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[DRAFT ORGANIC LAW CONCERNING THE FINANCIAL LAWS*]

by

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* This document has been translated from an unedited original.

ISLAMIC REPUBLIC OF MAURITANIA

MINISTRY OF FINANCIAL AFFAIRS,
PLANNING AND THE CIVIL SERVICE

DRAFT ORGANIC LAW CONCERNING THE FINANCIAL LAWS

Background

The achievement of State sovereignty by Mauritania automatically implied a break with the institutions of the past. Among the general reforms entailed by the country's political independence was the reform of public finances. On 8 December 1969, therefore, by decree No. 369, the Government instructed the Director of Finance:

To revise the decree of 30 December 1912 concerning the financial system, in liaison with the Treasury;

To prepare up-to-date amendments to the order regulating general accounting in kind and the order of 1935 on special agents and special agencies.

The financial regulations and practices of our new State have so far been based on a few provisions and principles inherited from the colonial period, which are derived from the financial laws, decree-laws adopted under emergency legislation and, in part, the decree of 31 May 1862 on French public accounting. It should, however, be noted that the last text was aimed more at solving the problems of implementing the budget than at establishing the rules governing its preparation, its content, its form and the conditions for its approval by the parliament.

There is, therefore, a gap that has existed for too long and needs to be filled. That is the aim of this draft law which the Government is submitting for the approval of the National Assembly.

This financial organic law, which is rooted in the Constitution of the Islamic Republic of Mauritania, is based on the traditional principles of budgetary procedure.

Thus, Article 33 of the Mauritanian Constitution states that:

"The law shall lay down the rules governing the financial laws establishing the resources and expenses of the State";

"The programme laws shall determine the aims of the economic and social action undertaken by the State".

Respect for the Constitution

In proposing a law to establish the legal framework for the State's finances, we are remaining well within the Constitution of 1961. This organic law seems indeed to mark the "rehabilitation" of budgetary law. It indicates an awareness of budgetary problems and of the fact that budgetary and political institutions evolve together, and it represents an adaptation of the major principles of public law to financial matters. The organic law is thus an instrument of public law relating to a particular field: the regulation of political institutions.

It is not, of course, just a political instrument, because from the technical standpoint it more or less confirms the trends already adumbrated in the earlier texts we have applied until now.

The new legal approach to budgetary matters has the effect of reducing the financial powers of the Parliament. By comparison with ordinary legislation, the financial law is prepared, discussed and voted upon in accordance with special restrictive procedures. The draft financial law is drawn up by the Government; it cannot be amended if the result would be an increase in expenditure; the time allowed for discussion and the voting procedure are closely regulated (articles 39 and 40 of the Constitution).

By defining the responsibilities and power of the legislative and the executive, the organic law does no more, in effect, than contribute to the smooth operation of our political institutions and embodies a great democratic principle stated by Montesquieu, the principle of the separation of powers.

Application of the technical principles of budgetary procedure

The technical principles of budgetary procedure are, of course:

Universality

Unity

Annuality.

These principles have in practice often been called in question, but they have victoriously stood the test of time and have in many cases served as a guideline for the restoration of public finances.

Without wishing to dwell on these principles, we shall try to indicate how far the present draft law has been able to apply them or, alternatively, has had to depart from them.

The principle of budgetary universality

This principle, which may today be considered the first of the great traditional principles that govern financial legislation, meets a double desire for clarity and honesty. It means that the State accounts, whether estimates or results, should present a complete picture of the Government's financial programmes.

The justification for this principle is both political and economic:

Politically speaking, budgetary universality determines the effectiveness of parliamentary control. The control of public finance is one of the essential prerogatives of parliaments in a democratic system; they can only exercise such control if they are in a position to know both the general and the detailed situation with regard to State expenditure and revenue;

Economically speaking, budgetary universality is necessary to bring out the influence of the action taken by public authorities on the economy as a whole. The budget contributes to the formation of the national income through the various kinds of expenditure it involves (civil servants' salaries, execution of projects); in addition, it represents a means of redistributing such income when it involves transfer expenditure (social or economic subsidies).

It may be noted that the draft law below reaffirms this principle of budgetary universality from its very first article. It should also be noted, however, that in the following paragraphs the text allows for possible departures from that principle (cf. budget annexes, special treasury accounts and special accounting procedures).

It should be pointed out, nevertheless, that by thus defining and limiting special appropriations, the organic law has reduced the previous range of possible derogations, as a sign of the desire to return to a more orthodox application of the principle of universality.

It should finally be observed that the conditions under which special appropriations can be made are clearly defined:

Appropriation by special procedures within the general budget or a budget annex can only be done by a regulation to that effect;

A special appropriation by means of a budget annex or a special treasury account can only be made by way of an exception and in any case can only result from a provision of the financial law, originating in the Government;

No special appropriation can be made if the expenditure results from a permanent right recognized by law. The application we intend to make of the principle of budgetary universality is thus clear.

The principle of budgetary unity

The present organic law seeks to reaffirm the principle of budgetary unity. Article 14 below states that "the whole amount of revenue shall be shown, without any consolidation of revenue and expenditure. Expenses shall be shown in the budget for the year during which the payment orders or warrants are issued by the responsible accountants; they shall be paid out of the appropriations for that year, whatever the date of the debt". In point of fact this principle stresses the same idea as the principle of universality: "Everything in one budget". That is why some people have difficulty in distinguishing between these two principles and identifying the exceptions to them, most of which are common to both.

They are, however, distinguished in theory, because they each have their own purpose and their fields of application are not necessarily the same.

The essential purpose of the principle of universality is to safeguard parliamentary control, to avoid certain expenses and receipts being removed from its control. The principle of unity, on the other hand, applies to the expenses and receipts submitted to the Parliament for control, i.e. in cases where the principle of universality is respected.

But in their application the two principles pursue a common objective; they can be seen to be rules for honesty designed to prevent the allocation of certain receipts for certain expenses.

The advantages of the principle are many:

(a) Budgetary unity alone makes it possible to see whether the budget is really balanced, or, if it is not balanced, to assess the exact extent of the deficit simply by comparing two figures, that for revenue and that for expenditure;

(b) Budgetary unity is necessary to show the size of the budget, which is not just a matter of statistics; a comparison of public expenditure and national income is essential in order to determine the relative extent of the burden placed by the budget on the country's economy; beyond a certain proportion, taxation, as also recourse to borrowing, is likely to discourage productive activities by the citizens;

(c) Budgetary unity alone enables the budgetary authority to compare the relative value of different kinds of expenditure at the time when it votes on the appropriation. When requests for funds are spread over several budgets which are submitted to the Parliament successively, it will be led to approve expenditure that may be useful but is not immediately essential, merely because the expenditure was included in the first set of estimates, whereas it might have refused to do so if it had been able, by considering the various budget documents together, to realize the extent of the total deficit.

The principle of budgetary unity is thus essentially a matter of substance, not just a formal requirement.

The principle of budgetary annuality

The principle of having an annual budget is important for two reasons:

Firstly, because expenditure and revenue are provided for and authorized for a period of one year;

Secondly, because the budget is adopted just once for the whole year.

This principle is traditionally stated first when the subject of financial legislation is being taught. It is in fact the oldest principle in origin and was adopted essentially for political reasons. But it has only been preserved into the modern period at the cost of considerable modifications in order to adapt it both to the difficult political situation in which Governments all too often find themselves and to the economic role now played by the budget in modern States.

It is political considerations that justify the principle of an annual budget: having a budget submitted at regular intervals enables the Parliament to exercise control, and annual intervals seem to make that control most effective.

The idea of a set interval for the submission of budgets is the culmination of the historical process through which parliamentary authority over the budget was evolved, first of all with regard to taxation and then with regard to the control of public expenditure.

Taxation is defined as a compulsory levy on the property of the taxpayer; the compulsory nature of the levy means that it involves direct interference in the citizen's rights of property, and, under a parliamentary system, this justifies the intervention of the Parliament, in which national sovereignty is vested.

On the other hand, it is interesting to note, if we take the case of France, for example, that neither the Estates General nor the Revolutionary Assemblies sought the right to supervise the use of the funds derived from the taxes they approved.

In 1789 only a very small number of the cahiers de revendications by which proposals for reform were submitted to the Estates General demanded the right of control over public expenditure.

The Constituent Assembly confined itself to separating the King's civil list from public expenditures in general, the latter being simply evaluated in statements entitled "Summary of treasury revenue and expenditure".

It was only under the Restoration that the problem of parliamentary control over the use of public resources came to the fore.

The Act of 26 May 1817 finally sanctioned the rule of the appropriation of expenditure, stating that expenditure by ministers should not exceed the sum allocated to them in each case.

As soon as the fundamental principles of parliamentary control in the twin fields of public revenue and expenditure were established, the idea of control at regular intervals became inevitable. Even if a tax could be approved once and for all, parliamentary approval became necessary for the distribution of appropriations among the different ministers. The principle of annual budgets was finally established by the decree on public accounting of 31 May 1862, which stated that the public revenue and expenditure for each financial year should be authorized by the annual financial law.

We know today that this principle of the annual budget is adopted in all democratic systems. The powers of the United States Senate in this respect can be compared mutatis mutandis with those of the French Parliament. The present organic law contains similar provisions. Article 5 states that "The financial laws shall authorize, for the budget year, the levying of taxes and other dues the proceeds of which go to the State; they shall evaluate the yield from such taxes and dues in accordance with the estimates made by the Government".

The principle of annuality implies that the appropriations made for a particular year should be used within the context of that year - that is to say, that they relate to activities that can be carried out within a year at the most.

But the administration may be led to undertake activities lasting much more than a year. It may also be in its interests to place orders for goods to be delivered over a period of several years, since unit prices tend to be lower the greater the size of the order; it may even happen that the supplier will not commit himself unless the administration gives him a contract for deliveries spread over several years, which will thus guarantee that he can amortize expensive equipment he has to acquire specifically in order to make the goods in question.

In all such cases, the administration finds it desirable to conclude contracts for an amount greater than the sums it will spend during the year. It is unnecessary for it to be given an appropriation for the full amount of the contract, which would inflate the budget unnecessarily and upset the balance. But it is essential that the budget authority should keep control over such contracts implying long-term expenditure, since the following year they will find themselves faced with heavy and unavoidable commitments which neither the Parliament nor the Government can back out of.

It is to this end that various procedures have been introduced which are based on the fundamental distinction between the two ideas of commitment and expenditure. In budgetary vocabulary, a commitment authorization is called a programme authorization, an expenditure authorization is called an appropriation.

The present organic law has provided for the possibility of combining programme authorizations into programme laws. Thus, for example, article 1 states that the financial laws "shall take account of the need for balanced budgets and of the economic and social objectives fixed under the general policy previously laid down by the President of the Republic"; article 10 states that "Within the context of development plans, programme laws may set long-term objectives of an economic and social nature...".

The organic law thus represents a more strict return to traditional budget orthodoxy. While the need for long-term planning is kept very much in mind by the budget authorities, it remains true that the simpler goal of balancing the annual budget has taken precedence in the present draft law.

It will be seen in the light of this long introduction that the draft law that follows remains consistent with the Constitution of the Islamic Republic of Mauritania and respects to the fullest extent possible the technical principles of traditional budget procedures.

The National Assembly is therefore requested to approve it as the organic law concerning the financial laws.

DRAFT LAW

TITLE I

General

Article 1

The nature, amount and use of State resources and expenditure shall be provided for as authorized by the financial laws. They shall take account of the need for balanced budgets and of the economic and social objectives fixed under the general policy previously laid down by the President of the Republic, subject to the powers conferred on the regulatory authority by this organic law.

Article 2

The financial laws shall comprise the following:

1. The financial laws for the year, containing among other things, the budget.
2. The amending financial laws, modifying the provisions of the financial law for the year in the course of that year.
3. The settlement law, presenting the financial results for each budget year and approving the differences between the results and the estimates in the corresponding financial law, together with any amending financial laws.

No other law shall have the status of a financial law, and hence no other law may include provisions coming within the scope of the financial laws, with the exception, as far as resources are concerned, of fiscal laws.

Article 3

Financial laws may not contain provisions other than those that come within their scope. They may contain provisions relating to the basis, rate and procedure for collection of taxes of all kinds.

TITLE II

Resources of the State

Article 4

The resources of the State shall include:

Taxes and the proceeds of fines.

Remuneration for services rendered, fees, contributions, gifts and legacies.

Revenue from property and financial holdings, the State's share in the profits of national enterprises and, where their articles so provide, in those of public establishments, and miscellaneous proceeds.

Proceeds from loans.

Any other unforeseen or exceptional resources.

Repayments of loans and advances.

Article 5

No tax or other due may be levied unless authorized by a law.

The financial laws shall authorize, for the budget year, the levying of taxes and other dues the proceeds of which go to the State; they shall evaluate the yield from such taxes and dues in accordance with the estimates made by the government.

They shall authorize the levying of taxes earmarked for local organs and public establishments.

The provisions of the first paragraph of this article notwithstanding, quasi-fiscal taxes levied for an economic or social purpose for the benefit of a body corporate in public or private law other than the State, the local organs and their administrative public establishments shall be fixed by a decree adopted by the Council of Ministers on the joint report of the Minister of Finance and the Minister concerned. The levying of these taxes beyond the budget year in which they were introduced shall be the subject of further authorization each year in the financial law.

Article 6

Remuneration for services rendered by the State and other fees may only be charged and levied if they are introduced by a decree adopted in the Council of Ministers on the report of the Minister of Finance and the Minister concerned.

The proceeds from fines, remuneration for services rendered, income from property and financial holdings, the profits of national enterprises and, where their articles so provide, those of public establishments, repayments of loans and advances and the amount of miscellaneous proceeds shall be provided for and assessed on the basis of the Government's proposals by the financial law.

Article 7

Apart from the permanent transactions of the State described in articles 4, 5 and 6 above, the public treasury shall execute treasury transactions on the responsibility of the State.

Treasury transactions shall include among other things:

Loan issues and repayments.

Deposit transactions on the orders and for the account of correspondents.

Loan issues shall be authorized by law.

Unless otherwise specified by law, public loan certificates issued by the State shall be made out in the legal currency and shall not provide for any tax exemption.

Repayments of loans shall be effected in accordance with the issue contracts.

Deposit transactions shall be carried out under the conditions laid down in the regulations on public accounting.

Except where otherwise provided by a decree adopted on the report of the Minister of Finance and the Minister concerned, local organs of the Republic, public establishments and bodies corporate receiving the proceeds of quasi-fiscal taxes shall be required to deposit all their liquid assets with the treasury. Subject to the special provisions concerning current accounts of foreign States, a correspondent of the treasury may in no case be allowed an overdraft.

TITLE III

State expenses and liabilities

Article 8

State expenses and liabilities shall include:

The public debt.

Current expenditure.

Capital expenditure.

Loans and advances.

The public debt shall consist of all borrowing for current expenditure of an economic and social nature or for capital expenditure, together with the annuity debt and expenditure to be set against revenue.

Current expenses shall include:

Allocations to public authorities.

Expenditure on personnel, equipment and current maintenance required for the operation of services.

Transfers, other than those covered by capital expenditure, resulting from refunds or repayments or measures taken by the State, particularly in economic, social and cultural affairs.

Capital expenditure shall include:

Investment carried out by the State and the acquisition of shares by the State.

Transfers for investment effected with the help of a State subsidy or contribution.

State loans and advances shall include:

Short-term advances.

Medium-term and long-term loans.

Article 9

When provisions of the legislation or regulations are to involve new expenses, no draft law may be finally passed and no decree may be signed unless these expenses have been provided for, assessed and authorized by a financial law or in execution of a financial law, in accordance with the terms of the present organic law.

Posts may not be established or their descriptions amended except by the financial laws.

Article 10

Within the context of development plans, programme laws may set long-term objectives of an economic or social nature. The programme laws may give rise to commitments by the State except within the limits set by the programme authorizations contained in the financial laws.

The programme authorizations represent the upper limit on capital expenditure which may be incurred for the execution of investment provided for by law. They can be revised to take account of technical changes or variations in price. Payment orders may not be issued in respect of expenditure provided for under programme authorizations unless the corresponding payment appropriations have been passed.

The payment appropriations for capital transactions represent the upper limit of expenditure which can be passed for payment or paid during the budget year in order to cover commitments entered into under the corresponding programme authorizations.

Article 11

Only provisions relating to the approval of financial conventions, State guarantees, management of the public debt and the annuity debt, advance commitment authorizations or programme authorizations can make commitments affecting the financial balance for future years.

Article 12

The law shall lay down the penalties applicable to any person who has irregularly incurred public expenditure and the circumstances in which officials and agents of the State shall be financially liable for any irregularities committed, independently of any disciplinary and penal sanctions that may be incurred.

TITLE IV

Accounting

Article 13

State resources and expenditure shall be accounted for in the general budget or, as an exception provided for in a financial law, in a budget annex or in a special treasury account.

Article 14

The budget shall consist of the accounts showing, for a financial year, all the resources and all the regular expenses and liabilities of the State.

Revenue shall be shown in the budget for the year in which it is received by a public accountant.

The whole amount of revenue shall be shown, without any consolidation of revenue and expenditure.

Expenses shall be shown in the budget for the year during which the payment orders or warrants are issued by the responsible accountants; they shall be paid out of the appropriations for that year, whatever the date of the debt.

A decree adopted on the report of the Minister of Finance after an opinion from the Supreme Court shall determine the procedure for applying the principles set forth above and the conditions under which exceptions may be made to it, particularly as regards adjustment transactions.

Article 15

The following may be the subject of budget annexes to the State budget:

1. Financial transactions by State services which are not bodies corporate and whose activities are essentially concerned with the production of goods or the provision of services for which a price is paid.
2. In the event of the abolition of a public establishment of an industrial and commercial nature, the services that replace it, when their transactions are not restored to the general budget.

The introduction and discontinuance of budget annexes shall be determined by the financial law.

Article 16

The budget annexes shall include, first, operating revenue and expenditure, and, secondly, investment expenditure and special resources appropriated for such expenditure.

Transactions under the budget annexes shall be executed like transactions under the general budget. Operating expenditure shall follow the same rules as current expenditure; investment expenditure shall follow the same rules as capital expenditure.

Article 17

Services covered by a budget annex may maintain supply, sinking, renewal, reserve and contingency funds. The supply funds shall initially be set up out of the investment appropriations under the general budget.

Losses found to exist after the results of each budget annex have been drawn up shall be covered from the reserve fund of the budget in question. If the reserve fund has been used up, an advance may be obtained from the Treasury. If the advance has not been repaid in two years, it must be covered by an appropriation out of current expenditure under the regular budget. If, however, it has not been repaid after four years, the budget annex shall be discontinued.

Article 18

Appropriations may be made under the general budget or a budget annex by special procedures: these are the contributions procedure and the restored appropriations procedure.

Funds contributed by individuals or bodies corporate to be combined with those of the State in defraying expenditure of public interest and proceeds from legacies and gifts to the State or to public administrations shall be entered in the budget directly as receipts.

The use of such funds, which must be in accordance with the intention of the contributor or donor, shall be governed by the conditions set forth in article 40.

The following may give rise to the restoration of appropriations under the conditions set forth in article 40:

- (a) Receipts from repayment to the Treasury of sums paid out unduly or provisionally from budget appropriations;
- (b) Receipts from transfers which have given rise to payment out of budget appropriations.

Article 19

The special treasury accounts may be opened only by a financial law. They shall comprise only the following categories:

1. Special-purpose accounts.
2. Trade accounts.
3. Accounts for settlements with foreign governments.
4. Monetary transactions accounts.
5. Loan accounts.
6. Advance accounts.
7. Guarantee and endorsement accounts.

Allocation to a special account shall be automatic in the case of loan, advance, guarantee and endorsement transactions.

Article 20

Subject to the special rules set forth in articles 21-27, transactions relating to the special treasury accounts shall be provided for, authorized and executed under the same conditions as transactions relating to the general budget.

Except where otherwise provided by a financial law, the balance of each special account shall be carried over from year to year. However, the profits and losses for the total balance in accounts that are not carried over, with the exception of special-purpose accounts, shall be shown in the results for the year in accordance with the conditions set forth in article 34.

Except where a financial law provides otherwise, it shall be forbidden to charge expenses resulting from the payment of remuneration or allowances to officials of the State or of local organs, public establishments or public enterprises directly to a special treasury account.

Article 21

The special-purpose accounts shall show transactions which under a provision of a financial law are financed by means of special resources.

The total expenditure committed or passed for payment under a special-purpose account shall not exceed the total receipts in the same account except during the first three months of its existence. During that period the deficit shall not be greater than a quarter of the expenditure authorized for the year.

Article 22

The trade accounts show transactions of an industrial or commercial nature carried out as a secondary activity by public services of the State. The deficit set annually for each of them shall be limitative in nature. Except where a financial law expressly provides otherwise, it shall be forbidden to use trade accounts for transactions relating to financial investment, loans or advances or for borrowing transactions.

The annual results shall be drawn up in accordance with the national accounting plan as soon as it has been adopted. As a transitional arrangement the results shall follow the normal practice of commercial accounting.

Article 23

The accounts for settlement with foreign governments shall show transactions carried out in accordance with international agreements. The monetary transactions accounts shall show revenue and expenditure of a monetary nature.

For these two categories of accounts, the presentation of estimated revenue and expenditure shall be optional; the deficit fixed annually for each of them shall be limitative in nature.

Article 24

The advance accounts shall show advances which the Minister of Finance is authorized to approve within the limits of the appropriations made for that purpose. A separate advance account shall be opened for each debtor or category of debtors.

Except where a decree provides otherwise, the decision of the Minister of Finance approving the advance shall fix the rate of interest to be charged, which shall not be lower than the Central Bank's discount rate.

Except where special provisions in a financial law provide otherwise, the period for which advances are made shall not exceed one year, or two years in the event of duly authorized renewal at the end of the first year.

Any advance not repaid after a period of one year or, in the event of renewal, two years, shall give rise, depending on the debtor's ability to pay, to:

Either a decision to recover the advance immediately, or, if it cannot be recovered, the institution of effective proceedings within a period of three months;

Or an authorization to consolidate the debt in the form of treasury loans accompanied by a transfer to a loan account;

Or the entry of a probable loss in the results for the year under the conditions set forth in article 34; repayments received subsequently shall be entered as receipts in the general budget.

Article 25

The loan accounts shall show loans granted by the State for a period of more than two years up to the amount of the appropriations made for the purpose, whether as new transactions or on a consolidation basis. Except where a decree provides otherwise, loans shall bear interest at a rate fixed in the decision by the Minister of Finance granting the loan, which shall not be lower than the Central Bank's discount rate.

Repayment of the principal on State loans shall be entered as revenue in the account for the loan in question.

Article 26

The guarantee and endorsement accounts shall show the commitments made by the State as a result of financial guarantees given by it to an individual or body corporate.

Each transaction shall be authorized by a financial law. A special account shall be opened for each transaction. The financial guarantee accounts as a whole shall be financed by a grant under the general budget equal to 25 per cent of the annual sums due from the recipients of State guarantees.

If the State guarantee is called in as a result of default by the recipient, the account in question shall be debited with the whole or part, as appropriate, of the sum due. Any repayments made to the State subsequently by the recipients shall be entered as receipts in the account in question.

Any debt outstanding after a period of two years from the date when the last payment was due shall give rise, depending on the ability to pay of the debtor who received the State guarantee, to a decision to recover the debt immediately, or, if it cannot be recovered, the institution of effective proceedings within a period of three months, or to the entry of a probable loss in the results for the year under the conditions set forth in article 34.

Subsequent repayments or recoveries shall then be entered as revenue in the general budget.

Article 27

Funds received as foreign aid shall be credited to a special-purpose account.

Before financial transactions are performed with these funds, the account shall be debited with the sums necessary for the purpose. These shall be entered as revenue in the general budget under a financial law.

The credits corresponding to the expenditure of such funds shall be opened in the general budget by the same financial law.

Article 28

State treasury transactions shall be shown in treasury accounts opened by order of the Minister of Finance.

TITLE V

Submission and adoption of draft financial laws

Article 29

The draft financial law shall determine ways and means of balancing the finances, shall fix, for the general budget and the budget annexes, the total amount of the credits applicable to the services already approved, shall decide on the expenditure applicable under new authorizations by section, shall authorize special treasury account transactions by category, shall group together the programme authorizations with their schedules and shall give an analysis of the various provisions.

Article 30

The draft financial law for the year shall be accompanied by explanatory annexes showing, among other things:

1. By section and article, the cost of the services approved, as defined in the following article, and the new measures justifying the proposed changes in the previous amount for the approved services, and particularly appropriations for the establishment, termination and amendment of posts.
2. The schedule of payments for future years resulting from the programme authorizations.
3. The list of special treasury accounts showing the amount of receipts, expenditure or deficits expected in these accounts.
4. The complete list of quasi-fiscal taxes.

Article 31

The services approved shall represent the minimum provision considered necessary by the President of the Republic in order to maintain public services in accordance with the terms approved the previous year by the National Assembly.

The appropriations for the services approved shall be no greater than:

In the case of current expenses, the appropriations for the previous year with the deduction of non-renewable entries and amended to allow for the impact during the year of measures approved by the National Assembly or decided on by the President of the Republic within the limits of their respective powers.

In the case of capital transactions, the programme authorizations of the previous year, where necessary amended to allow for the impact of measures approved by the National Assembly or decided on by the President of the Republic.

Article 32

The amending financial laws shall be submitted for the part that they amend in the same form as the financial laws for the year. It shall be compulsory for them to submit all credits opened by an advances decree for the ratification of the National Assembly.

Article 33

The revenue estimates shall be the subject of a vote section by section for the general budget, and of a vote budget annex by budget annex or special account category by special account category.

Expenditure under the general budget shall be the subject of a single vote in the case of services already approved and a vote section by section in the case of new authorizations.

Expenditure under budget annexes and special accounts shall be voted on budget annex by budget annex or special account category by special account category and, where appropriate, section by section under the same conditions as expenditure under the general budget.

Article 34

The annual draft settlement law shall show the final amount of revenue received and expenses sanctioned in the course of a single year; where appropriate, it shall approve the opening of credits by an advances decree and make any necessary adjustment between the estimates and the figures achieved in practice.

It shall draw up the account showing the results for the year, which shall include:

- (a) The deficit or surplus resulting from the net difference between revenue and expenditure under the general budget.
- (b) The profits and losses under the budget annexes.
- (c) The profits and losses resulting from transactions under special accounts in application of articles 20 to 27.
- (d) The profits or losses that may result from treasury transactions under the conditions set forth in public accounting regulations.

Finally, the draft settlement law shall authorize the transfer of the result of the financial year to the treasury's permanent deficit account.

Article 35

The draft settlement law shall be accompanied by:

1. Explanatory annexes showing, among other things, the origin of any excess expenditure and the nature of losses and profits.
2. A report by the Supreme Court and a general statement certifying conformity between the accountants' individual accounts and the accounts of the person authorized to pass them.

TITLE VI

Enabling legislation for the financial laws

Article 36

The credits opened by the financial laws for the different ministers shall be classified and specialized by section and article depending on their recipients and their nature. Some sections may, however, contain lump-sum credits to provide for contingencies or unforeseen expenditure.

This presentation of the accounts shall be effected by a distribution decree adopted by the Council of Ministers after the financial law has been finally passed by the National Assembly, with due allowance for any amendments that have been made. The detailed statement of expenditure shall be deposited with the Finance Committee of the National Assembly.

Article 37

Transfers (transferts and virements) may alter the distribution of allocations between sections and articles during the course of the year.

Transfers consisting of changes in responsibility (transferts) change the service responsible for making the expenditure without altering the nature of the expenditure.

Substantive transfers (virements) change the nature of the expenditure; they can only be authorized if they are made within the same title and within the same ministry and do not exceed one-tenth of the allocation to that ministry in the title in question.

Both kinds of transfers shall be authorized by decrees adopted on a report by the Minister of Finance.

Article 38

Budget credits may be estimates or ceilings. The two categories of credits shall be shown in different articles.

No credit may be transferred in the course of a year from an allocation which is an estimate to one which is a ceiling.

Article 39

Estimates apply to State debts which are occasional or unpredictable and to expenditure for which an exact figure cannot be given.

They cover the public debt, the annuity debt, court costs, compensation, repayments, reductions and rebates, and the expenses chargeable under the sections and articles set forth in a special list annexed to the distribution decree.

If it is found in the course of the year that these credits are not enough, supplementary credits may be opened by decrees allowing for advances which shall be adopted on a report by the Minister of Finance and which the National Assembly shall subsequently be asked to ratify.

Article 40

In the cases covered by article 18, a supplementary credit equivalent to the contribution shall be opened by order of the Minister of Finance.

Orders by the Minister of Finance shall regulate the conditions under which the procedure for the restoration of credits shall be applied.

Article 41

In the budget annexes, the credits for operating expenditure and the credits for investment may be increased by order of the Minister of Finance if it is established that the financial balance of the budget annex as provided for in the latest financial law is not affected and that there will be no extra charge for the following years.

Article 42

If in the course of the year the receipts of a special-purpose account prove greater than the estimates, the credits may be increased by order of the Minister of Finance up to the amount of the surplus receipts.

Article 43

Credits may not be increased except by a financial law.

Nevertheless:

1. Within the limits of a lump-sum allocation for unforeseen expenses, decrees adopted on a report of the Minister of Finance may open credits for use in disasters or for emergency or unforeseen expenses.
2. Where an emergency is combined with overriding considerations of national interest, supplementary credits may be opened by decrees allowing for advances adopted on a report by the Minister of Finance.

A draft financial law ratifying these allocations shall be placed before the National Assembly immediately if it is in session or at the opening of the next session if it is not.

Article 44

Payment credits left over from capital transactions shall be carried over by an order of the Minister of Finance opening an appropriation of the same amount in addition to the appropriations for the following year. Until the sum in question has been carried over, expenses for the continuation of operations in progress on the first day of the budget year may be incurred or passed for payment up to the limit of two-thirds of the available credits.

The credits available under the articles specifically listed in the financial law and, up to the limit of one-tenth of the allocation in the section in question, credits corresponding to expenditure actually incurred but not yet passed for payment may also be carried over by order of the Minister of Finance.

Article 45

Decrees adopted after an opinion from the Supreme Court shall provide, as far as is necessary, for the execution of this law. They shall include, among other things, all appropriate provisions to ensure the proper management of the public finances which relate to public accounting. They shall regulate the presentation of the accounts in the general budget, the budget annexes and the special accounts, and particularly the classification of current and capital expenditure, investment and loans, and the State accounting plan.

Article 46

All provisions contrary to this law are hereby declared null and void.

This law shall be executed as a law of the State.

Approved:

Legislation Service: [Signature illegible]

Financial Control: [Signature illegible]



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