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on the financial aspects of the Lisbon Treaty
(2008/2054(INI))

Committee on Budgets

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the financial aspects of the Lisbon Treaty (2008/2054(INI))

The European Parliament,

- having regard to the Lisbon Treaty amending the Treaty on European Union and the Treaty establishing the European Community, signed on 13 December 2007¹ (hereinafter referred to as ‘the Lisbon Treaty’),
 - having regard to the Treaty on European Union and the Treaty establishing the European Community, as amended by the Single European Act and the Maastricht, Amsterdam and Nice Treaties,
 - having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management²,
 - having regard to its resolution of 11 March 2003 on reform of the budgetary procedure: possible options in view of the revision of the treaties³,
 - having regard to its resolution of 29 March 2007 on the future of the European Union’s own resources⁴,
 - having regard to its resolution of 8 June 2005 on Policy Challenges and Budgetary Means of the enlarged Union 2007-2013⁵,
 - having regard to the conclusions of the European Council of 11 and 12 December 2008 on the approach to resuming work on the Treaty of Lisbon,
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Budgets and the opinions of the Committee on Foreign Affairs and the Committee on Agriculture and Rural Development (A6-0183/2009),
- A. whereas the Lisbon Treaty introduces major changes in the area of the Union’s finances, in particular as regards interinstitutional relations and decision-making procedures,
- B. whereas it establishes a clear hierarchy among the basic acts governing the financial and budgetary life of the Union, thereby bringing about a much-needed clarification of the decision-making system,

¹ OJ C 306, 17.12.2007, p. 1.

² OJ C 139, 14.6.2006, p. 1.

³ OJ C 61E, 10.3.2004, p. 143.

⁴ OJ C 27 E, 31.1.2008, p. 214.

⁵ OJ C 124 E, 25.5.2006, p. 373.

- C. whereas the multiannual financial framework (MFF), which translates the Union's political priorities into expenditure programmed over a number of years and places a ceiling on Union expenditure over a given period, becomes in the Lisbon Treaty a legally binding act based on a new specific legal basis for the adoption of the regulation setting out the framework,
- D. whereas the fact that the financial frameworks, on the one hand, and Parliament's parliamentary term and the Commission's term of office, on the other, do not coincide has thus far served to deprive Parliament of part of its budgetary powers, because it is often bound by a financial framework negotiated and adopted during the previous parliamentary term,
- E. whereas, if no change is made to the timetable, some Parliaments will never be able to take fundamental budgetary decisions, since the financial framework adopted by their predecessors covers the entire parliamentary term in question,
- F. whereas the current small margins available under each heading and the paltry sums allocated to the flexibility mechanisms which can be employed make it very difficult for the Union to respond appropriately to unexpected political events and may deprive the annual budgetary procedure of its substance,
- G. whereas the entry into force of the Lisbon Treaty makes it essential that the institutions responsible for the Union's financial and budgetary decision-making should reach an agreement on an optimum transition to the arrangements introduced by the new legal acts and the new decision-making procedures,
- H. whereas, in the interests of the smooth functioning of the Economic and Monetary Union, the EU budget must be taken into account when coordinating Member States' budgetary strategies,
- I. whereas the European Council of 11 and 12 December 2008 reaffirmed that the Lisbon Treaty is necessary in order to help the enlarged Union to function more efficiently, more democratically and more effectively, including in international affairs, and whereas it defined an approach and legal guarantees which meet the concerns expressed by the Irish electorate, with a view to enabling the Treaty to enter into force before the end of 2009, while respecting the aims and objectives of the Treaties,

Overall appraisal

- 1. Welcomes the advances brought about by the Lisbon Treaty in the area of the democratic scrutiny and transparency of the Union's finances; draws attention to the need to enhance and adapt interinstitutional conciliation mechanisms and internal cooperation procedures in order to enable Parliament to exercise its new powers to the full;

Own resources

- 2. Criticises the fact that, as regards the Union's own resources, the Member States have failed to take the opportunity to establish a system of genuine own resources which is fairer, more transparent, more readily understandable to the public and subject to a more

democratic decision-making procedure;

3. Criticises, in particular, the fact that no progress has been made in involving Parliament in the process of determining the limits to and the nature of the own resources available to the Union; points out that decision-making on revenue and decision-making on expenditure remain separate;
4. Welcomes, however, the efforts made to ensure that measures implementing the decision on own resources can be adopted by means of a special legislative procedure under which the Council acts by a qualified majority only after securing Parliament's consent;
5. Calls on the Council to employ that arrangement wherever possible in order to make the decision-making procedure more flexible;

Multiannual financial framework

6. Welcomes the formal status granted in the Lisbon Treaty to the MFF, which becomes a legally binding act; points out that the MFF programmes EU expenditure and places a ceiling on Union spending over a given period, thereby helping to strengthen budgetary discipline;
7. Welcomes the fact that the regulation laying down the MFF will have to be jointly approved by Parliament and the Council, under a special procedure;
8. Criticises, however, the fact that the Lisbon Treaty has retained the requirement that the Council should act unanimously when adopting the MFF, rendering the decision-making procedure very difficult and encouraging negotiations on the basis of the 'lowest common denominator'; urges the European Council, therefore, to make use as soon as possible of the provision which enables it, by means of a unanimous decision, to impose a switch to qualified-majority voting for the adoption of the MFF;
9. Criticises, further, the fact that under the new procedure Parliament has only a right of approval and no genuine power of codecision; however, emphasises the fact that the Lisbon Treaty stipulates that the institutions must take any measure necessary, throughout the procedure, to ensure that it is ultimately successful; calls on the Council, therefore, to demonstrate its willingness, from the start of the procedure, to develop a structured political dialogue with Parliament in order to take full account of the latter's priorities;
10. Notes that the Lisbon Treaty stipulates that the MFF will determine not only the 'amounts' of the 'annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations', but will also lay down 'any other provisions required for the annual budgetary procedure to run smoothly'¹;

¹ Article 312(3) of the Treaty on the Functioning of the European Union (consolidated version) (OJ C 115, 9.5.2008, p. 47).

Duration of the MFF

11. Welcomes the fact that the Lisbon Treaty provides for the possibility of financial programming over five years, so that, if the necessary changes are introduced, the MFF can be made to match, as far as possible, Parliament's parliamentary term and the Commission's term of office, as democratic logic requires; underlines that particular arrangements to cope with the needs of specific policies for longer-term financial periods could be required;
12. Supports, therefore, the switch to a five-year MFF, but is aware that a full coincidence between the MFF and the term of the European Parliament and the term of Office of the Commission might be difficult, as it considers a negotiating period of at least one year may be necessary to allow each new Parliament and each new Commission to take fundamental financial policy decisions during their terms of office;
13. Takes a very favourable view of the incorporation of the MFF into a comprehensive approach to interinstitutional strategic programming - one which, moreover, is consolidated in the Lisbon Treaty - as suggested in the report by the Committee on Constitutional Affairs on the institutional balance¹;
14. Endorses the proposal made in that report that the new College of Commissioners, when presenting its 'programme for its term of office', should submit proposals concerning the guidelines for the financial framework which it regards as necessary to achieve political priorities for its term of office, priorities which, once the programme for the parliamentary term has been agreed between the institutions, would be developed through its proposals in the MFF;
15. Takes the view, moreover, that at debates in plenary and hearings before the parliamentary committees the nominee for the post of President of the Commission should already be in a position to provide an outline of the likely financial implications of the political objectives the new Commission intends to pursue;
16. Emphasises that the switch to five-year financial programming, as referred to above, could necessitate the prolongation and adjustment of the current MFF to 2016 inclusive, so that the next five-year MFF can enter into force, at the latest, in early 2017²; recommends that

¹ Dehaene report of 18 March 2009 on the impact of the Lisbon Treaty on the development of the institutional balance of the European Union (A6-0142/2009).

² In keeping with the model described in the following table taken from the Committee on Budgets' report of 26 February 2009 on the mid-term review of the financial framework 2007-2013 (A6-0110/2009):

Year	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
budget prep	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Parliamentary term	2004 / 2009		2009 / 2014				2014 / 2019					
MFF	Review 2007 / 2013						2013 / 2016			2017 / 2022		

the negotiations for the next MFF be in any case concluded by the end of the first trimester of 2016, in order to allow for the budgetary procedure for 2017 to run already within the parameters of the framework that will be in force in 2017;

17. Stresses that the negotiations should be conducted in such a way as to allow the institutions to envisage the entry into force of a new MFF already in 2016;
18. Considers that the prolongation and adjustment of the current MFF should be considered when the next mid-term review is carried out in 2010;

Flexibility

19. Emphasises that the legally binding nature of the MFF necessitates, even more than before, the introduction of more flexible implementing arrangements so that the Union can respond sufficiently flexibly and effectively to unforeseen challenges, both within and outside the European Union;
20. Draws attention to the fact that the Lisbon Treaty stipulates that the ceilings corresponding to the last year of the existing MFF and other provisions will be extended if the new MFF has not been adopted before its predecessor expires; regards this as a further argument in favour of increased flexibility;
21. Emphasises, in that connection, the importance of strengthening flexibility mechanisms operating within and between each heading and through specific flexibility instruments which can be mobilised outside the margins;
22. Points out that the Committee on Budgets will give its views on these matters when adopting its report on the mid-term review of the financial framework 2007-2013;

Transition from the interinstitutional agreement to the MFF

23. Draws attention to the need, in good time prior to the entry into force of the Lisbon Treaty, for the institutions to reach agreement on the arrangements for making the transition from the current interinstitutional agreement to an MFF contained in a legislative act, as provided for by the Lisbon Treaty; recalls that a period of eight weeks is required for scrutiny by national parliaments of draft legislative acts;
24. Takes the view, in that connection, that agreement will have to be reached as to which of the provisions which currently form part of the interinstitutional agreement should be switched to the MFF, which should be incorporated into the future Financial Regulation and which might justify the retention of an interinstitutional agreement - possibly incorporating new provisions - on budgetary cooperation; points out that this process of dividing up the provisions of the current interinstitutional agreement will have to take account of the criteria laid down in the Lisbon Treaty itself;

Annual budgetary procedure

25. Warmly welcomes the abolition of the distinction between compulsory expenditure (CE) and non-compulsory expenditure (NCE), as a result of which Parliament now has the

right to take decisions concerning all Union expenditure on an equal footing with the Council;

26. Emphasises that the abolition of the distinction between CE and NCE is not at odds with the Union's obligation to honour its financial commitments, and welcomes the fact that the Lisbon Treaty acknowledges that it is for Parliament, the Council and the Commission to ensure 'that the financial means are made available to allow the Union to fulfil its legal obligations in respect of third parties'¹;
27. Notes that the changes to the annual budgetary procedure should serve to make it more simple by laying down the principle of a single reading for each institution and by introducing a number of mechanisms designed to help the two arms of the budgetary authority reach agreement; emphasises that these changes should lead to less bureaucracy;

Role of the Commission

28. Emphasises the strengthening of the role conferred on the Commission, which acquires a right of initiative in the budgetary sphere and may amend its draft budget until such time as the Conciliation Committee is convened;
29. Welcomes the fact that the Treaty also acknowledges that it is for the Commission to take all the necessary initiatives with a view to reconciling the positions of Parliament and the Council during the proceedings of the Conciliation Committee, thus inviting it to play to the full its role of mediator between Parliament and the Council with a view to securing an agreement;

A completely new approach

30. Draws attention to the fact that the new procedure provides for only a single reading of the draft budget by each institution; emphasises that the new procedure and the single reading will no longer make it possible in de facto terms for the institutions to adjust their standpoints at second reading, as they were able to hitherto; is convinced, therefore, that this procedure will require Parliament to fine tune its political priorities at an earlier stage and adapt accordingly its operational approach and organisational arrangements so as to enable it to achieve all the objectives set;
31. Points out that this single reading must be used to assert Parliament's political priorities, but must also enable it to reach agreement with the Council by the time the Conciliation Committee has completed its work (or enable it to adopt its amendments again by a large majority, in the event of approval by Parliament and rejection by the Council of the text drawn up by the Conciliation Committee);
32. Emphasises, in that connection, the importance of retaining a pragmatic timetable similar to the current one, whilst calling for conciliation to be initiated in good time; points out, moreover, that the introduction of informal arrangements for dialogue between the institutions is crucial to facilitating agreement before the procedure starts and then

¹ Article 323 of the Treaty on the Functioning of the European Union (consolidated version).

throughout its duration;

33. Is convinced that the Lisbon Treaty will strengthen Parliament's powers, provided that it equips itself with the means to manage effectively both the tighter timetable and the greater need to plan ahead thoroughly which will result from the introduction of the new procedure;
34. Takes the view that in future its resolution before the first conciliation meeting will take on increased importance, since it will enable Parliament formally to set out its budgetary priorities for the coming financial year, unencumbered by tactical considerations linked to the Council's position on the draft budget; takes the view that that resolution will thus give the other institutions a clear picture of Parliament's priorities before the interinstitutional negotiations start; adds that this will also provide Parliament with an opportunity to set out some initial guidelines concerning pilot projects and preparatory actions;
35. Points out that these priorities will also be of great value to Parliament both as guidelines for its reading of the draft budget and as a negotiating mandate for its delegation to the Conciliation Committee;
36. Stresses the importance of organising a triologue in July of each year in order to enable each institution to gain a clear insight into the priorities of the other parties and to enable Parliament to apprise the other institutions of the substance of the resolution on the draft budget to be adopted in July;
37. Highlights the political value of the establishment – in keeping with each body's respective powers – of in-depth dialogue with the counterpart committees from the national parliaments on the draft budget and Parliament's priorities for the annual budgetary procedure;

Conciliation Committee

38. Emphasises the importance which the Conciliation Committee will have in the future as the body in which political disagreements between the two arms of the budgetary authority are resolved; points out that this committee will have the task of finding, within 21 days, an agreement on a compromise text which will enter into force if it is not rejected by the budgetary authority; takes the view that the members of this committee must be drawn from the very highest political level;
39. Welcomes the fact that the Lisbon Treaty confers a decisive role on Parliament at the end of the procedure; points out that:
 - the Conciliation Committee text ('joint text') will not be regarded as having been adopted if Parliament rejects it (by a majority of its component members);
 - if the Council rejects the joint text whilst Parliament approves it, either it enters into force unchanged, or Parliament may confirm the amendments it adopted at its reading of the draft budget, by a qualified majority (a majority of its component members and

three-fifths of the votes cast);

40. Emphasises that it would be desirable for Parliament's delegation to the Conciliation Committee to be headed by the chair of the Committee on Budgets and for it to incorporate, if required and without prejudice to the political nature of the procedure for the appointment of its members by the political groups, in addition to the members of that committee, members of specialist parliamentary committees in cases where the negotiations concern a specific issue within their policy area;
41. Calls on the Council to reach agreement with Parliament quickly on the Conciliation Committee's working arrangements;
42. Takes the view, for its part, that the Conciliation Committee should be able to meet at least twice at the highest political level, if that is necessary for agreement to be reached, its meetings to be preceded by a preparatory political dialogue, in keeping with the traditional arrangement; reiterates the need for the Council's representatives at these meetings to be issued with a political negotiating mandate;
43. Proposes that these proceedings should be prepared by an interinstitutional preparatory working party comprising the general rapporteur and representatives of the political groups, for Parliament, and the Permanent Representative of the country holding the EU Presidency, who may be accompanied by representatives of the two other Presidencies in the troika;
44. Points out, further, that the institutions must reach agreement on the composition of the Conciliation Committee secretariat, which should probably consist of officials from the two arms of the budgetary authority, assisted by the Commission;

Agricultural matters

45. Draws attention to the fact that the rule stipulating that the Commission may no longer amend its draft budget once the Conciliation Committee has been convened will preclude the use of the traditional autumn letter of amendment to take account of the updated forecasts for agricultural policy and their budgetary implications; takes the view that, if these circumstances arise, the most appropriate procedure would involve the submission by the Commission – if necessary – of a specific draft amending budget (an 'agricultural SAB') once all the agricultural data have been finalised;

Relations with the legislative authority

46. Emphasises that the parallelism between the extension of Parliament's budgetary powers to cover all Union expenditure and the widening of the codecision procedure to encompass almost all legislation calls for greater account to be taken of the budgetary dimension to legislative activity; with that aim in view, regards it as essential that cooperation between the Committee on Budgets and the sectoral committees should be stepped up in order to take due account of the financial impact of Parliament's legislative activity, in particular its impact on the MFF and the annual budget; proposes, accordingly, that the legislative conciliation committees on matters with financial implications should

include a member of the Committee on Budgets; to that end, draws attention to the work of the Working Party on Parliamentary Reform, not least as regards the specific forms of cooperation between parliamentary committees set out in the third interim report;

47. Points out, moreover, that the Lisbon Treaty extends to all Union institutions the obligation to enforce budgetary discipline; points out that Parliament's Rules of Procedure already lay down a specific procedure designed to ensure that that principle is observed; takes the view that this procedure will have to be made more workable and effective;

Financial Regulation

48. Welcomes the fact that the Financial Regulation becomes a regulation adopted under the ordinary legislative procedure (codecision) by Parliament and the Council, after consulting the Court of Auditors;
49. Points out that the Lisbon Treaty contains the main provisions to be used to identify those provisions of the current interinstitutional agreement which should be retained in the future agreement and those which should instead be incorporated into the MFF;
50. Notes, however, that the Financial Regulation should incorporate all the provisions needed to define the budgetary procedure, in accordance with the provisions of the Treaty; takes the view that such provisions would cover the functioning of the Conciliation Committee, the mechanism triggering conciliation, and, naturally enough, the updating of the provisions of the Financial Regulation directly affected by the changes introduced by the Lisbon Treaty (i.e. the abolition of the distinction between CE and NCE, a new codecision procedure for transfers, etc.);
51. Regards it as vital that the institutions should reach a political agreement on these matters in due time so that, once the Lisbon Treaty has entered into force, the requisite changes to the Financial Regulation can quickly be made using the new procedure and, if needed, provide for provisional agreements to allow the smooth continuation of the budgetary procedure;
52. Calls on the Commission to put forward in due time a proposal which enables Parliament and the Council to reach agreement on the application of the identification criteria referred to in paragraph 49 to the substance of the current interinstitutional agreement;
53. Argues that these changes to the Financial Regulation must be kept strictly separate from the three-yearly review of that document scheduled for 2010;

Budgetary impact of the interinstitutional changes and the Union's new competences

54. Notes that the entry into force of the Lisbon Treaty will also have an impact on the Union budget through the institutional innovations it contains, in particular the elevation of the European Council to the status of institution, accompanied by the establishment of a fixed Presidency, and the creation of the post of High Representative and of the European External Action Service, whose task will be to support the High Representative in his or her work;

55. Reiterates, as of now, its intention of exercising its budgetary powers to the full in connection with these institutional innovations and emphasises the importance of reaching a political agreement with the Council in due time on funding arrangements for the European Council, and, in particular, its fixed Presidency, and for the future European External Action Service; emphasises that all aspects of the funding arrangements for that service must remain under the supervision of the budgetary authority;
56. Points out that in the framework of the CFSP and the common security and defence policy the Lisbon Treaty provides for the establishment of new procedures to grant rapid access to the Union budget and to create a start-up fund of Member State contributions; stresses, however, that all external actions of the Union should as a rule be financed from Community appropriations, and only exceptionally – in the event of an emergency – on the basis of contributions outside the Union budget;
57. Notes that the Lisbon Treaty will also have a financial impact, however limited, by virtue of the new specific competences conferred on the Union; states its willingness to analyse, at the appropriate juncture, the practical implications of the exercise of these new competences; takes the view that these competences will certainly not be implemented en bloc immediately after the entry into force of the Lisbon Treaty, but rather gradually as the relevant legislative proposals are drawn up; takes the view, however, that they must not be funded to the detriment of the Union's current activities;

Coordination with national budgets

58. Wishes to invite the national parliaments to take part, each year, in a joint public debate on national and Community budgetary policy guidelines, prior to consideration of the respective draft budgets, in order to establish from the outset a common framework for coordination of Member States' national policies, while also taking into account the Community contribution;
59. Points out that the decision on the apportionment of EU budget expenditure in the light of the EU's major objectives would be usefully informed by the annual publication, by each Member State, of the appropriations under national and, where applicable, regional budgets that contribute to achieving those objectives;

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60. Instructs its President to forward this resolution to the Council, the Commission and the parliaments of the Member States.

EXPLANATORY STATEMENT

I - Introduction

1. The Treaty of Lisbon makes sweeping changes in the area of the Union's finances, particularly as regards interinstitutional relations and decision-making procedures. At the same time, the Treaty establishes a precise hierarchy between the basic acts of the financial and budgetary life of the Union, with the aim of bringing necessary clarification to the decision-making system.
2. The principle that derives from the provisions of the Treaty of Lisbon is related to four main axes:
 - The Member States basically remain in charge of budget revenue through the Union's own resources.
 - The Council and the EP must agree, within the limits of own resources, on the programming of expenditure, which becomes legally binding.
 - The distinction between compulsory and non-compulsory expenditure is abolished: the budget as a whole must be adopted jointly by the EP and the Council, in compliance with the multiannual financial framework. In addition, the EP's powers in the budget adoption procedure are strengthened: no annual budget may be adopted without the EP's agreement, whereas the EP may force the adoption of a budget against the Council's wishes.
 - Parliament's responsibility in the area of budget discipline is increased. Under the provisions of the Treaty of Lisbon (TL), the financial regulation must be adopted by the EP and the Council under the ordinary legislative procedure (Article 279 TFEU), i.e. codecision.
3. The rapporteur will explore the changes that would result from adoption of the Treaty of Lisbon as regards the budget procedure and the relevant powers of Parliament. While it reaffirms certain basic principles of the way the Union's finances are organised (budgetary discipline, sound financial management etc.), the Treaty makes some significant changes, particularly to the budget procedure.
4. The main issues covered will be the links between the future financial framework and the Financial Regulation as regards the measures currently provided for in the IIA, the budgetary implications of the institutional changes, and the Union's new competences.

II - Financing of the Union (Article 269 TFEU)

1. The Treaty has not altered the logic of how the Union is financed. The fundamental decision on the system of European resources remains, as before, a matter for the Member States: a decision adopted unanimously by the Council, which does not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements. Although the Commission has the initiative and the EP takes part in the process by delivering its opinion, this power essentially rests with the Member States.
2. The principle of sufficient resources remains in the same form as it appears in the current Treaties: *‘The Union shall provide itself with the means necessary to attain its objectives and carry through its policies’* (first paragraph of Article 269 TFEU). Furthermore, this is confirmed by the fundamental principle of budgetary discipline, whereby *‘the Union shall not adopt any act which is likely to have appreciable implications for the budget without providing an assurance that the expenditure arising from such an act is capable of being financed within the limit of the Union’s own resources and in compliance with the multiannual financial framework referred to in Article 270a’*.
3. Nevertheless, the TL has at the same time clarified certain aspects and sets in motion the ‘Communitisation’ of the system. It introduces a new element to the substance of the decision on own resources, making it possible to *‘establish new categories of own resources or abolish an existing category’*. However, this simply confirms the current reality: as the Treaty does not operate at this level, it is the own-resources decision that establishes the types of own resources available to the Union. The same applies to the amount of such resources, which naturally includes the possibility of amending or abolishing them or creating new ones. In the rapporteur’s view, this opens the way in future to moving towards a system of own resources that is fairer, more transparent and more visible to the public.
4. Under a new paragraph added to Article 269 TFEU, measures implementing the own-resources system will be adopted by a Council regulation adopted by a qualified majority and with the consent of the EP. Despite the restriction that the implementing measures are taken within the limits provided for by the own-resources decision, this provision opens the way to a greater role for the EP as regards own resources.

In conclusion, while the Treaty takes some steps in the right direction, it is regrettable that the opportunity was missed to make substantial progress, for example by transforming the system into genuine Union own resources, which would allow for genuine participation by the Union’s institutions in the procedure and would give the European Parliament a more influential role.

III - The multiannual financial framework

1. The TL, as Parliament has called for on numerous occasions, lays down the principle that the multiannual financial framework is legally binding¹, which is founded on the establishment of a specific legal base for the adoption of the regulation containing this framework. This regulation must be adopted by the Council through a special legislative procedure in which the EP has power to decide.
2. The first subparagraph of Article 270a(1) stipulates that the multiannual financial framework must *'ensure that Union expenditure develops in an orderly manner and within the limits of its own resources'*. The last subparagraph adds that the *'annual budget of the Union shall comply with the multiannual financial framework'*. This paragraph, which complements the principle laid down in Article 269(4) (*'the Union shall not adopt any act which is likely to have appreciable implications for the budget without providing an assurance that the expenditure arising from such an act is capable of being financed **within the limit of the Union's own resources and in compliance with the multiannual financial framework referred to in Article 270a'***), lays the foundations for the Union's budgetary discipline².

Content of the MFF

3. The Treaty institutionalises current practice. Article 270a stipulates that the MFF must *'determine the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations.'*
4. It also states that *'The financial framework shall lay down any other provisions required for the annual budget procedure to run smoothly'* (second subparagraph of paragraph 3). This means that the MFF includes some of the substance of both parts of the current interinstitutional agreement on financial discipline³ and not only the

¹ For the Member States, this legally binding formalisation was the necessary counterbalance to the abolition of the distinction between compulsory and non-compulsory expenditure, as several Member States felt that extending the EP's budgetary powers to the Union's expenditure as a whole should be subject to rigorous budgetary discipline. The EP had for years been in favour of an approach aimed at making budgetary discipline clearer and more transparent, aware of the essential role that this had played in ending the former budgetary conflict between Council and Parliament, thereby allowing the Union to develop its policies in a balanced and planned way.

² It is worth noting that the principle laid down in Article 269(4) TFEU to a large degree corresponds to Article 270 of the current EC Treaty, with the significant difference (as well as the addition of the limit of the multiannual financial framework) that the latter referred only to the Commission while the new article refers to the Union as whole, i.e. to all its institutions. This means that the TL considers budgetary discipline to be a legal obligation for all institutions and that each of them will have to implement it fully in its specific area of responsibility.

³ The objective of the interinstitutional agreement between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (OJ C 139, 14.06.2006) is to put budgetary discipline into practice. It applies to all institutions and to all expenditure covered by the 2007-2013 multiannual financial framework. It aims to improve the running of the annual budget procedure and interinstitutional cooperation in the area of the budget and contributes towards ensuring sound financial management.

indication of the expenditure ceilings. This particular aspect will be dealt with in Chapter VI.

Procedure

5. The multiannual financial framework is a regulation adopted by a special legislative procedure which requires that it be adopted unanimously by the Council with the consent of the EP. The EP therefore has power to decide. This serves to formalise the practice of interinstitutional agreements of recent years.
6. In addition, Article 270(5) stipulates that *'Throughout the procedure leading to the adoption of the financial framework, the European Parliament, the Council and the Commission shall take any measure necessary to facilitate its adoption'*. This provision is intended to differentiate the budget procedure from codecision and to temper the logic of an assent-type procedure.

A provisional solution to possible failure of negotiations

7. Article 270a(4) reflects the fact that difficulties may arise during the negotiations on each financial perspective and makes provision for the possibility of a failure to reach agreement, which is all the more likely given that the rule of unanimity in the Council has been maintained, although the possibility of moving to a qualified majority is included in the Treaty. If no new financial framework *'has been adopted by the end of the previous financial framework, the ceilings and other provisions corresponding to the last year of that framework shall be extended until such time as that act is adopted'*.

Duration of the MFF

8. Under the TL, the multiannual financial framework lasts a minimum of five years. The intention is to make the duration of the MFF coincide as far as possible with the terms of office of the EP and of the Commission, as the EP has long called for. The conclusion of each interinstitutional agreement on the financial perspective should be the occasion to launch a legislative programme that corresponds in reality to a political and financial programme. The latter should therefore logically be attached to the democratic mandate of the elected Parliament and of a Commission politically responsible to it¹. Practice relating to the context of financial perspectives has meant that certain parliamentary terms have 'inherited' financial frameworks in which they had had no say². The same applies to the Commission, which is sometimes obliged to

¹ In its resolution on policy challenges and budgetary means of the enlarged Union 2007-2013 (2004/2209(INI)), Parliament *'reiterates, for reasons of democratic responsibility and accountability, its position in favour of a parallelism between the duration of the Financial Perspective and the five-year mandates of the European Parliament and of the Commission'*.

² Provision could therefore be made for a five-year MFF beginning two or even three years after the start of the EP's and the Commission's terms of office (five years starting from N+2 or N+3, 'N' being the year in which the EP's and Commission's terms of office begin). It should be noted that, since the European elections are held in June of year N and the Commission's term of office starts in October/November, in practice N+2 means a little more than a year for the negotiations, which cannot be long enough for the adoption of a new MFF.

implement a financial framework negotiated by a previous Commission. It therefore has to take over the political choices made by the previous executive¹.

9. The rapporteur therefore believes that a more direct link should be created between the MFF and the political terms of office, particularly as regards the appointment of Commissioners. When the College is subject to approval by the EP, the latter could also rule on a financial proposal of general policy formulated by the College. By the same token, the European Parliament, when campaigning in the European elections, would be able to defend a political and financial plan to which it would be committed, before the people, to realising.

Transition to the new system

10. However, this provision does not deal with the specific problem of the transition from the current system to that provided for in the TL. The third subparagraph of Article 270a(1) states that the budget must comply with the MFF. There will therefore need to be an MFF that has been properly adopted in accordance with the rules applied by the new Treaty in order for the EP and the Council to be able to adopt the annual budget.
11. That being the case, as a transitional measure, and in the event that it is not possible to complete the procedures before the adoption of the annual budget, a budget vote could be held, on the basis of the principle of continuity, complying with the procedures laid down by the Treaty and in line with the current financial framework.

The multiannual financial framework becomes legally binding. It is a regulation adopted by a special legislative procedure which requires that it be adopted unanimously by the Council with the consent of the EP. Article 270a(5) recalls that the institutions are obliged to '*take any measure necessary to facilitate [the] adoption*' of the financial framework throughout the procedure. This provision reinforces the role of interinstitutional cooperation, which must be applied from the start of the procedure in order to ensure that it is concluded acceptably.

Under the Treaty of Lisbon, the multiannual financial framework lasts a minimum of five years. The intention is to make the duration of the MFF coincide as far as possible with the terms of office of the EP and of the Commission, as the EP has called for on many occasions. As a result, Parliament could rule on the hearings of future Commissioners according to a financial proposal of general policy formulated by the College. By the same token, the European Parliament, when campaigning in the European elections, would be able to defend a political and financial plan to which it would be committed, before the people, to realising.

¹ Consider the difficulties caused by such a situation during the negotiations on the last interinstitutional agreement, when the EP had to push the Barroso Commission, with which the negotiations were concluded, to confirm its acceptance of the package of proposals formulated by the Prodi Commission as the basis for agreement.

IV - The annual budget

1. The annual budget procedure has been significantly changed by the new Treaty. First of all, the TL abolishes the distinction between compulsory expenditure (CE) and non-compulsory expenditure (NCE). The logical consequence is that in future the EP and the Council will decide on the budget as a whole on equal terms.
 2. Expenditure of a binding nature continues to exist. Article 279a of the Treaty leaves unchanged the rule, which at first glance appears superfluous, whereby the EP, the Council and the Commission must '*ensure that the financial means are made available to allow the Union to fulfil its legal obligations in respect of third parties*'.¹
 3. The second change is the abolition of the second reading, as a result of which a new budgetary conciliation procedure is created. This is a special procedure, with the obligation to reach an outcome justified by the specific nature of the act under discussion¹.
- A. Conduct of the annual budget procedure

For a complete description of the procedure (Article 314 TL), see annex 1.

4. In the first stage of the procedure, and in the absence of precise rules in the Treaty, the institutions will have to agree on the details relating to the procedure or the timetable. The first step for the EP is to maintain the pragmatic timetable currently in operation. The institutions will also have to agree on informal consultation mechanisms in such a way as to ensure that everything is done to guarantee the success of the annual budget procedure (see under heading 2 below).
5. The rapporteur believes that the dialogues, informal conciliation or consultation procedures and all other current forms of informal interinstitutional dialogue should be reviewed and, if necessary, adapted in the light of the changes made to the procedure. Article 279b TFEU provides for regular meetings between the Presidents of the EP, the Council and the Commission to be convened, on the initiative of the Commission. The TL goes even further, stipulating that these regular meetings must take place for all financial and budget procedures, and that the Presidents should take all necessary steps to '*promote consultation and the reconciliation of the positions of the institutions over which they preside*'. It is therefore clear that this provision reinforces the general duty of sincere cooperation between the institutions by creating what is practically an obligation for the institutions to consult one another.
6. The question may therefore legitimately be asked whether the committee need necessarily be composed of all members of the Council (and of an equal number of

¹ Except in specific cases where the Treaty provides for the specific adoption of a particular legislative act, codecision can end either in success or failure with equal legitimacy. In budgetary 'codecision', agreement must be reached because the act under discussion is vital to the survival of the Union. This gives rise to certain specific characteristics of the procedure – the possibility for the EP to disregard rejection by the Council, or the provision in the Treaty whereby failure would require the Commission to submit a new draft budget.

MEPs) or whether it could be composed of reduced, but still equal, delegations. The wording of Article 272(5) ('the members of the Council') seems to point towards the first hypothesis. If this is the case, provision must be made for a working method involving trialogues in preparation of the Conciliation Committee's work. The EP must in all cases ascertain the political level of the Council's representation.

Consequences of a failure of negotiations

7. As stated in the annex, the procedure stipulates that a consequence of a failure of negotiations is that the Commission is required to submit a new draft budget. This strengthens the Commission's role, and it must draw conclusions from this failure by identifying areas of disagreement between the EP and the Council and submitting a new draft that can lead to agreement between the two institutions.
8. The TL retains the rule whereby the provisional twelfths system is applied in the event that the budget cannot be 'definitively' adopted before the beginning of the financial year.

The suggestion that Parliament would gain a dominant position in the new budget procedure is confirmed. No annual budget may be adopted without the EP's agreement, but the EP may approve a budget against the wishes of – or in the absence of an opinion from – the Council. If the European Parliament approves the joint text and the Council rejects it, the European Parliament may, acting by a majority of its component members and three fifths of the votes cast, decide to confirm all or some of the amendments tabled to the Commission's draft budget.

The Commission's role in the budget procedure is also strengthened. It has a genuine right of initiative, strengthened by the possibility of amending its text at any point before the Conciliation Committee is convened. Its role as a mediator in the committee's work is explicitly recognised. This is because it is the Commission's task to seek the best alternative if the procedure fails.

It should be emphasised that certain aspects of the procedure compel the two branches of the budgetary authority to agree: it is easier to adopt the compromise text than to reject it, the consequences of failure are serious for the institutions etc.

B. Practical implications of the new budget procedure

9. The changes to the procedure and the related shortening of relevant time limits also call for good preparation, both at internal level within each institution and at interinstitutional level, of all the stages of the procedure, because there will be fewer possibilities for 'corrections'.

Consequences for the timetable (see annex 1)

10. First, it appears that the EP should support bringing forward, or at least maintaining, the current informal timetable:
- the Commission submits its draft budget during April;
 - trilogue held in March/April, which will be all the more useful if there is to be only one reading in each institution;
 - conciliation in June/July.

Consequences for the EP's internal work

11. The resolution on the draft budget will make it possible at first reading:
- to indicate the strategic guidelines on the EP's priorities;
 - to take decisions concerning pilot projects and preparatory actions.

Consequences for the preparation of Parliament's single reading

12. The fact that there is only one reading significantly alters the nature of that reading and considerably increases its strategic importance. In practice, it will be a question of adopting a position on all budget lines (including former CE) by expressing the EP's political priorities. **The rapporteur draws particular attention to the fact that the amendments adopted at first reading will no longer be able to be amended by the EP alone. They must therefore comply with a double imperative:** to make it possible to reach a satisfactory agreement in the Conciliation Committee but also to be able to be reconfirmed by the EP (by a particularly high majority) in the event that the Council rejects the Conciliation Committee's text and the EP adopts it.
13. It will therefore be essential to establish, in advance of the first reading, a reinforced mechanism of internal dialogue between the Committee on Budgetary Control and the parliamentary committees involved as well as with the political groups.

Consequences for the membership of the Conciliation Committee

14. Internally, the specific nature of budgetary consultation gives rise to the question of the membership of the EP delegation. Thus a specific system should be put in place.
15. It makes sense to provide for significant participation by the Committee on Budgets, while at the same time ensuring an adequate level of participation by the parliamentary committees which have a significant budgetary impact.
16. A much more wide-reaching accompanying structure could perhaps be considered in order to reinforce the delegation's negotiating capacity and its strategic coherence. In any event, all useful measures will have to be taken to ensure that the delegation is as representative as possible so as to provide it with more weight during the negotiations and to ensure it has the broadest possible support in plenary.

Consequences for the conclusion of the procedure

17. The organisation of the procedure and of the timetable must make it possible for the measures laid down in the Treaty relating to Parliament to be used. This means that the EP should be able to deliver its opinion on the Conciliation Committee text in November in order to be able, if necessary, to vote on its first-reading amendments in December. This safety margin could help towards possible agreement on a new Commission initiative in the event of failure during the first budget procedure.

V- Financial Regulation

1. Finally, an important innovation in the TL relates to the adoption of the financial regulation, which will henceforth be subject to the ordinary legislative procedure (Article 277 TFEU), thereby conferring real power of codecision on the EP. Currently, Parliament is simply consulted.
2. This constitutes important legislative progress. The revision of the financial regulation will have to be conducted before the Treaty enters into force. The EP will therefore have to negotiate, and then decide how to divide the provisions of the IIA between the financial regulation and the financial framework. This matter will be dealt with in Chapter VI.

VI - The impact of the Lisbon Treaty on the present IIA

1. The entry into force of the Lisbon Treaty will have a particular impact on the current Interinstitutional agreement on budgetary discipline and sound financial management and on the Financial Regulation.

The current IIA and the MFF

2. Concerning the IIA, article 312 TFEU creates the **Multiannual Financial Framework**, which will be contained in a regulation adopted through a special legislative procedure in which the Council decides by unanimity after obtaining the consent of the EP, which must be adopted by the absolute majority of its Members. This means that the financial framework - until now defined through the financial perspectives agreed voluntarily by the institutions through an IIA - will become legally binding. Moreover, this article stresses that

"(1) The annual budget of the Union shall comply with the multiannual financial framework."

3. Concerning the content of the MFF, which shall have a duration of at least five years, the same article stresses that it
"(3) ...shall determine the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations. The categories of expenditure, limited in number, shall correspond to

the Union's major sectors of activity.

The financial framework shall lay down any other provisions required for the annual budgetary procedure to run smoothly".

This means that not only the ceilings but also the rules contained in the present IIA facilitating the annual budgetary procedure to "run smoothly" should be integrated in the future MFF, mainly the ones related to the functioning of the MFF, such as the revision and flexibility procedures.

The Financial Regulation under the TL

4. The Financial Regulation will become a regulation adopted through the ordinary legislative procedure (co-decision) by the EP and the Council, subsequent to the opinion of the Court of Auditors. According to article 322(1) TFEU it shall contain

" (a) the financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget..."

5. It is obvious that the new treaty will have a direct impact on some of the Financial Regulation's areas, for instance in relation to the new budgetary procedure, particularly the abolition of the classification of compulsory expenses/non compulsory expenses (CE/NCE). But the future FR should also incorporate some of the provisions currently foreseen in the IIA (ie rules on budgetary discipline and on legal acts) which would more appropriately find their place in this Financial Regulation than in the MFF regulation.

Timetable and criteria

6. Both these acts can only be adopted after the entry into force of the Treaty, but they should be adopted in due time to allow the implementation of 2009 budget and the establishment of 2010 budget to run smoothly according to the new legal framework. This means that the political negotiations between the institutions should start immediately, in order to allow to reach a political agreement until the end of the current year, so that as soon as the TL enters into force - provided that all the ratification procedures are concluded - the formal procedure for their adoption starts as soon as possible. Apart from the obvious need that the budgetary procedure for 2010 runs already in accordance with the new rules foreseen in the TL, some practical examples demonstrate this urgency: under what rules will the transfers of appropriations take place after 1 of January 2009 if the treaty enters into force in this date? Or under what procedure will a possible of that year? Or how will an amending budget be then adopted?
7. Concerning the criteria for the distinction between the provisions of the IIA that should find their place in the future IIA and those which would more properly be contained in the MFF, they are set out directly by the TL:

- The **MFF regulation** should include the *"provisions required for the annual*

budgetary procedure to run smoothly." This means all the mechanisms relating to the functioning of the current IIA: mobilisation of different funds and flexibility; the procedure for revision; and special arrangements linked to specific policies (CSFP/Agencies, etc).

- The **FR** should include all provisions necessary to "*determine*" the procedure "*...for establishing and implementing the budget...*" according to the new procedure established in the Treaty. This seems to cover the functioning of the conciliation committee, the trigger mechanism and of course the updating of the provisions of the Financial Regulation directly affected by the modifications of the new Treaty (i.e. the abolition of classification CE/NCE, a new co-decision procedure for transfers, etc).

8. Your rapporteur considers that this adjustment of the FR should only take on board the modifications directly streaming from the new treaty and those deriving from the dismantling of the current IIA (in accordance with the criteria established in the treaty) and should not in any case be confused with its triennial review that the RF itself foresees.

What future for the IIA?

9. Does this mean that the IIA of May 2006 will become completely superfluous and will then be totally dissolved into these two basic financial legal acts? Probably not: the new budgetary procedure will still need a number of practical arrangements - such as a new pragmatic calendar, the interinstitutional cooperation procedure, the modalities of the functioning of the conciliation committee, its secretariat, the format of the common documents and their translation etc.. All these points, and probably others (articles 31 and 33 of the current IIA, part of its Annex 2, for instance) could be consolidated in a new IIA on budgetary procedure.¹ Saying that, your rapporteur considers premature at this stage of the procedure to exactly indicate which article of the current IIA could be part of the future IIA or of one of the two legal basis.
10. To conclude your rapporteur considers that the Lisbon Treaty will open the door for a new approach of budgetary relations, based on a joint decision by Parliament and Council on equal footing. In this respect this document aims to propose some principles, to be agreed by the committee on budgets, to open a constructive discussion with Council and Commission.
11. Your rapporteur is perfectly aware that the Treaty of Lisbon will only enter into force when -and if - all ratification procedures are concluded in all Member States. Meanwhile, the urgency in disposing of some of the acts mentioned above as soon as possible after the entry into force of the TL implies that preliminary discussions between the Institutions on the measures needed for the implementation of the Treaty

¹ In fact the new treaty specifically foresees the possibility of the institutions celebrating interinstitutional agreements, which can be legally binding or not. Article 295 TFEU: "*The European Parliament, the Council and the Commission shall consult each other and by common agreement make arrangements for their cooperation. To that end, they may, in compliance with the Treaties, conclude interinstitutional agreements which may be of a binding nature.*"

start immediately. In fact all the Institutions share the view that, when and if the Treaty will enter into force then the procedure should be timed to avoid any legal vacuum. To reach that goal it is necessary to reach a political agreement on the content of those measures until the end of the current year.

VII - Budgetary impact of the innovations contained in the Treaty of Lisbon: institutional aspects and new Union competences

1. The aim of this chapter is to consider the Treaty of Lisbon in the light of its possible impact on the budget, i.e. to catalogue the innovations introduced by the Treaty which might have an impact on the EU budget.
2. Obviously, it is not for your rapporteur to set out figures in this document: that will be a matter to be dealt with during discussions on the mid-term review or after conclusion of the agreement on the current financial perspective. Equally obviously, however, the policies and institutions cited below were not taken into account when the present multiannual financial framework was adopted.

A. Budgetary provisions stemming from new Union competences

3. The Treaty of Lisbon confers no new exclusive competence on the Union, but it does grant a number of new competences defined as:
 - ‘shared competences’ (such as on space and energy);
 - ‘coordinating, complementary or supporting action’ (such as on civil protection, intellectual property, tourism, administrative cooperation and sport).

With a few specific exceptions, the ordinary legislative procedure (codecision with Parliament plus qualified majority in the Council) would apply to these areas.

4. Accordingly, new legal bases authorise EU lawmaking. Some of these new legal bases make reference to acts which do not appear to have financial implications for the EU, however; others involve new competences only on the surface, since, in some instances, the Union has already been acting in the areas concerned (e.g. energy) on the basis of various provisions in the Treaties (and even, on occasion, Article 308).
5. At this stage of the procedure, however, a precise appraisal of the budgetary implications of those provisions is premature. It should be pointed out, furthermore, that any such expenditure under the Union budget would require prior adoption of specific legal acts (Article 310(3) of the FEU Treaty (former Article 268 of the EC Treaty¹).

The relevant legislative acts would have to be adopted before decisions were taken on budget allocations.

¹ ‘The implementation of expenditure shown in the budget shall require the prior adoption of a legally binding Union act providing a legal basis for its action and for the implementation of the corresponding expenditure in accordance with the regulation referred to in Article 322, except in cases for which that law provides.’

6. With regard to agricultural policy, it should be noted that the provisions contained in Articles 36 and 37 of the current Treaty would move to new Article 37(2), i.e. codecision would be involved. These provisions will apply to the following: common market organisations, direct-payments regulation, rural-development regulation and common agricultural policy financing.
7. The fact is that the Treaty of Lisbon provides for codecision to be extended to close to 50 new legislative fields. Budget allocations for codecision programmes would comply with ceilings under the multiannual financial framework, which would become legally binding. Your rapporteur would point out that it is therefore essential to give thought to an approach allowing the Committee on Budgets to work actively with the parliamentary committees responsible. Parliament voting on these matters - whether involving the CFP or annual budgets - must be made more coherent.
8. Point C of this chapter catalogues the new competences and their most obvious budgetary implications.

B. Institutional aspects

9. In addition to the provisions on the Union's finances, analysed above, the following provisions involving institutional changes and impacting on the Union's budget can be identified:

(a) *Parliament*

The putative entry into force of the decision determining the composition of Parliament, on which there have already been political negotiations (Lamassoure-Severin report) in anticipation of the next European elections, needs to be deferred. Under the Lisbon Treaty, there should be 751 MEPs from June 2009. However, given that the Treaty did not enter into force at the end of 2008, the EP will initially continue with the 736 Members provided for in the Nice Treaty. According to the conclusions of the European Council meeting of 11 and 12 December 2008, if and when the Lisbon Treaty comes into force that number will increase to 754. That will have to be taken into account in Parliament's budget.

(Scheduled for: June 2009)

(b) *European Council and its permanent Presidency*

The European Council would become a separate institution with, accordingly, its own budget. Under Article 316 of the FEU Treaty (former Article 273a of the EC Treaty), that budget should be included in the same section as the Council's budget. Moreover, Article 235(4) of the FEU Treaty (former Article 201a of the EC Treaty) specifies that the European Council would be assisted by the Council's General Secretariat.

Accordingly, a good proportion of the European Council's operations can be funded via the Council's budget. That raises the question as to whether, and how, Parliament can exercise genuine oversight over expenditure relating to the European Council's secretariat and whether the 'gentlemen's agreement' between the two arms of the budgetary authority should be maintained.

Lastly, provision will have to be made in the budget for the expenditure specific to the office of President of the European Council (remuneration for the President and the private office staff, travel expenses, etc.) in connection with the permanent Presidency of the European Council.

(Scheduled for: January 2009)

(c) *High Representative (HR)*

According to Declaration 12 ('Declaration on Article 18 on the Treaty on European Union'), annexed to the Treaty of Lisbon, the HR should also take office at the start of next year (provided, of course, that the Treaty of Lisbon comes into force at the start of 2009). Expenditure in this connection could be regarded as being covered by the Commission's budget, since the HR will occupy a Commissioner's post.

(Scheduled for: January 2009)

(d) *European External Action Service (EEAS)*

The problem of financing the EEAS is not directly a problem of availability of appropriations, since external action is already financed within the Commission's and Council's budgets. This is above all a budgetary nomenclature problem; and, as is patently obvious, it will be a political rather than a technical problem. Possible provision of funding from the EU budget for members of the service coming from national diplomatic services, as provided for by the Treaty of Lisbon, will also have to be allowed for.

Parliament is preparing two reports on this issue (Brok report (AFCO) on the institutional aspects of the EEAS; Neyts report (AFET)). It will have a vital interest in laying down the specific model as to how the EEAS will operate, and will be prepared to use its budgetary powers in this connection. Your rapporteur considers that no binding budgetary decision on the future of the EEAS should be taken until political agreement has been reached on the service's organisational set-up.

(Scheduled for: 2009; several stages to be provided for, possibly, for setting up the service, extending over several financial years)

(e) *Commission*

Apart from the changes as a result of creating the post of HR and the EEAS, the Treaty of Lisbon should have a direct impact on the Commission's budget as from 2014, when the number of Commissioners should be reduced to two thirds of the number of Member States. The decisions taken by the European Council at its meeting of 11 and 12 December 2008 would, however, appear to indicate that the Commission will continue in its current composition.

(Scheduled for: 2014)

- (f) *Court of Justice (Declaration on Article 252 of the Treaty on the Functioning of the European Union regarding the number of Advocates-General in the Court of Justice)*

The number of Advocates-General may rise from eight to 11, in accordance with Declaration 38 on Article 252 of the FEU Treaty, if the Court of Justice so requests. That would have consequences for the Court's budget.

(Scheduled for: dependent on Court's request)

- (g) *Economic and Social Committee and Committee of the Regions*

At present, the composition of both committees is laid down in the Treaty: neither may have more than 350 members; each is currently made up of 344 members. The Treaty of Lisbon alters the procedure for determining their composition, though the 350-member ceiling has been retained. In future, it would be for the Council, acting unanimously on a Commission proposal, to determine their composition. For the time being, it cannot be forecast what the budgetary consequences would be of altering the procedure for setting the number of members of the two committees.

- (h) *Establishment of a European Public Prosecutor's Office (Article 86 of the FEU Treaty)*

The European Public Prosecutor's Office should replace OLAF. Establishing it would definitely have financial implications for the Union's budget (pay, staff, facilities, etc.), though they cannot be duly evaluated until the decision to establish the Office is taken.

(Scheduled for: subject to adoption of legislative acts)

C. Union policies: new competences and new legal bases

- (a) *New Eurojust tasks (Article 85 of the FEU Treaty)*

Eurojust's tasks would be extended. That may entail increased funding requirements. Any such requirements cannot be determined until the legislative acts provided for in the Treaty are adopted.

(Scheduled for: subject to adoption of legislative acts; medium to long term)

(b) *Judicial cooperation in criminal matters (Article 82(1)(c))*

The new competence conferred on the Union as regards support for the training of the judiciary and judicial staff might also have budgetary implications, though such measures are already funded by the EU.

(Scheduled for: subject to adoption of legislative acts)

(c) *Youth and sport (Article 165)*

A new youth-related competence has been added - 'encouraging the participation of young people in democratic life in Europe' (Article 165(2), fifth indent) - **which would be bound to have financial consequences, even if similar measures are already being funded.**

Article 165(1) would confer a sport-related competence on the Union, which would have to contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function. Here, too, the budgetary consequences would be determined when legislative acts were adopted.

(Scheduled for: subject to adoption of legislative acts)

(d) *Public health (Article 168)*

A competence has been added for the EU as regards the monitoring, early warning and combating of serious cross-border threats to health. These would be incentive measures rather than harmonisation measures. The Union would also 'encourage cooperation between the Member States to improve the complementarity of their health services in cross-border areas'. The Union would also be able to adopt measures which had as their direct objective the protection of public health regarding tobacco and the abuse of alcohol. Legislative harmonisation has been ruled out.

(Scheduled for: subject to adoption of legislative acts; medium to long term)

(e) *European research area (Article 179)*

Article 179 provides for the establishment of a European research area so as to strengthen the Union's scientific and technological bases. The objective is to enable researchers, scientific knowledge and technology to circulate freely within that area.

Accordingly, Parliament and the Council, acting under the codecision procedure and as a complement to the activities planned in the multiannual framework programme, would have to establish the measures necessary for implementation of the European research area.

(Scheduled for: subject to adoption of legislative acts; medium to long term)

(f) *Space policy (Article 189)*

The FEU Treaty outlines a new European space policy seeking to promote scientific and technical progress, industrial competitiveness and the implementation of the Union's policies (paragraph 1), including a new European space programme (and excluding legislative harmonisation)

To act on this new competence, the Union could promote joint initiatives, support research and technological development and coordinate the efforts needed for the exploration and exploitation of space.

Legislative acts adopted under the ordinary procedure would establish the necessary measures, in the form of a European space programme, while legislative harmonisation has once again been ruled out (paragraph 2).

Paragraph 3 also stipulates that the Union would have to establish any appropriate relations with the European Space Agency, thus providing a legal basis for cooperation with it.

(Scheduled for: subject to adoption of legislative acts; medium to long term)

(g) *Environment / combating climate change (Article 191)*

The objectives of the Union's environment policy would be extended to include promoting measures at international level to deal with regional or worldwide environmental problems, in particular combating climate change.

No new specific legal basis has been provided for. This objective would therefore be incorporated into existing instruments (programmes in particular), which might have considerable budgetary consequences.

(Scheduled for: subject to adoption of legislative acts; medium to long term)

(h) *Energy (Article 194)*

The Union would have competence to take measures to:

- ensure the functioning of the energy market;
- ensure security of energy supply in the Union;
- promote energy efficiency and energy saving and the development of new and renewable forms of energy;
- promote the interconnection of energy networks.

A reference to energy solidarity between Member States has also been added.

These measures cannot call into question the competence of a Member State to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply. This is circumscribed by Article 192(2)(c), which allows the Council, under a special legislative procedure, to adopt measures significantly affecting the choice of a Member State between different energy sources. Any measures primarily of a fiscal nature would have to be adopted by the Council unanimously (Article 194(3)).

(Scheduled for: subject to adoption of legislative acts; medium to long term)

(i) *Tourism (Article 195)*

The Union would acquire a new competence to encourage ‘the creation of a favourable environment for the development of undertakings in this sector’ and to promote ‘cooperation between the Member States, particularly by the exchange of good practice’. (Legislative harmonisation has been ruled out.)

(Scheduled for: subject to adoption of legislative acts; medium to long term)

(j) *Civil protection (Article 196)*

The Union would have competence to take measures to encourage cooperation between Member States in order to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters.

(Scheduled for: subject to adoption of legislative acts; medium to long term)

(k) *Administrative cooperation (Article 197 of the FEU Treaty)*

The Union would have competence to support the efforts of Member States to

improve their administrative capacity to implement Union law, including facilitating the exchange of information and of civil servants and supporting training schemes. Legislative harmonisation has been ruled out.

(Scheduled for: subject to adoption of legislative acts; medium to long term)

(l) *Humanitarian aid (Article 214 of the FEU Treaty)*

The Treaty of Lisbon would establish a new legal basis for EU humanitarian aid operations in third countries. The objective of those operations may be to provide ad hoc assistance and relief and protection for people in third countries who are victims of natural or man-made disasters, in order to meet the humanitarian needs resulting from these different situations (paragraph 1).

These actions would have to complement and reinforce Member State actions; they would have to comply with the general objectives of EU external action, with the principles of international law and with the principles of impartiality, neutrality and non-discrimination (paragraph 2).

Acting under the ordinary legislative procedure, Parliament and the Council would set the framework implementing humanitarian aid measures (paragraph 3). The Union would also be able to conclude agreements with third countries and international organisations (paragraph 4).

A new legal basis would allow a European Voluntary Humanitarian Aid Corps to be set up so as to establish a framework for humanitarian aid contributions by young Europeans. (Parliament and the Council would act under the ordinary legislative procedure.)

The Union already has humanitarian aid competence. However, defining this new framework for more precise competences might well have a considerable financial impact.

(Scheduled for: subject to adoption of legislative decisions or acts; medium to long term)

(m) *Solidarity clause (Article 222)*

‘The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster.’ (paragraph 1). The Union already finances similar action under the Solidarity Fund (€ 1 bn a year under the present IIA - to be confirmed), but the scope of the solidarity clause is broader, particularly as regards protection against acts of terrorism, possibly leading to military operations. The funding currently available may therefore have to be increased.

The arrangements for implementing this clause would be defined by the Council acting by qualified majority on a joint proposal by the Commission and the High Representative (unanimously where there were defence implications). Parliament would be informed accordingly.

(Scheduled for: subject to Council decision; medium to long term)

Conduct of the annual budget procedure

1. The Commission's initiative: the draft budget

The budget procedure formally begins before 1 September, on the basis of a proposal from the Commission, with which the legislative initiative rests: the draft budget. This has consequences, particularly in terms of defining the qualified majority in the Council, because in this case qualified majority is applied¹. However, Article 250 TFEU as amended stipulates that when it comes to the budget procedure² the rule whereby the Council may amend a Commission proposal only if it agrees to do so unanimously does not apply. In addition, the second subparagraph of Article 250(2) states that the Commission may amend its proposal until such time as the Conciliation Committee is convened, which is intended to facilitate its role as a mediator between the EP and the Council.

In order to establish the draft budget, the Commission will have to take into consideration the expenditure estimates drawn up by each institution. However, it is not necessarily obliged to take use them, as the draft budget may contain different estimates, in accordance with Article 270a.

2. Delivery of Council and EP positions

The first reading starts with the Council, which must adopt its position on the draft budget by 1 October at the latest and forward it to the EP. The EP must then adopt a position within the next 42 days.

If the EP approves it as it is or does not adopt a position, the budget is deemed adopted.

If the EP adopts amendments (by a majority of its component members), the amended draft is forwarded to the Council and to the Commission.

The President of the EP, in agreement with the President of the Council, '*immediately*' convenes a meeting of the Conciliation Committee³.

However, if within 10 days of the draft being forwarded the Council informs the EP that it has approved all its amendments, the Conciliation Committee does not meet, as the budget is deemed adopted as amended.

¹ And not the higher qualified majority provided for in cases where an act is not adopted on the basis of a Commission proposal. See Article 9C TEU and Article 205 TFEU.

² And also in procedures relating to the adoption of: own-resources implementing measures; the multiannual financial framework after the European Council, has authorised switching to qualified-majority voting; or Council decision authorising the provisional twelfths limit to be exceeded.

³ Of course, the President of the EP will need to obtain the agreement of the President of the Council and allow time for technical preparations (reference documents etc.) in order for the Committee to be able to operate.

3. Conciliation Committee

The Conciliation Committee, which must be composed of *‘the members of the Council or their representatives and an equal number of members representing the European Parliament’* then has 21 days to reach agreement. The Commission takes part in the Conciliation Committee’s proceedings and, under the TL, must take *‘all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council’* (second subparagraph of Article 272(5) TFEU).

4. Conclusion of the procedure: a theoretically dominant position for the EP

If the Conciliation Committee does not reach agreement within 21 days, the budget is deemed not to have been adopted and a new procedure must begin with the submission by the Commission of a new draft budget.

If the Conciliation Committee reaches agreement on a compromise text, the EP and the Council have 14 days to deliver an opinion on this text. The wording of paragraph 7 is not altogether clear, but it can be concluded that the budget is approved if neither of the two institutions rejects it, the Council acting by qualified majority and Parliament by a majority of its component members¹.

If both institutions reject it, the Commission must submit a new draft budget.

The same applies if the EP rejects it (by an absolute majority of its members) and the Council does not (either approving it or not taking a decision).

On the other hand, if the EP approves it (by simple majority) and the Council rejects it, the EP has the opportunity to reconfirm – within 14 days of rejection by the Council – the amendments that it adopted at first reading, provided it does so by a majority of its component members and three fifths of the votes cast². In this case, the budget is deemed adopted with the amendments confirmed by the EP. If the EP does not succeed in confirming all its amendments, the Conciliation Committee text on the budget headings concerned is retained.

For the sake of clarity, all the eventualities concerning the reactions of the two institutions to the conciliation’s joint draft can be set out as follows:

¹ In other words: if both institutions approve it, if neither takes a decision or if one adopts it while the other fails to take a decision.

² The relationship between this 14-day period and the rest of the paragraph is not a straightforward matter: it can be concluded that, if the Council’s rejection comes after approval by the EP, the period begins after the date of rejection by the Council (or, moreover, of the communication of this rejection to the EP). But what if the Council rejects the text before the EP has delivered its opinion? Would the 14-day period begin immediately? Would the EP first have to adopt the text before reconfirming its amendments, or reconfirm the amendments first and then adopt the text as amended?

EP approves + Council approves = budget adopted
EP approves + Council does not deliver an opinion = budget adopted
EP approves + Council rejects = budget adopted in accordance with EP amendments or joint text
EP does not deliver an opinion + Council approves = budget adopted
EP does not deliver an opinion + Council does not deliver an opinion = budget adopted
EP does not deliver an opinion + Council rejects = budget rejected
EP rejects + Council approves = budget rejected
EP rejects + Council does not deliver an opinion = budget rejected
EP rejects + Council rejects = budget rejected

It should also be borne in mind that adoption of the text by the EP is carried out by simple majority, whereas rejection requires a majority of its component members¹.

As is currently the case, in the event of a positive conclusion to the procedure, the President of the EP declares that the budget has been finally adopted.

¹ What if the EP rejects the text by a lower majority than the one provided for? Would this be the same as adoption, as Article 272(7) TFEU seems to indicate? By contrast, it seems clear that, if the Council, which decides normally by qualified majority, fails to adopt the text by a qualified majority or to reject it by a qualified majority, it means that it has failed to deliver an opinion.

24.2.2009

OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS

for the Committee on Budgets

on the financial aspects of the Lisbon Treaty
(2008/2054(INI))

Draftsman: István Szent-Iványi

SUGGESTIONS

The Committee on Foreign Affairs calls on the Committee on Budgets, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Notes that the Lisbon Treaty will have substantive implications on the Common Foreign and Security Policy by reorganising the administrative responsibilities and introducing new policy fields,
2. Points out that, since the institutional set-up is not yet determined, the necessary budgetary appropriations should be made available gradually as the scope and role of the new organisational structures become clearer; calls on the Commission and the Council to ensure that the economies of scale in terms of support structures lead to a reduction of administrative costs,
3. Underlines that neither the institutional changes nor the new CFSP/CSDP provisions should further strain the current level of commitment appropriations under the already chronically underfinanced heading 4 and expects, consequently, the upcoming mid-term review of the Multiannual Financial Framework (MFF) to ensure additional resources,
4. Notes that the Lisbon Treaty provides for the establishment of new procedures to grant rapid access to the Union budget and to create a start-up fund of Member State contributions; stresses, however, that all external actions of the Union should as a rule be financed from Community appropriations, and only exceptionally – in the event of an emergency – from contributions outside the Union budget,

5. Welcomes the fact that the new budgetary procedure abolishes all distinctions between the different chapters of the budget and types of expenditure; believes therefore that CFSP-related expenditure should be subject to the same rules and procedures as those applicable to other chapters of the budget,
6. Emphasises that the legally binding nature of the MFF envisaged by the Lisbon Treaty calls for increased spending flexibility; believes accordingly that provisions relating to the flexibility instrument in the current Interinstitutional Agreement should be revised in order to increase the annual additional margin available for the budgetary authority and allow for limited adjustments and, where appropriate, temporary transfers between the different headings of the MFF.

27.5.2008

OPINION OF THE COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT

for the Committee on Budgets

on the financial aspects of the Lisbon Treaty
(2008/2054(INI))

Draftsman: Jan Mulder

SUGGESTIONS

The Committee on Agriculture and Rural Development calls on the Committee on Budgets, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Welcomes the new competences allocated to Parliament in the budgetary procedure, especially regarding agricultural spending; notes that Parliament has rightfully been given budgetary authority in all fields, in line with democratic principles; points out that Parliament will now have competence and responsibility for deciding on funding for agricultural programmes; wishes to maintain the good cooperation established with the Council on all budgetary matters;
2. Highlights the abolition of the classification of compulsory and non-compulsory expenditure under the Treaty of Lisbon; stresses, however, that a large part of the budget will still have to be set aside as compulsory expenditure due to multi-annual programming and legislation; points out that, although funding is therefore ensured, the budget has also become more rigid and inflexible; notes that, as a result, new priorities can only be funded by fresh money or through reprioritising within existing programmes and levels of expenditure; stresses, therefore, the increased need to ensure sufficient margins under different categories of the initial budget figures in order to leave room for Parliament's priorities;
3. Notes the contradiction between full budgetary competence and agricultural co-decision competence provided for in Article 37(2) of the Treaty of Lisbon on the one hand and Article 37(3) of that Treaty on the other; believes that Article 37(3) does not, in itself, constitute an independent power;

4. Notes that the Treaty of Lisbon incorporates the institutionalisation of the Interinstitutional Agreement (IIA) and the Multi-annual Financial Framework (MFF), which means that both financial agreements will have to be put into legislative acts, using a special decision-making procedure for the MFF; points out that, if Parliament and the Council fail to agree on a new MFF, the current one will be extended until such an agreement is reached;
5. Calls for a parallelism between the terms of the IIA and the MFF and the five-year mandates of Parliament and the Commission; emphasises that this will facilitate Parliament and the Commission's task in setting mid-term priorities; calls, therefore, for an extension of the current IIA and MFF from 2013 to 2015;
6. Stresses that the new Treaty significantly changes the annual budgetary procedure and emphasises that the fact that there will be only one reading significantly alters the nature of that reading and considerably increases its strategic importance; calls, if deemed necessary, for a swift revision of Parliament's Rules of Procedure in order to cope with the changed budgetary procedure for the 2010 budget and to allow Parliamentary committees, other than the Committee on Budgets to be able to give their opinions within workable time limits; calls on the Committee on Agriculture and Rural Development to redefine its budgetary advisory procedures in order to ensure high quality opinions following thorough discussion;
7. Notes that currently agriculture and rural development spending combined represent a substantial part of the EU budget but that this part has been decreasing significantly in relative terms in recent years; stresses that the predictability for planning purposes and the reliability of the multi-annual financial framework, as decided, must be guaranteed; stresses the need to ensure that the Committee on Agriculture and Rural Development is represented by the appropriate committee members in the conciliation committee meetings, particularly now that expenditure that was formerly compulsory is also subject to co-decision; stresses also the need to ensure coordination between the Committee on Budgets and specialised committees on budgetary aspects of their legislative activities given their impact on the Multi Financial Framework and the annual budgetary procedure;
8. Stresses that the common agricultural policy is financed entirely at European level, whereas other fields of policy are only partly financed by the European Union, and that expenditure on agricultural policy in the European Union must therefore be considered in this context;
9. Notes that, under the new budgetary procedure, the Commission's role in the conciliation stage is to mediate an agreement between Parliament and the Council to the best of its ability; where Parliament and the Council fail to come to an agreement in the conciliation committee, the Commission's role is to come up with a new proposal; points out, however, that if the Council agrees a common position with Parliament in conciliation but fails to secure a qualified majority in the Council itself, Parliament can revert, using an "anti-deadlock" clause, to its original first reading and approve the budget accordingly;
10. Notes the abolition of the Maximum Rate of Increase (MRI) in the budgetary procedure under the Treaty of Lisbon; notes, further, that this is due to the abolition of non-

compulsory expenditure;

11. Questions whether the timing for the new budgetary procedure, with just one reading, will allow the Commission to present the Amending Letter in the autumn, which is important as it will allow for the incorporation of harvest predictions and related budgetary spending;
12. Notes that the new Treaty retains the provision whereby the provisional twelfths system is applied where the budget cannot be definitively adopted before the beginning of the financial year; points out that this means that the budget will be executed on a monthly basis using, in essence, the previous budget as a spending ceiling.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	27.5.2008
Result of final vote	+: 37 -: 0 0: 0
Members present for the final vote	Vincenzo Aita, Peter Baco, Bernadette Bourzai, Niels Busk, Luis Manuel Capoulas Santos, Giuseppe Castiglione, Giovanna Corda, Joseph Daul, Albert Deß, Gintaras Didžiokas, Constantin Dumitriu, Michl Ebner, Ioannis Gklavakis, Lutz Goepel, Friedrich-Wilhelm Graefe zu Baringdorf, Esther Herranz García, Lily Jacobs, Elisabeth Jeggle, Heinz Kindermann, Vincenzo Lavarra, Stéphane Le Foll, Mairead McGuinness, Rosa Miguélez Ramos, James Nicholson, María Isabel Salinas García, Agnes Schierhuber, Czesław Adam Siekierski, Alyn Smith, Petya Stavreva, Witold Tomczak, Donato Tommaso Veraldi, Janusz Wojciechowski, Andrzej Tomasz Zapalowski
Substitute(s) present for the final vote	Liam Aylward, Esther De Lange, Hans-Peter Mayer, Brian Simpson, Struan Stevenson, Kyösti Virrankoski

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	11.3.2009
Result of final vote	+: 26 -: 0: 2
Members present for the final vote	Richard James Ashworth, Reimer Böge, Brigitte Douay, James Elles, Göran Färm, Szabolcs Fazakas, Vicente Miguel Garcés Ramón, Salvador Garriga Polledo, Ingeborg Gräble, Catherine Guy-Quint, Jutta Haug, Ville Itälä, Anne E. Jensen, Vladimír Maňka, Mario Mauro, Jan Mulder, Gérard Onesta, Margaritis Schinas, Nina Škottová, Theodor Dumitru Stolojan, László Surján, Gary Titley, Helga Trüpel, Kyösti Virrankoski, Ralf Walter
Substitute(s) present for the final vote	Călin Cătălin Chiriță, Marusya Ivanova Lyubcheva, Peter Šťastný

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	11.3.2009
Result of final vote	+: 26 -: 0 0: 2