) limit the financial risks connected with payment of pre-financing.



Article 94

Where the award procedure proves to have been subject to substantial errors, irregularities or fraud, the Joint Undertaking shall suspend the procedure and may take whatever measures are necessary, including the cancellation of the procedure, if provided for in the call for tender.

Where, after the award of the contract, the award procedure or the performance of the contract prove to have been subject to substantial errors, irregularities or fraud, the Joint Undertaking may, depending on the stage reached in the procedure, refrain from concluding the contract or suspend performance of the contract or, where appropriate, terminate the contract, if provided for in the contract.

Where such errors, irregularities or fraud are attributable to the contractor, and if provided for in the contract, the Joint Undertaking may in addition refuse to make payments, may recover amounts already paid or may terminate all the contracts concluded with this contractor, in proportion to the seriousness of the errors, irregularities or fraud.

CHAPTER 2

PROVISIONS APPLICABLE TO ADMINISTRATIVE CONTRACTS AWARDED BY THE JOINT UNDERTAKING

Article 95

1. For administrative contracts to be awarded by the Joint Undertaking in order to obtain the supply of movable or immovable assets, the execution of works or the provision of services for its administrative functioning and needs, the relevant provisions of the general Financial Regulation and the rules for implementing that regulation shall apply.
2. The Joint Undertaking may request to be associated, as contracting authority, with the award of the Commission or interinstitutional contracts and in the award of contracts of other Community bodies.
3. The Joint Undertaking may conclude a contract, without having recourse to a public procurement procedure, with the Commission, the interinstitutional offices, the Translation Centre and the Host state, for the supply of goods, provision of services or performance of work that the latter provide.
4. The Joint Undertaking may use joint procurement procedures with contracting authorities of the Host state to cover its administrative needs.

TITLE VI

GRANTS

CHAPTER 1

SCOPE AND FORM OF GRANTS

Article 96

1. Grants are direct financial contributions, by way of donation, from the budget in order to finance actions intended to help achieve the tasks and activities of the Joint Undertaking.

They shall be covered by a written agreement between the Joint Undertaking and the successful applicant. The following shall not constitute grants within the meaning of this Title:

- a) expenditure on the Members and staff of the Joint Undertaking, and contributions to the European schools;
- b) the public contracts;
- c) contributions paid by the Joint Undertaking as subscriptions to bodies of which they are members;
- d) contributions of the Joint Undertaking under international agreements or arrangements;
- e) repayment of travel and subsistence of expenses incurred by, or where appropriate any other indemnities paid to persons invited or mandated by the Joint Undertaking.

Article 97

Grant applications shall be eligible if submitted by the following:

- a) legal persons; grant applications may be eligible if submitted by entities which do not have legal personality under the applicable national law, provided that their representatives have the capacity to undertake legal obligations on their behalf, and assume financial liability;
- b) natural persons in so far as these are required by the nature or characteristics of the action or the objective pursued by the applicant.

Article 98

1. Grants may take any of the following forms:
 - a) reimbursement of a specified proportion of the eligible costs actually incurred;
 - b) lump sums;
 - c) flat-rate financing;
 - d) a combination of the forms referred to in points (a), (b) and (c).
2. Grants shall not exceed an overall ceiling expressed in terms of absolute value.

CHAPTER 2

PRINCIPLES

Article 99

1. Grants shall be subject to the principles of transparency and equal treatment.

They may not be cumulative or awarded retrospectively and they shall involve co-financing.

On no account may the combined total costs eligible for financing be exceeded.
2. Grants may not have the purpose or effect of producing a profit for the beneficiary.
3. Paragraph 2 shall not apply to the following:
 - a) study, research or training scholarships paid to natural persons;
 - b) prizes awarded following contests.

Article 100

1. Grants shall be subject to the annual work programme of the Joint Undertaking,

That annual work programme shall be implemented through the publication of calls for proposals, save in duly substantiated exceptional cases of urgency or where the characteristics of the beneficiary or of the action leave no other choice for a given action.
2. All grants awarded in the course of a financial year shall be published annually with due observance of the requirements of confidentiality and security.

Article 101

Each action may give rise to the award of only one grant from the budget to any one beneficiary.

The Joint Undertaking shall request the applicant to immediately inform the authorising officer of any multiple applications and multiple grants relating to the same action or to the same work programme.

In no circumstances, shall the same costs be financed twice by the budget.

Article 102

A grant may be awarded for an action which has already begun only where the applicant can demonstrate the need to start the action before the grant is awarded.

In such cases, costs eligible for financing may not have been incurred prior to the date of submission of the grant application, save in duly substantiated exceptional cases.

No grant may be awarded retrospectively for actions already completed.

Article 103

The grant may not finance the entire costs of the action.

CHAPTER 3

AWARD PROCEDURE

Article 104

1. Grant applications shall be submitted in writing.
2. Grants may not be awarded to applicants who are, at the time of a grant award procedure, in one of the situations referred to in Articles 83(1), 84 and 86.

Applicants shall certify that they are not in one of the situations referred to in the first subparagraph. However, the authorising officer may refrain from requiring such certification for very low valued grants as provided for in the implementing rules.

3. If provided for in the call for proposals, financial penalties which are effective, proportionate and dissuasive, may be imposed on applicants by the authorising officer.

If provided for in the grant agreement, such penalties may also be imposed on beneficiaries who at the moment of the submission of the application or during the

implementation of the grant, have made false declarations in supplying the information required by the authorising officer or fail to supply this information.

Article 105

1. The selection criteria shall be such as to make it possible to assess the applicant's ability to complete the proposed action or work programme.
2. The award criteria announced in advance in the call for proposals shall be such as to make it possible to assess the quality of the proposals submitted in the light of the objectives and priorities set.

Article 106

1. Proposals shall be evaluated, on the basis of pre-announced selection and award criteria, with a view to determining which proposals may be financed.
2. The authorising officer responsible shall then, on the basis of the evaluation provided for in paragraph 1, draw up the list of beneficiaries and the amounts approved.
3. The authorising officer responsible shall inform applicants in writing of the decision on their application. If the grant requested is not awarded, the Joint Undertaking shall give the reasons for the rejection of the application, with reference in particular to the selection and award criteria already announced.

CHAPTER 4

PAYMENT AND CONTROL

Article 107

The pace of payments shall be determined by the financial risks involved, the duration and progress of the action or the costs incurred by the beneficiary.

Article 108

The authorising officer responsible may, if he/she deems it appropriate and proportionate, require the beneficiary to lodge a guarantee in advance in order to limit the financial risks connected with the payment of pre-financing.

The authorising officer shall require the beneficiary to lodge such a guarantee in advance in the cases specified in the implementing rules.

Article 109

1. The amount of the grant shall not become final until the Joint Undertaking has accepted the final reports and accounts, without prejudice to subsequent checks by the Joint Undertaking.
2. Should the beneficiary fail to comply with his obligations, the grant shall be suspended or reduced or terminated after the beneficiary has been given the opportunity to make his observations, in particular where:
 - a) the agreed action or work programme is not carried out at all, or is not carried out properly, in full or on time;
 - b) the amounts exceeding the financing ceilings set in the grant agreement have been paid;
 - c) the amounts paid in accordance with the grant agreement are higher than the real costs incurred by the beneficiary for the action or where the operating budget reveals a surplus *ex post*.

CHAPTER 5

IMPLEMENTATION

Article 110

1. Where implementation of the action requires the award of procurement contracts by the beneficiary, the relevant national procurement rules of the beneficiary shall apply.

Special rules may be included by the authorising officer responsible in the grant agreement.
2. Where implementation of the action requires financial support to be given to third parties, the beneficiary of a grant may give such financial support provided that the following conditions are met:
 - a) the financial support is not the primary aim of the action;
 - b) the conditions for the giving of such support are strictly defined in the grant agreement between the beneficiary and the Joint Undertaking, with no margin for discretion;
 - c) the amounts concerned are small.
3. Each grant agreement shall provide expressly for the Joint Undertaking and the Court of Auditors to exercise their powers of control, on documents and on the premises, over all contractors and subcontractors who have received Joint Undertaking funds.

TITLE VII

EXPERTS

Article 111

1. The Joint Undertaking may select, on the basis of the procedure laid down in paragraph 2, external experts for tasks involving in particular the evaluation of proposals and technical assistance. Such experts shall be paid on the basis of a fixed amount.

The Joint Undertaking may directly use experts on the lists of drawn up by the Commission or other Community bodies.

2. A call for expressions of interest shall be published in particular in the *Official Journal of the European Union* or the internet site of the Joint Undertaking in order to ensure maximum publicity among potential candidates and with a view to establishing a list of experts.

The list drawn up following the call for expressions of interest shall be valid for no more than the duration of five years.

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

3. External experts shall not appear on the list referred to in paragraph 2 if they are in one of the situations of exclusion referred to in Article 83.
4. External experts appearing on the list referred to in paragraph 2 shall be selected on the basis of their ability to perform the tasks referred to in paragraph 1 and in accordance with the principles of non-discrimination, equal treatment and absence of conflict of interests.

TITLE VIII

PRESENTATION OF THE ACCOUNTS AND ACCOUNTING

CHAPTER 1

PRESENTATION OF THE ACCOUNTS

Article 112

1. The annual accounts of the Joint Undertaking shall comprise:
 - a) the financial statements of the Joint Undertaking;
 - b) the reports on implementation of the budget of the Joint Undertaking;

The accounts of the Joint Undertaking shall be accompanied by a report on budgetary and financial management of the financial year.

2. The report referred to in paragraph 1 shall give an account, *inter alia*, of the rate of implementation of the appropriations together with summary information on the transfers of appropriations among the various budget items.

Article 113

The accounts shall comply with the rules and be accurate and comprehensive and present a true and fair view:

- a) as regards the financial statements, of the assets and liabilities, charges and income, entitlements and obligations not shown as assets or liabilities and cash flow;
- b) as regards reports on budgetary implementation, of revenue and expenditure operations.

Article 114

The financial statements shall be drawn up in accordance with the generally accepted accounting principles, namely:

- a) going concern basis;
- b) prudence;
- c) consistent accounting methods;

- d) comparability of information;
- e) materiality;
- f) no netting;
- g) reality over appearance;
- h) accrual-based accounting.

Article 115

1. In accordance with the principle of accrual-based accounting, the financial statements shall show the charges and income for the financial year, regardless of the date of payment or collection.
2. The value of assets and liabilities shall be determined in accordance with the valuation rules laid down by the accounting methods provided for in Article 121.

Article 116

1. The financial statements shall be presented in euro and shall comprise:
 - a) the balance sheet and the economic outturn account, which represent the assets and liabilities and financial situation and the economic outturn at 31 December of the previous financial year; they shall be presented in accordance with the structure laid down by the Council Directive on the annual accounts of certain types of companies, but with account being taken of the specific nature of the Joint Undertaking's activities;
 - b) the cash-flow table showing amounts collected and disbursed during the financial year and the final treasury position;
 - c) the statement of changes in capital presenting in detail the increases and decreases during the financial year in each item of the capital accounts.
2. The annex to the financial statements shall supplement and comment on the information presented in the statements referred to in paragraph 1 and shall supply all the additional information prescribed by internationally accepted accounting practice where such information is relevant to the Joint Undertaking's activities.

Article 117

The budgetary implementation reports shall be presented in euro. They shall comprise:

- a) the budgetary outturn account, which sets out all budget operations for the financial year in terms of revenue and expenditure; the structure in which it is presented shall be the same as that of the budget itself;

- b) the annex to the budgetary outturn account, which shall supplement and comment on the information given in that account.

Article 118

The accounting officer shall send to the Commission's accounting officer, to the Court of Auditors and the Governing Board by no later than 1 March of the following year its provisional accounts, together with the report on budgetary and financial management during the financial year, referred to in Article 112 so that the Commission's accounting officer can consolidate the accounts as provided for in relevant provisions of the general Financial Regulation.

The accounting officer shall also send the report on budgetary and financial management to the European Parliament and the Council by 31 March of the following year at the latest.

Article 119

1. In accordance with Article 15 of the Statutes, the Court of Auditors shall, by 15 June of the following year at the latest, make its observations on the provisional accounts of the Joint Undertaking.
2. On receiving the Court of Auditors' observations on the provisional accounts of the Joint Undertaking, the Director shall draw up the final accounts of the Joint Undertaking in accordance with Article 46, under his/her own responsibility and send them to the Governing Board for approval.
3. The Director shall send the approved final accounts to the Commission's accounting officer, the Court of Auditors, the European Parliament and the Council, by 1 July of the following year at the latest.
4. The final accounts of the Joint Undertaking, consolidated with those of the Commission, shall be published in the Official Journal of the European Union on 15 November of the following year.
5. The Director shall send the Court of Auditors a reply to the observations made in its annual report by 30 September of the following year at the latest. These replies of the Joint Undertaking shall be sent to the Commission at the same time.

CHAPTER 2

ACCOUNTING

SECTION 1

COMMON PROVISION

Article 120

1. The accounting system of the Joint Undertaking is the system serving to organise the budgetary and financial information in such a way that figures can be input, filed and registered.
2. The accounts shall consist of general accounts and budgetary accounts. These accounts shall be kept in euro on the basis of the calendar year.
3. The figures in the general accounts and the budgetary accounts shall be adopted at the close of the financial year so that the accounts referred to in Chapter 1 can be drawn up.
4. Notwithstanding paragraphs 2 and 3, the authorising officer may keep analytical accounts.

Article 121

The accounting rules and methods and the harmonised chart of accounts to be applied by the Joint Undertaking shall be adopted by the Commission's accounting officer in accordance with the applicable provisions of the general Financial Regulation.

SECTION 2

GENERAL ACCOUNTS

Article 122

The general accounts shall record, in chronological order using the double entry method, all events and operations which affect the economic and financial situation and the assets and liabilities of the Joint Undertaking.

Article 123

1. Movements on the accounts and the balances shall be entered in the accounting ledgers.
2. All accounting entries, including adjustments to the accounts, shall be based on supporting documents, to which they shall refer.
3. The accounting system shall be such as to leave a trail for all accounting entries.

Article 124

The accounting officer of the Joint Undertaking shall, after the close of the financial year and up to the date of presentation of the final accounts, make any adjustments which, without involving disbursement or collection in respect of that financial year, are necessary for a true and fair presentation of the accounts in compliance with the rules.

SECTION 3**BUDGETARY ACCOUNTS***Article 125*

1. The budget accounts shall provide a detailed record of budgetary implementation.
2. For the purposes of paragraph 1, the budgetary accounts shall record all budgetary revenue and expenditure operations provided for in Title IV of this Regulation.

CHAPTER 3**PROPERTY INVENTORIES***Article 126*

1. The Joint Undertaking shall keep inventories showing the quantity and value of all the tangible, intangible and financial assets constituting the Joint Undertaking property in accordance with a model drawn up by the accounting officer of the Commission.

The Joint Undertaking shall check that entries in the inventory correspond to the actual situation.

2. The sale of movable property shall be advertised in an appropriate manner.

TITLE IX

EXTERNAL AUDIT AND DISCHARGE

CHAPTER 1

EXTERNAL AUDIT

Article 127

The Court of Auditors shall scrutinise the accounts of the Joint Undertaking in accordance with Article 160(c) of the Euratom Treaty.

Article 128

1. The Joint Undertaking shall send the Court of Auditors the budget, as finally adopted. It shall inform the Court of Auditors, as soon as possible, of all decisions and acts adopted pursuant to Articles 10, 14, 19 and 23.
2. The Joint Undertaking shall send the Court of Auditors the internal financial rules it adopts.
3. The Court of Auditors shall be informed of the appointment of authorising officers, accounting officers and imprest administrators and of delegation decisions under Article 37, Article 46(1) and (6) and Article 47.

Article 129

The scrutiny carried out by the Court of Auditors shall be governed by the relevant provisions of the general Financial Regulation.

CHAPTER 2

DISCHARGE

Article 130

1. The European Parliament, upon a recommendation from the Council shall, before 30 April of year $n + 2$, give a discharge to the Director in respect of the implementation of the budget for year n .

2. If the date provided for in paragraph 1 cannot be met, the European Parliament or the Council shall inform the Director of the reasons for the postponement.
3. If the European Parliament postpones the decision giving a discharge, the Director shall make every effort to take measures, as soon as possible, to remove or facilitate removal of the obstacles to that decision.

Article 131

1. The discharge decision shall cover the accounts of all the revenue and expenditure of the Joint Undertaking, the resulting balance and the assets and liabilities of the Joint Undertaking shown in the financial statement.
2. With a view to granting the discharge, the European Parliament shall, after the Council has done so, examine the accounts and financial statements of the Joint Undertaking. It shall also examine the annual report made by the Court of Auditors, together with the replies of the Director of the Joint Undertaking, any relevant special reports by the Court of Auditors in respect of the financial year in question and the Court of Auditors' statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.
3. The Director shall submit to the European Parliament, at the latter's request, in accordance with Article 180(b) of the Euratom Treaty, any information required for the smooth application of the discharge procedure for the financial year in question.

Article 132

1. The Director shall take all appropriate steps to act on the observations accompanying the European Parliament's discharge decision and on the comments accompanying the recommendation for discharge adopted by the Council.
2. At the request of the European Parliament, the Council or the Governing Board, the Director shall report on the measures taken in the light of these observations and comments. He/she shall send a copy thereof to the Commission, the Court of Auditors and the Governing Board.

TITLE X

TRANSITIONAL AND FINAL PROVISIONS

Article 133

The time limits referred to in Article 118, 119 shall apply for the first time in respect of budgetary year 2009 and the time limit referred to in Article 130 shall apply for the first time in respect of budgetary year 2010.

Article 134

Annual membership contributions referred to in Article 28(2) shall be calculated in respect of the budgetary year 2008 on the basis of the administrative expenditures committed in the budgetary year 2007 and resources required for the administration of the Joint Undertaking for 2008.

Article 135

The European Parliament, the Council and the Commission shall be empowered to obtain any necessary information or explanations regarding budgetary matters within their fields of competence.

Article 136

The Governing Board shall, as necessary, adopt detailed rules for implementing this Regulation, on a proposal from the Director.

The Governing Board may delegate the adoption of these implementing rules to the Executive Committee.

The Director shall transmit these implementing rules to the Commission for information.

Article 137

This Decision shall enter into force on 1 November 2007 subject to the adoption by the Commission of a positive opinion on this Regulation.

It can be amended following the same procedure as for its adoption.

Done at Barcelona, 22 October 2007

For the Governing Board



Carlos Varandas

Chair of the Governing Board