

# COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 29th July 1977

PROPOSAL FOR A REGULATION (EEC, EURATOM, ESCS), IMPLEMENTING THE  
DECISION OF 21 APRIL 1970 ON THE REPLACEMENT OF FINANCIAL CONTRI-  
BUTIONS FROM MEMBER STATES BY THE COMMUNITIES' OWN RESOURCES

SECOND AMENDED PROPOSAL UNDER ARTICLES 149 OF THE EEC TREATY AND  
119 OF THE EURATOM TREATY FOR A COUNCIL REGULATION (ECSC, EEC, EURATOM)  
SERIALS UNIT  
AMENDING THE FINANCIAL REGULATION OF 25 APRIL 1973 APPLICABLE TO  
THE GENERAL BUDGET OF THE EUROPEAN COMMUNITIES

AMENDED PROPOSAL FOR A COUNCIL REGULATION IMPLEMENTING, IN RESPECT  
OF THE OWN RESOURCES FROM V.A.T., THE DECISION OF 21 APRIL 1970 ON  
THE REPLACEMENT OF FINANCIAL CONTRIBUTIONS FROM MEMBER STATES BY THE  
COMMUNITIES' OWN RESOURCES

Presented to the Council by the Commission

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PROPOSAL FOR A REGULATION (EEC, EURATOM, ECSC), IMPLEMENTING THE  
DECISION OF 21 APRIL 1970 ON THE REPLACEMENT OF FINANCIAL CONTRI-  
BUTIONS FROM MEMBER STATES BY THE COMMUNITIES' OWN RESOURCES

Modification to three draft regulations caused by the necessity to make changes in the methods of financing the Budget.  
Communication by the Commission to the Council and the Parliament

SUMMARY

1. This communication brings together, for approval by the budgetary authorities, proposed changes in the following three draft Regulations already submitted by the Commission :-
  - (a) the draft regulation modifying Regulation 2/71 which implements the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' Own Resources ;
  - (b) the Draft Regulation introducing VAT as an Own Resource following approval of the Sixth Directive ;
  - (c) the Draft Regulation amending the Financial Regulation of 25 April 1973.
  
2. The budgetary authorities are asked to consider these changes as one package because they are linked together by the fact that they all influence the methods of financing the Budget. They result from the following situations which will arise for the first time on 1st January 1978.
  - (a) The end of the relative share system of financing the Budget but the continuation for two years, by Article 131 of the Treaty of Accession, of limits to the financial burdens of the three new Member States.
  - (b) The possibility that, at least in 1978, the part of the Budget not covered by customs duties, agricultural levies and miscellaneous income will have to be financed by a mixture of own resources arising from VAT and of GNP contributions.
  - (c) The need to remove an inequity among Member States which would result in 1978 from the application of the VAT Regulation as at present drafted.
  - (d) The need to find a solution to the problem of "cash flow" resulting from the end of the relative share system and the introduction of VAT as an Own Resource.

Regulation 2/71

3. On 2nd June 1976 the Commission adopted and sent to the Council and to Parliament a draft modification of Regulation 2/71 which mainly took account of the introduction on 1st January 1978 of the full Own Resources system, of the new European Unit of Account and of the changes proposed in the Financial Regulation. The Parliament decided on 17 December 1976 to postpone its opinion on the draft modifications until the Council had adopted the Sixth Directive on VAT. The Council has not yet concluded its discussion of the Commission's proposal.

4. It is now necessary to amend the Commission's original proposal in the light of events which have since taken place and in order to find a solution to the "cash flow" problems referred to in paragraphs 8 to 11 below. The main modifications, which have been incorporated into a new draft regulation, are as follows :-

- (a) A new proposal that the Member States should pay one twelfth each month (from January to December) of the amount arrived at by applying the Community VAT rate to the forecast amount of its tax base. The reasons for this are set out in paragraphs 5 and 6 below.
- (b) A new proposal that temporary difficulties of "cash flow" should be covered by overdrafts; see paragraphs 8 to 11 below.
- (c) In its original proposal in 1976 the Commission proposed that the two-fifths rule of Article 131 should be applied at the time of the preparation of the 1978 Budget and that the resulting effect should not be changed in the light of the actual out-turn of the 1978 accounts. The further study of Article 131, which has been necessary because of the disagreement among the Member States on the Commission's interpretation, has convinced the Commission that this proposal should be changed. Firstly, because Article 131 starts by saying that with effect from 1st January 1978 the Own Resources shall be due in full by the new Member States, subject to the 2/5ths rule; it therefore seems to be more correct to apply the Own Resources system fully in the Budget and to correct the results after the actual out-turn of 1978 is known. Secondly, an application of the 2/5ths rule at the time of the establishment of the Budget would result in one rate of Community VAT for the Six and one for each of the Three - i.e. four rates of Community VAT; Article 4 of the Decision of 1970 envisaged a similar situation if VAT had been applied during the relative share era and provided for the application of only one VAT rate and for corrections at the end of the year bilaterally between Member States. This latter method is now thought to be correct and it has been incorporated in the new text of Regulation 2/71. This does not, however, imply any change in the Commission's interpretation of Article 131.

5: The Regulation on VAT

- The draft Regulation applying VAT as an Own Resource provides that the "establishment" of VAT made during a budgetary year should be imputed to that year, as is at present the case with customs duties and agricultural levies; an "establishment" is, broadly speaking, defined as the receipt by the national administration of a declaration by a taxpayer of his inputs and outputs for a prior period. The Commission was aware that this would mean that in the first year (1978) a proportion of the year's VAT would be credited to the following year (because declarations by taxpayers are necessarily in arrears) and that the proportions might be marginally different for different Member States. It has, however, recently been established that the proportions are so different as to produce an unacceptable inequity between Member States.
6. The Commission has reconsidered this question and now proposes that each Member State should pay one twelfth each month (from January to December) of the amount arrived at by applying the Community VAT rate to the forecast amount of its tax base. In the following year the actual amount of the VAT Own Resources of the first year would be established and an adjustment would be made which would be credited or debited to the accounts of the second year. This method would preserve the principle that it is the Own Resources which are established which should be transferred to the Community; it would remove the inequity which would otherwise exist in the first year; and, very importantly, it would go a long way towards solving the problem of 'cash flow', which is mentioned in paragraphs 8 to 11, because the Community would receive twelve months of VAT in the first year.
  7. The draft VAT Regulation has therefore been amended so as to exclude reference to the budgetary and accounting aspects and to deal only with the principles

of establishing VAT as an Own Resource and of the methods of control of this establishment by the Commission. The opportunity has also been taken of incorporating modifications proposed by the Parliament which can be accepted by the Commission. The new proposals referred to in paragraph 6 above have been incorporated in the revised version of Regulation 2/71.

The problems of "cash flow"

8. In its communication to the Joint Council meeting of 5 April 1977 the Commission referred to the problem of the "gap" of about 2000 m.u.a. which would occur at the beginning of 1978 - corresponding to about three months of payments which would not be covered by the flow of revenue from customs duties, agricultural levies and VAT established in 1978. The Commission said that this could be solved by an advance from the Member States or by borrowing on the capital market. The Commission also referred to the continuing possibility that the flow of revenue from Own Resources would temporarily not match the expenditure flow and that short-term borrowings would be needed.
9. The Commission has been considering various solutions to this problem. It is now of the opinion that the 'gap' is too large to be covered by borrowing and that to cover it by an advance from the Member States would not be consistent with the principle of the financial autonomy of the Community.
10. The best solution to the problem of the 'gap' seems to be to proceed as follows:-
  - (a) Adopt the proposal referred to in paragraph 6 above which would have the effect that VAT payments would start in January 1978.
  - (b) Revert to the Commission's original proposal in the modifications to the Financial Regulation that the receipts side of the Budget and of the annual accounts should be related to the actual cash received between 1st January and 31 December. This would have the effect that customs duties and agricultural levies received in 1978 but relating to 1977 would be credited to 1978; this would reduce by the same amount the Own Resources of 1977 but the difference could be covered by GNP contributions under the existing system and with the limits of the relative share of each Member State. The original proposal was withdrawn because of objections of principle by the Parliament but, in agreeing to do so, Mr. CHEYSSON explained the "cash flow" difficulties which this would involve; since no other solution to the "cash flow" problem can be found the Commission feels obliged to repeat its original proposal. This means that a modification must be made to the draft Financial Regulation as it now stands; this is shown in the document annexed to this communication.
11. There are two other problems of "cash flow" :-
  - (a) Even if the total receipts for a year correspond with the forecasts in the Budget and there is no surplus or deficit at the end of the year, they are not likely to coincide month by month with the flow of payments and there may therefore be temporary cash deficits.
  - (b) If the receipts written into the Budget are overestimated there will be a structural deficit which will be carried over to the following year's Budget; this also would produce a cash deficit but it would be of longer duration - perhaps, on average, as much as 12 months.

Resolution of this problem by a system of advances by Member States as was said above, would not conform with the principle of the financial autonomy of the Community. It seems to be best, therefore, to make an addition to Regulation 2/71 providing that the Commission be given the power to arrange overdrafts. The new Regulation 2/71 attached to this communication makes this proposal.

12. The Budgetary Authorities are therefore asked to approve :-

- (a) the new text (attached) of a draft Regulation replacing Regulation 2/71;
- (b) the attached draft regulation modifying the original draft regulation on VAT (a list of the modifications is attached as an aide-mémoire);
- (c) the attached draft regulation modifying the original draft Financial Regulation (a list of the modifications is attached as an aide-mémoire).

Brussels, 5 July 1977

Proposal for a Regulation implementing the Decision of 21 April 1970  
on the replacement of financial contributions from Member States by  
the Communities' own resources

Explanatory memorandum

1. As 1978 will be a turning-point in the history of the Budget of the European Communities, it will inevitably see changes to Regulation No 2/71 concerning the operation of the own resources arrangements.

The entry into force of the Sixth VAT Directive entails the laying down of procedures for the accounting, making available and administration of this new own resource, since it is markedly different from the resources accruing from customs duties and agricultural levies. Rules must also be laid down concerning the principles governing the determination and control of VAT own resources: these provisions have been incorporated in another Regulation, separate from Regulation No 2/71, in order to avoid a series of cross references or exceptions which would be necessary in order to distinguish between customs resources and fiscal resources.

Although Regulation No 2/71 concerns resources which by definition are established, collected and paid over by the Member States in their respective national currencies, the use of the EUA in the Community Budget as from 1 January 1978 necessitates certain provisions: although the Sixth VAT Directive is to apply from 1 January 1978, provision must also be made for a Member State's inability to fulfil this obligation. The method of calculating the GNP scale for VAT purposes must therefore be laid down; it seemed appropriate to change the rules in order to bring the calculation method more up to date as regards the value of the various currencies.

For the original Member States, 1978 will mark the beginning of the final period, in which the special provisions on "relative shares" (which do not apply to the new Member States) are no longer appropriate and must be repealed.



For the new Member States, on the other hand, 1978 marks the beginning of the penultimate stage in which there are still limits to their financial contributions under certain conditions. The procedures for calculating the limits, entailing the application of Article 131 of the Act of Accession, are discussed elsewhere, but Regulation No 2/71 governs how they are to be introduced into the accounting process.

Lastly, the financing of the Community Budget from the Communities' own resources, and certain provisions such as Article 4(5) of the Decision of 21 April 1970 concerning the carrying-over of surpluses to the following financial year, usher in a financial autonomy such that plans must be made for abandoning the present system of advances as from 1978 and introducing provisions enabling there to be autonomous and effective administration of these resources. This new approach does of course present cash-flow problems; it is self-evident that even with a budget which is perfectly balanced (not only as regards revenue and expenditure but also forecasts and results) the assets available may not be enough to cover expenditure at certain times during the year. If, in addition, the abovementioned balance is not achieved, it seems inevitable that overdraft facilities, with their legal basis in Article 18 of the Treaty of 10 July 1975, would be needed. However, with the provisions in force at present, the main cash-flow problem would be the existence of a very big gap due to the time lag between the collection of revenue (two months after establishment for customs duties and agricultural levies, and longer for VAT if the same principles are applied) and the effecting of expenditure.

The amendment to Regulation No 2/71 therefore entails recasting the arrangements in force in order to reduce this gap and proposes the introduction of a cash budget for revenue<sup>1</sup> necessitating an amendment to certain provisions of the draft Financial Regulation applicable to the Budget of the European Communities and the draft VAT Financial Regulation which are both before the Budgetary Authority.

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<sup>1</sup>This gap would be filled completely as result of an amendment to the draft VAT Regulation to make provision for a monthly payment (from January to December) of one-twelfth of the VAT own resources forecast in the Budget. Provision is also made for calling each month for the advance payment of own resources other than those accruing from VAT.

2. In view of the magnitude of the amendments envisaged, it seemed wise to withdraw the proposal for an amendment to Regulation No 2/71 presented in June 1976, which, through the force of circumstances, could not incorporate all these amendments, and put forward a new "Regulation implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources" embodying as many of the provisions of the existing Regulation as possible and, in its last Article, repealing Regulation No 2/71. The new text of the Regulation is accompanied by two papers setting out the amendments to be made to the Financial Regulation applicable to the General Budget of the European Communities and to the VAT Regulation. The latter also incorporates the amendments proposed by Parliament on 16 June 1977 which the Commission can accept.

3. The text of the new proposal has the following structure:

Title I - General provisions

Articles 1 to 5 take over virtually all the original text apart from an amendment, for practical reasons, to two time limits in Articles 3 and 5, and the reference to the VAT Regulation in Article 1 to take into account its scope. Article 6 has been retained, apart from paragraphs 3 and 4 which are superfluous in a cash budget system. Fresh provisions have been introduced in paragraph 2 and in the new paragraph 3 which concern VAT establishments. These new provisions are necessary because, unlike the own resources from customs duties and agricultural levies, the own resources accruing from VAT can legitimately be established long after the end of the financial year in question. For reasons of presentation, Article 10 has been switched to Article 7.

Title II:- Making available and paying over the own resources

Article 8 corresponds to Article 7 of Regulation No 2/71. The new Article 9 defines the method of calculating the VAT rate, highlighting the automatic nature of this calculation.

Article 10 derives from Article 8 of the Financial Regulation. The fact of embarking on the final period, when the dynamic brakes will be taken off, entails the deletion of the references to Article 3(3) and Article 4(1) on the Decision of 21 April 1970.

Article 11, a new Article, is the heart of the system proposed, a system which is based on having a cash budget for revenue (hence the proposal for an amendment to Article 5 of the Financial Regulation applicable to the General Budget of the European Communities); moreover, it flows from the need to amend the proposal for a VAT Regulation as regards the budgetary booking of establishments. The information given by the Member States indicates that the pattern of declaration by taxable persons differs considerably from Member State to Member State, generating - with the arrangements envisaged initially - distortions, directly proportional to these differences, in the making available of the resources accruing from VAT. The Commission therefore proposes to delete Article 5(3) of the VAT Regulation which provides for VAT own resources to be included in the Community accounts on the basis of monthly establishments, and to adopt a system based on twelfths as explained above. (1)

As already mentioned, the cash budget for revenue bridges only part of the cash-flow gap: in a year's budget this gap represents three months of the Community's existence - two of which arise because the revenue is paid over two months after collection and the third because the Community institutions need their operating funds for each month, particularly for the EAGGF, in the month before.

Consequently, Article 11 provides for the advance payment of one month of own resources accruing from customs duties and agricultural levies in order that the Commission should receive, by 20 December of each year, these own resources for January of the ensuing year (in a cash budget these resources would therefore match the amounts established by the Member States in November). The adjustment will be made in the following month within the time limit of 45 days (which is increased to 50) laid down at present for the making available of own resources to the Commission; the advance payment of own resources for February will be made simultaneously and in the same conditions, and so on.

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(1) This solution involves a reduction in the rate of VAT since from the first year it will be possible to calculate the latter by reference to the whole tax-base.

Provision is also made for VAT resources or, where appropriate, GNP contributions to be paid in twelfths of the amounts budgeted for, in order to obtain a regular pattern of the payment. Assuming a budget where expenditure and revenue follow the same monthly rhythm and revenue consists half of VAT resources and half of customs and agricultural resources, the Commission would have at its disposal on the twentieth day of each month a sum enabling it to make an appropriate downpayment on the EAGGF advances, or even pay them in their entirety, the following month. On the first day of the following month it would receive the remainder needed to pay the balance, if any, of the EAGGF advances and to finance the other expenditure, the cash-flow gap being completely closed in this manner.

The proposed provisions also include the procedures for the settlement of these payments: there would be an adjustment towards the middle of the following financial year based, as regards VAT, on the amounts actually established for the preceding financial year and, as regards any GNP contributions, on the distribution forecast in the budget in question between the latter and the VAT resources. The adjustment in question represents a modification of the revenue for the financial year in which the adjustment is made, in such a way as not to interfere with the closing of the accounts for the financial year just ended.

Article 12 contains the same provisions on interest on defaulted payments as those of Regulation No 2/71, with more specific details concerning time limits.

Article 13 is virtually a synthesis of the provisions of Articles 11 and 12 of Regulation No 2/71 and Article 38 of the Financial Regulation of 25 April 1973, the main differences being as follows:

- (a) The text has been made more flexible to allow of the full application of financial autonomy.
- (b) In view of the new arrangements, the advances on future own resources have been deleted.
- (c) Provisions is made for covering exchange rate risks by spreading the Commission's holdings in the various currencies in such a way as to reflect the structure of the European currency basket.

Title III - Management of Cash Resources

As regards the cash position, it was necessary to envisage two other deficit-producing situations:

1. Where expenditure exceeds revenue in a given month.
2. Where the own resources collected are below the initial forecasts, producing a deficit for the financial year ("structural deficit").

Article 14 makes provision not only for the first eventuality, a purely cash problem, but also for the second, a budgetary problem which also has an impact on cash flow, by allowing recourse to overdrafts. Budgetary provisions to cover this type of deficit are contained in Article 18. Articles 15 to 17 lay down the conditions for repaying the abovementioned advances, and the possibility of placing sums which become available in the treasury accounts; these articles also lay down the accounting criteria for interests, and provide for the informing of the Member States.

Article 18 has been worded in an attempt to bring forward as much as possible the time when a "structural" deficit or surplus can be corrected in budgetary terms. Under Article 29 of the Financial Regulation applicable to the General Budget of the European Communities, the balance for a financial year "n" is carried over to the financial year "n" + 2, since this balance is not calculated until the financial year "n" + 1. Article 18 lays down that, for own resources only, an estimate is to be made in November of the total amounts collected in the financial year, an estimate based therefore on data for 11 months and thus fairly close to the ultimate result.

By making a comparison with the forecasts for the financial year, it would be a simple matter to evaluate the probable difference, which, pursuant to the same Article, would be charged to the Budget for the following financial year which will be in the process of adoption at the time of the abovementioned evaluation. The text of Articles 14 to 18 is new.

Title IV Procedure for application of the financial participation of the new Member States and, where appropriate, the provisions of Article 4(2) and (3) of the Decision of 21 April 1970

This Title, consisting of two articles, lays down rules for the application of Articles 131 and 132 of the Act of Accession and the method of calculating the GNP scale when the provisions of Article 4(2) and (3) of the Decision of 21 April 1970 are to be applied.

In the proposal for an amendment to Regulation No 2/71, presented in June 1976, the first problem was tackled differently from the approach now envisaged, since at that time some of the aspects had not been fully appreciated. In the meantime, as a result of the disagreement between the Member States on the interpretation of Article 131 of the Act of Accession, the provisions in question have been analysed in greater depth and the logical conclusion has been to apply them subsequently by direct compensation between the Member States, leaving unchanged the total amounts collected for the Budget of the European Communities. This conclusion is imposed by the following factors:

- (i) if the ceiling on the shares of the new Member States in 1978 was to be applied in the process of adopting the Budget, this could only be a provisional arrangement, since the ceiling must be calculated from data for 1977 which are not known at this time;
- (ii) even if this approach had to be adopted, it would be necessary to apply different VAT rates, which does not seem compatible with the provisions of the Decision of 21 April 1970 on own resources;
- (iii) the situation of the new Member States is similar to that of the original Member States between 1975 and 1977 for which similar provisions were adopted.

Article 20, which concerns GNP, reproduces the existing text of Article 22 of Regulation No 2/71, merely amending the method of calculating the GNP scale. It seemed fairer, in a financial year using the EUA, to update the data used for calculating this scale by using the GNP for

a year closer to that in question ("n" - 2 instead of the average for the years "n" - 5/"n" - 3) and by applying the data in proportion to the average of the EUA rates for the same year.

Title V : Procedure for the application of Article 4(5) of the Decision of 21 April 1970

Article 21 corresponds to Article 24 of Regulation No 2/71; the amendments made are all of a technical nature to take into account the distinction between appropriations for commitment and appropriations for payment, the creation of a cash budget for revenue and the use of the EUA in that budget.

Title VI: Provisions concerning measures of control

Articles 22 to 24 correspond to the existing Articles 13 to 15 of Regulation No 2/71 to which some minor technical adjustments have been made and which have been amended to take in the creation of the European Court of Auditors.

Title VII: Provisions relating to the Advisory Committee on Own Resources; final provisions

Articles 25 and 26 correspond to Articles 25 and 26 of Regulation No 2/71; Article 27 is a new one which, among other things, repeals Regulation No 2/71.

Article 12 and Articles 16 to 22 of Regulation No 2/71 have been deleted, the first because of the principle of financial autonomy, the others because the "relative shares" laid down in the Decision of 21 April 1970 will cease to apply from 1978.

implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources.

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof,

Having regard to the Treaty establishing a single Council and a single Commission of the European Communities and in particular Article 20 thereof,

Having regard to the Treaty amending certain financial provisions of the Treaties establishing the European Communities and of the Treaty establishing a single Council and a single Commission of the European Communities,

Having regards to the Council Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1), henceforth referred to as the Decision of 21 April 1970, and particularly Article 6 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas the principle of the financial autonomy of the Communities is the fundamental element of the system of own resources, and whereas this system will be fully applied as from 1978,

Whereas the Communities are to have full disposal of their resources as referred to in Article 4 of the Decision of 21 April 1970, the entering as revenue of which necessarily follows from the amounts established,

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(1)J.O. L.94 of 28.4.70 p. 19



Whereas so far as own resources derived from VAT are concerned the provisions of Article 22 of the Sixth Directive of the Council relative to VAT can create inequalities between the Member States in the making available of the said resources and that it is necessary to eliminate these inequalities,

Whereas a new unit of account, called the European unit of account (EUA), will be applied to the budget as from 1978,

Whereas in order to guarantee the financing of the Communities' budget under all conditions it is necessary to envisage the possibility of the payment of financial contributions based on GNP and to bring into force the corresponding key to take account both of its comparability with the effective level of VAT own resources and of the introduction of the above EUA.

Whereas the Treaty of 10 July 1975 envisages the taking of appropriate measures to meet cash requirements should the need arise,

Whereas the financing of the Communities' budget entirely from own resources creates new cash problems the size of which imposes the need to anticipate appropriate provisions,

Whereas it is an advantage to be able to anticipate the particular provisions for the implementation of Article 131 of the Treaty of Accession in respect of the new Member States and for the period of time laid down by the said article,

Whereas the full application of the criteria set out above implies a general amendment of Regulation 2/71 and that consequently it is deemed necessary to repeal it,

HAS ADOPTED THIS REGULATION.

PROPOSAL FOR A

Regulation No (EEC, Euratom, ECSC)

implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

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HAS ADOPTED THIS REGULATION:

TITLE I

General provisions

Article 1

The Communities' own resources within the meaning of the Decision of 21 April 1970 (hereinafter called 'own resources') shall be established by Member States in accordance with their own provisions laid down by law, regulation or administrative action and shall be made available to the Commission as specified in this Regulation, without prejudice to the provisions concerning revenue derived from value added tax adopted by Council Regulation (EEC, Euratom, ECSC) of (hereinafter called the 'VAT Regulation').

Article 2

1. For the purposes of application of this Regulation, an entitlement shall be deemed to be established as soon as the corresponding claim has been duly determined by the appropriate department or agency of the Member State.

Proposal which replaces the proposal for amendment of Regulation 2/71 of 2 June 1976.

Original text amended to include reference to the VAT Regulation.

Unchanged.

2. The competent department or agency of the Member State shall make a new establishment where it becomes necessary to rectify an entitlement established in accordance with paragraph 1.

Article 3

Member States shall take all requisite measures to ensure that the supporting documents concerning established entitlements and the making available of own resources are kept for five years.

Article 4

Each Member State shall inform the Commission, at the latter's request:

- (a) of the names of the departments or agencies responsible for establishing own resources and, where appropriate, their status;
- (b) of the general provisions laid down by law, regulation, administrative action relating to accounting procedure concerning the establishment of own resources and their being made available to the Commission.

2. The Commission shall pass such information to other Member States at their request.

Proposal for amendment of 2 June 1976.

Unchanged.

Article 5

Each Member State shall draw up yearly a closing statement of account together with a report on the establishment and control of own resources and shall forward this to the Commission before [30 June] of the year following the financial year in question.

Article 6

1. Accounts for own resources shall be kept by the Treasury of each Member State and broken down by type of resource.

2. The established entitlements shall be entered in these accounts at the latest on the twentieth day of the second month following the month during which the entitlements were established. However, with respect to own resources accruing from VAT entitlements established after 31 December of each financial year relating to operations carried out in the same financial year shall be included in these accounts at the latest by [30 June] of the following financial year.

3. Each Member State shall forward to the Commission, within the same period, a monthly statement of these accounts showing the position as regards the entitlements established for the month in question.

An annual summary statement of amounts established in each financial year in accordance with the provisions of Article 5 of the VAT Regulation shall be sent to the Commission at the latest by [20 June] of the following year.

Original text with date changed to 30 June to bring it in line with the time limits in Article 11.

Unchanged.

Original text apart from the time limit and inclusion of special wording for VAT.

Original text deleted.  
Para. 3 inserted.  
Para. 4 deleted.

Article 7<sup>1</sup>

1. The entitlements established under Article 2(2) shall be entered in the monthly return corresponding to the date of the new establishment and shall be added to or subtracted from the total amount of established entitlements.

TITLE II

Provisions for making available and paying over the  
Communities' own resources

Article 8

1. The amount of own resources established shall be credited by each Member State to the account opened with the Treasury for this purpose in the name of the Commission.

However, the own resources accruing from VAT shall be entered in accordance with the procedure laid down in Article 11(3) and (4). This account shall be kept free of charge.

2. Each amount shall be entered gross. In the thirty days following notification of any entry, the Commission shall issue a transfer order in favour of the Member State for the amounts corresponding to the standard refund for the expenses incurred in collection as referred to in the fifth subparagraph of Article 3(1) of the Decision of 21 April 1970.

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<sup>1</sup>Refer to Article adjusting VAT contribution.

Corresponds to Article 10(1) of original text. The last subparagraph of para. 1 and para. 2 of this Article have been deleted.

Corresponds to Article 7 of original text. Second subparagraph of para. 1 reworded to take account of VAT resources.

3. The payments shall be converted into, and entered in the accounts in, units of account as defined in Article 10 of the Financial Regulation on the basis of the EUA quotations obtaining on the day corresponding to the final time limit for entry or on first preceding day for which such quotation is available.

#### Article 9

The rate referred to in Article 2 of the VAT Regulation, expressed as a figure to four decimal places, is laid down in the budget. It is calculated as a percentage of the estimated VAT assessment base in such a manner that it fully covers that part of the Communities' budget not financed from customs duties, agricultural levies, miscellaneous revenue and, where appropriate, financial contributions based on GNP.

New text concerning the method of calculating the rate of VAT.

#### Article 10

1. An estimate of the own resources to be paid over by each Member State, where applicable, together with their contributions referred to in Article 4(2) and (3) of the Decision of 21 April 1970, shall be entered in the budget.
2. Payment of the amount actually established by the Member State for the kind of own resources in question pursuant to Article 11 shall be obligatory.

Corresponds to Article 8 of the proposal for amendment of 2 June 1976  
Para. 1 unchanged

Para. 2 amended in order to delete the reference to contributions (explained in Art. 11) and to include a reference to VAT.

#### Article 11

1. The own resources established referred to in Article 8(1) shall be entered at the latest by the twentieth day of the second month following the month during which the entitlement was established.
2. The Member States shall make payment of these resources one month in advance on the basis of the information available to them on the fifteenth day of the same month.

Article 11: Replaces Article 9 of the proposal for amendment of 2 June 1976  
Para. 1 deleted - Para. 2 becomes new Para. 1  
Para. 3 transferred to Article 12.

Each payment shall be adjusted in the following month when the entry referred to in para. 1 is made. This adjustment consists in making a negative entry of an amount equal to that of the advance payment.

New paragraphs  
Para. 2 refers to the procedure for making an advance entry of customs duties and agricultural levies.

3. Nevertheless, the own resources accruing from VAT or, where appropriate, the financial contributions based on GNP, shall be entered on the first day of each month, the amount being one-twelfth of the total entered under this heading in the budget.

Para. 3 - procedure for paying "twelfths" of VAT or GNP.

Calculation of the one-twelfth for the month of January of each financial year shall be based on the amounts entered in the draft budget; this amount shall be adjusted when the next month's instalment is paid. If the budget has not been adopted before the beginning of the financial year, the twelfths shall similarly be calculated from the amounts entered in the draft budget; the adjustment shall be made on the first due date following the adoption of the budget to allow the responsible authorities one clear calendar month.

4. Each Member State shall, in the light of the annual summary statement provided for in Article 6(3), be debited with the amount of his establishment calculated on the basis of the rate fixed for the previous financial year and credited with the twelve payments made during that previous financial year. The Commission works out the balance and informs the Member States in good time in order that the latter may:

Para. 4 & 5 - final settlement of VAT and GNP payments.

- in the event of a debit balance, pay the difference on the first of August of the same year, or

- in the event of a credit balance, deduct the difference from the twelfths payable in respect of the current financial year, beginning with the payment scheduled for the first of August of the same year.

5. With effect from 1 January 1979, those Member States having paid financial contributions based on GNP during the previous financial year shall, on the due dates given in para. 4 and by the same method, adjust the said financial contributions so as to restore, on the basis of the actual yield from own resources accruing from VAT, the original distribution in the budget between the latter and the financial contributions based on GNP.

6. Any change in the rate of VAT or, if appropriate, in the financial contributions based on GNP, occasioned by the adoption of a supplementary or amending budget shall give rise to a readjustment of the twelfths which have fallen due since the beginning of the financial year.

This adjustment operation shall be carried out on the first due date following the adoption of the supplementary or amending budget in order to give the responsible authorities a clear calendar month.

7. The operations referred to in paragraphs 4 and 5 constitute modifications to revenue in respect of the financial year in which they occur.

#### Article 12

Any delay in making the entry in the account referred to in Article 8 shall give rise to the payment of interest by the Member State concerned at a rate equal to the highest rate of discount ruling in the Member States on the due date. That rate shall be increased by 0.25 of a percentage point for each month of delay. The increased rate shall be applied to the entire period of delay.

Para. 6: Supplementary or amending budgets.

Para. 7: Incorporation of final settlements.

Corresponds to Article 9, para. 3 of the proposal for amendment of 2 June 1976.



TITLE III

MANAGEMENT OF CASH RESOURCES

Article 13

1. The Commission shall have at its disposal the amounts credited to the account referred to in Article 8 of this Regulation in order to replenish the accounts via which it makes payments arising from the implementation of the budget and the transfers intended, as regards funds held in the form of currency, to restore the structure of the ECU basket so as to cover exchange risks, in accordance with the provisions of Article 16 of the Regulation on the application of the ECU<sup>1</sup>.

The orders and instructions which the Commission sends to the Treasury or to the appropriate department of each Member State shall be carried out as soon as possible.

The adjustments provided for in Article 11(6), occasioned by a supplementary or amending budget raising the rate of VAT or of the contributions provided for in Article 4(2) and (3) of the Decision of 21 April 1970, may be made in advance with the authorization of the Council, acting by a qualified majority.

Replaces Article 11 of the proposal for amendment of 2 June 1976.

Paragraph 1 incorporates certain provisions of Article 38 of the Financial Regulation of 25 April 1973.

Paragraph 2 has been modified to exclude advances on own resources (payment of which is always in advance - Article 11) and also to provide the option of obtaining advances on VAT or GNP.

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<sup>1</sup>Reservations expressed by Legal Service on Article 16 of the ECU Regulation.

Article 14

1. In order to meet possible liquidity difficulties arising from:

- (a) a difference between revenue and expenditure in a given month or
- (b) own resources' receipts lower than the original estimates.

the Commission may, having taken any appropriate steps to defer the expenditure, negotiate overdrafts.

New text allowing recourse to overdrafts to overcome temporary liquidity difficulties.

2. The geographical distribution of the overdrafts shall take account of the local requirements of the European Communities as well as the distribution of the own resources provided for in the budget or of the actual amounts collected when these are known in respect of at least three months.

Article 15

As far as possible, any monies accruing to the Commission's treasury accounts shall, as a matter of priority, be used to reduce the overdrafts.

Any monies surplus to these repayments shall be invested by the Commission on the most favourable terms offered by the markets of the Member States.

Article 16

The debtor or creditor interest arising from the banking operations referred to in Articles 14 and 15 shall be respectively debited or credited to a suspense account; at the end of the financial year the balance of this account shall be directly incorporated in the calculation on of the end-of-year balance within the meaning of Article 21 of this Regulation.

New text providing for the repayment of operations under Article 14.

New text relating to the entry into the accounts of the operations in question.

Article 17

At the end of each quarter, the Commission shall send the Member States a cash resources statement showing debts and placings.

This statement shall also show the balance of the suspense account referred to in Article 16.

Article 18

The Commission shall, before the end of November in each financial year, make an estimate of the own resources collected for the entire year, on the basis of the information at its disposal at that time.

If this estimate differs appreciably from the original estimates, the latter shall, after a review of the cash situation, be the subject of a letter of amendment relating to the draft budget for the following financial year which is in process of approval.

The balance to be carried forward to the second financial year following the one in question, as laid down in Article 29 of the Financial Regulation of 25 April 1973 shall take this entry into account.

New text.

New text introducing provisions for correcting any imbalance between estimates and outturn in a given financial year during the following financial year.

#### TITLE IV

Procedure for application of the financial participation of the new Member States and, where appropriate, the provisions of Article 4(2) and (3) of the Decision of 21 April 1970.

#### Article 19

1. The calculations referred to in Articles 131 and 132 of the Act of Accession shall be made by the Commission at the time of closing the accounts for the financial years 1978 and 1979.

2. In view of the provisions of Article 27 of the Financial Regulation of , these calculations and the resultant distribution shall include all revenue entered in the accounts during the financial year.

Any requisite adjustments shall give rise to financial compensation between the Member States concerned.

3. The Commission shall, in the month following the establishment of the revenue and expenditure account, send to the Member States a statement of the compensations it has fixed, expressed in ECU, showing the credit or debit position of each Member State and the clearing operations required for the final settlement of the balances.

To effect this final settlement, each debtor Member State shall pay to each creditor Member State a proportion of the amount shown on his debit account, this sum being proportional to the share of the creditor Member State in the overall amount shown in the credit account.

The debtor Member States shall, in the month following the notification, pay to the creditor Member States the amount due, applying the average ECU rates for the financial year in question.

Replaces Article 23 of the proposal for amendment of 2 July 1976; contrary to the above proposal, this Article provides for the subsequent application of Articles 131 and 132 of the Act of Accession, for various reasons, i.e. to avoid different VAT rates; to avoid recalculation in the light of the results of the 1977 financial year - similarity with situation envisaged for the Six between 1975 and 1977.

Article 20

1. This Article shall be applicable where it may be necessary to take provisional measures in derogation under Article 4(2) and (3) of the Decision of 21 April 1970.
2. The gross national product at market prices shall be calculated on the basis of statistics compiled by the Statistical Office of the European Communities and of the data for the financial year preceding the year in which the preliminary draft budget is drawn up.
3. The gross national product shall be calculated in terms of the European Unit of Account defined in Article 10 of the Financial Regulation, applying the average of the rates for the ECU in the financial year taken as the basis for the calculation referred to in paragraph (2) above.
4. As long as the derogation provided for in Article 4(2) of the Decision of 21 April 1970 is applied to one or more Member States, the Commission shall, in its preliminary draft budget, fix the estimated percentage of the budget to be covered by the financial contribution(s) of the Member State or States concerned on the basis of the proportion of their gross national product to the sum total of the gross national products of the Member States, and shall fix the rate of value added tax corresponding to the remainder of the budget to be covered by the other Member States. These figures shall be approved in accordance with budgetary procedure.

Corresponds to Article 22 of the proposal for amendment of 2 June 1976.

5. For the purposes of this Regulation:

- (a) the gross national product at market prices is equivalent to the gross domestic product at market prices plus compensation of employees, property and entrepreneurial income from the rest of the world less the corresponding flows towards the rest of the world;
- (b) the gross domestic product at market prices, which represents the final result of the production activity at resident producer units, is equivalent to the total production of goods and services by the economy, less total intermediate consumption, plus taxes linked to imports.

#### TITLE V

Procedure for the application of Article 4(5) of the Decision of 21 April 1970.

#### Article 21

For the purposes of the application of Article 4(5) of the Decision of 21 April 1970, the balance of a given financial year shall consist of the difference between:

- all the revenue collected in respect of the financial year in question, and

Corresponds to Article 24 of the proposal for amendment of 2 June 1976 but with fuller explanations.

- the total amount of payments made against appropriations for that financial year together with the appropriations carried over pursuant to Articles 6 and 95 of the Financial Regulation.

This difference shall be adjusted to take account of the net amount resulting from cancellations of appropriations carried forward from previous financial years, and of sums paid in excess of these appropriations as a result of exchange rate adjustments made between the time when the amount of carryover was determined and the time it was used.

Furthermore, the balance of the 1978 financial year shall be adjusted to take account of the surplus or deficit established when, on 1 January 1978, the balance sheet drawn up in units of account on 31 December 1977 is revalued in European units of account.



TITLE VI

Provisions concerning measures of control

Article 22

1. Member States shall take all requisite measures to ensure that the amounts corresponding to the entitlements established under Articles 1 and 2 are made available to the Commission as specified in this Regulation.
2. Member States shall be free from the obligation to place at the disposal of the Commission the amounts corresponding to established entitlements solely where, for reasons of force majeure, these amounts have not been collected.
3. Every six months, Member States shall report to the Commission, where appropriate within the framework of existing procedures, comprehensive information and questions of principle concerning the most important problems arising out of the application of this Regulation and in particular matters in dispute.

Article 23

1. Member States shall carry out the verifications and inquiries concerning established entitlements and the making available of own resources. The Commission shall make use of its powers as specified in this Article.
2. Accordingly, Member States shall:
  - carry out any additional measures of control the Commission may ask for in a reasoned request;
  - associate the Commission, at its request, with the measures of control which they carry out.

Corresponds to Article 13 of the proposal for amendment of 2 June 1976.

Corresponds to Article 14 of the proposal for amendment of 2 June 1976.

Member States shall take all steps required to facilitate these measures of control. Where the Commission is associated with these measures, Member States shall place at its disposal the supporting documents referred to in Article 3. In order to restrict additional measures of control to the minimum the Commission may, in specific cases, request that certain documents be put at its disposal.

3. The measures of control referred to in paragraphs 1 and 2 shall not prejudice the following measures:

- (a) the measures of control undertaken by Member States in accordance with their own provisions laid down by law, regulation or administrative action;
- (b) the measures provided for in Articles 206, 206(a) and 206(b) of the Treaty establishing the European Economic Community and Articles 180, 180(a) and 180(b) of the Treaty establishing the European Atomic Energy Community;
- (c) the inspection arrangements made pursuant to Article 209(c) of the Treaty establishing the European Economic Community and Article 183(c) of the Treaty establishing the European Atomic Energy Community.

4. The Commission shall from time to time report to the European Parliament and to the Council on the functioning of the system.

5. The Council, acting on a proposal from the Commission, shall determine:

- (a) the conditions which officials appointed by the Commission must satisfy when they carry out the verifications provided for in this Article, in particular with regard to professional secrecy and the procedure whereby they exercise their powers of investigation;
- (b) where required, other provisions for applying this Article.

Article 24

The provisions of Community law applicable to the matters referred to in the first paragraph of Article 2 of the Decision of 21 April 1970, in particular regarding nomenclature, origin, value for customs purposes, Community transit and inward processing, shall be applied by the appropriate authorities of Member States when establishing own resources.

Corresponds to Article 15 of the proposal for amendment of 2 June 1976.

TITLE VII

Provisions relating to the Advisory Committee on the Communities' Own Resources; final provisions

Article 25

1. An Advisory Committee on the Communities' Own Resources (hereinafter called the 'Committee') is hereby set up.
2. The Committee shall consist of representatives of the Member States and of the Commission. Each Member State shall be represented on the Committee by not more than five officials.

The Chairman of the Committee shall be a representative of the Commission.

The secretarial services for the Committee shall be provided by the Commission.

3. The Committee shall adopt its own rules of procedure.

Article 26

The Committee shall examine the questions raised by its Chairman on his own initiative or at the request of the representative of a Member State, which concern the application of this Regulation, and in particular:

- (a) the information provided for in Articles 4(1)(b), 5 and 22(3);
- (b) cases of force majeure referred to in Article 22(2);
- (c) measures of control and inspection provided for in Article 23(2).

Corresponds to Article 25 of the proposal for amendment of 2 June 1976.

Corresponds to Article 26 of the proposal for amendment of 2 June 1976.

Article 27

The Council Regulation No 2/71 of 2 April 1973 implementing the Decision of 21 April 1970 on the replacement of financial contributions from the Member States by the Communities' own resources shall be repealed on 31 December 1977.

The present Regulation shall enter into force on the day following its publication in the Official Journal of the European Communities.

It shall have effect from 1 January 1978.

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

Amendments to be made to the Financial Regulation (version  
contained in written procedure No 317/77 of 2 March 1977)

Article 6 (page 5)

- paragraph 2. Replace by:

The revenue of a financial year shall be entered in the accounts for that financial year on the basis of the amounts collected during the financial year, with the exception of the own resources for the month of January of the next financial year, in respect of which advance payment is made on 20 December of the preceding financial year; pursuant to Article 11(2) of the Regulation implementing the Decision of 21 April 1970.

Article 26 (page 18)

Delete para. 2 and amend references to Regulation 2/71.

Article 27 (page 19)

Deleted

Article 28

Deleted

Article 29 (page 19)

Delete second subparagraph and amend references to Reg. 2/71.

Article 30

Amend references to Reg. 2/71.

Article 31

Retain

Article 32

Delete and replace by:

The contributions referred to in Article 4(2), (3) and (b) of the Decision of 21 April 1970 shall be expressed in European units of account, as defined in Article 10 of the Financial Regulation. They shall be converted into the respective national currencies on the basis of the EUA rate obtaining on the first working day following the [fifteenth] day of the month preceding the payment.

Article 33

Retain

Amendments to be made to the proposal for a VAT Financial Regulation (COM(77)120 final) in the light of the proposal for a Regulation implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources, and to take into account the Resolution embodying the opinion of the European Parliament.

Article 4, p. 14

"P" Para. 2(b) - Add at the end:

"such as: other tax declarations, professional accounts and complete statistical series".

Para. 3, first subparagraph - Add at the end:

"and an estimate of the value of the assessment base for each of these categories of transaction".

"P" Para. 4 - Add at the end:

"and shall decide on the data to be used as specified in Article 12 of this Regulation".

Article 5

Para. 1 - Antepenultimate line:

Replace "monthly statement" by "annual summary statement".

Penultimate line:

Replace Regulation No 2/71 by Regulation (EEC) No                      and delete the rest of the sentence: "for                      in question".

Para. 2 - Add:

"Any correction made too late to be incorporated in the annual summary statement referred to in Article 6(4) of Regulation (EEC) No                      shall be added to or deducted from the amount of entitlements established in the month in which the correction is made."



Para. 3 - Delete the entire paragraph.

Article 7

Para. 1 - Amend the references to Regulation No 2/71.

Para. 2 - Replace "the monthly statement" by "the monthly statements and annual summary statements".

Delete the last sentence: "The monthly statement .....financial year."

New paragraph 3

If the Community rate is amended during the financial year, the amount of own resources entered in the account kept by the Member State shall be corrected accordingly.

Article 8

Delete this Article.

Article 10

"p" Para. 1, second sentence.

Replace "They shall associate the Commission ..... the appropriate data have been used", by:

"The Commission may take part in them on request. During these checks the Commission shall ascertain in particular that the operations involved in the centralization of the assessment base have been conducted in a proper manner, and that the appropriate data have been used."

"p" Para. 2 - Replace the second sentence: "It may be associated in them on request" by the following sentence: "It may take part in them on request".

Article 11

"p" Para. 1 - Add, after Committee on VAT own resources, the words "having advisory capacity".

N.B.: The modifications preceded by a "P" are those suggested by the European Parliament which can be accepted by the Commission; a strict legal definition of the VAT tax base seems to rule out the proposition that Member States who establish in certain sectors a statistical tax base should be penalised by a 10% surcharge. For this and other reasons Mr. TUGENDHAT opposed this proposition in the Parliament.

SECOND AMENDED PROPOSAL

under Articles 149 of the EEC Treaty and 119 of the EAEC Treaty for  
a Council Regulation (ECSC, EEC, Euratom) amending the Financial  
Regulation of 25 April 1973 applicable to the General Budget of  
the European Communities

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presented to the Council by the Commission

EXPLANATORY MEMORANDUM

In the explanatory memorandum to its proposal for an amendment of the Financial Regulation dated 19 May 1976 (COM(76)210 final), the Commission stated that it was not a question of a general revision, because further proposals for amendment would have to be presented later when the principles had been agreed upon for the solution of certain problems. The Commission added that one of these problems was that of replacing national contributions by the value added tax (VAT). As the Sixth Directive on VAT has been adopted meanwhile, it is now possible to propose the amendments to the Financial Regulation necessitated by the full system of own resources.

When it sent to the European Parliament the text of its common guidelines on the Financial Regulation, the Council said that it was unable to take a decision as to Articles 26 to 39 on own resources. The Council added that the Commission would shortly submit to the Council a new proposal on these Articles which would take into account the adoption of the Sixth VAT Directive.

The Commission is presenting a proposal for a Regulation implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources, and an amended proposal for the VAT financial regulation.

The amendments to be made to the Financial Regulation, in the amended version proposed by the Commission on 10 March 1977 (COM(77)59 final), have been harmonized with the provisions of these two Regulations. Their essential purpose is to replace the provisions for the entry into accounts of revenue for the financial year based on the entitlements established at 31 December by entry into accounts on the basis of amounts collected during the financial year. This proposal returns to the original proposal made on 19 May 1976, which was dropped in response to the Opinion of the European Parliament. The amendment is to the effect that the revenue section of the Budget and the annual accounts should reflect the actual amounts collected between 1 January and 31 December. The result will be that the customs duties and agricultural levies collected in 1978 but relating to 1977 will be credited to the 1978 financial year; this will reduce by the same amount the own resources for 1977, but the difference may be made up by GNP contributions under the present system and up to the limits of the relative share of each Member State. In this way a solution is found to the cash management difficulties which would result if the text based on entitlements established were preserved.

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The application of the EUA as from 1 January 1978 necessitates two proposals for amendment:

- (i) fixing of the rate for the conversion of contributions expressed in EUA into national currencies;
- (ii) increasing the figures of certain amounts in the articles on contracts for supplies, work and services.

As most of the operations which must remain below the thresholds fixed by these amounts are transacted in Belgian francs, maintenance of the real value of these thresholds requires an increase of 25% before conversion into EUA, according to the rate 1 u.a. = 1 EUA. The amounts in question are those set out in Articles 60, 62 and 65.

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The second amended proposal annexed hereto contains only those articles in the amended proposal of 10 March 1977 (COM(77)59 final) which have been further amended. The changes are underlined.

The working paper which sums up the various texts proposed will be sent under separate cover.

SECOND AMENDED PROPOSAL

under Articles 149 of the EEC Treaty and 119 of the EAEC Treaty for a Council regulation (ECSC, EEC, Euratom) amending the Financial Regulation of 25 April 1973 applicable to the General Budget of the European Communities

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty .....

HAS ADOPTED THIS REGULATION:

Article 1

1. The following articles shall be worded as follows:

Article 6

1. The financial year shall run from 1 January to 31 December.
2. The revenue of a financial year shall be entered in the accounts for that financial year on the basis of the amounts collected during the financial year, with the exception of the own resources for the month of January of the next financial year, in respect of which advance payment is made on 20 December of the preceding financial year, pursuant to Article 11(2) of the Regulation implementing the Decision of 21 April 1970.
3. (
4. ( no change
5. (

Article 26

1. Estimates of the own resources and, if appropriate, of the contributions referred to in Article 4(2) and (3) of the Decision of 21 April 1970 to be paid by each Member State shall be entered in the Budget, expressed in units of account as defined in Article 10. They shall be made available and paid over in accordance with the provisions of Council Regulation ..... (EEC, Euratom, ECSC) implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources.
2. Deleted.

Article 29

The balance from each financial year, calculated in accordance with Council Regulation . . . . . (EEC, Euratom, ECSC) implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources, shall be entered as revenue in the case of a surplus or expenditure in the case of a deficit in the Budget of the second subsequent financial year.

Article 30

1. The contributions provided for in Article 4(6) of the Decision of 21 April 1970 shall be paid over as follows:
  - seven-twelfths of the amount shown in the Budget not later than 31 January;
  - the remaining five-twelfths not later than 15 July.
2. Any contribution or additional payment due to the Budget from the Member States must be entered in the account(s) of the Commission within thirty days from the date on which funds are called for.
3. Those various payments shall be entered in the account provided for in Article 8(1) of Council Regulation . . . . . (EEC, Euratom, ECSC) implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources and shall be subject to the provisions of Article 12 of that Regulation.

Article 32

The contributions provided for in Article 4(2), (3) and (6) of the Decision of 21 April 1970 shall be expressed in the European unit of account as defined in Article 10 of this Financial Regulation. They shall be converted into the respective national currencies on the basis of the rate for the EUA applying on the first working day following the fifteenth day of the month preceding the payment.

Article 60

Contracts may be made by private treaty:

- (a) where the contract for the purchase or hiring of goods, for the provision of services or for building works involves an amount not exceeding 6 500 units of account, the Institution being bound, however, as far as possible and by all appropriate means, to enable suppliers who are likely to be able to supply the goods and services in question to compete;

Subparagraphs (b), (c), (d) and (e): no change.

Article 62

In each Institution, before the authorizing officer takes a decision, contracts involving amounts exceeding 18 000 units of account shall be submitted for the opinion of an advisory committee on procurements and contracts whose rules of procedure shall be laid down in the measures of implementation referred to in Article 118.

Article 65

Contracts may be made against invoice or bill of costs only where the expected value of the goods and services supplied does not exceed 300 units of account. This limit shall be increased to 750 units of account for expenditure to be entered into outside the provisional places of work of the Institution.

Article 2

This Regulation shall enter into force on .....

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

AMENDED PROPOSAL

for a

Council Regulation implementing, in respect of  
the own resources from VAT, the Decision of  
21 April 1970 on the replacement of financial  
contributions from Member States by the  
Communities' own resources

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presented to the Council by the Commission



EXPLANATORY MEMORANDUM

1. The application in full from 1978 of the own resources system based on the financial autonomy of the Communities has necessitated recasting the legislation on this subject, and the corresponding proposal for a Regulation<sup>2</sup> means that changes must be made to the proposal for a Regulation on own resources from VAT, already sent to the Council<sup>1</sup>.

These changes are embodied in the proposed amendments annexed hereto, to which have been added those suggested in the Resolution of the European Parliament<sup>3</sup> which the Commission was able to accept.

2. The amendments resulting from the recasting of the legislation on own resources are the following:

- request for an estimate of the appropriate data to facilitate the estimating of the amounts which the Member States will be asked to pay (Article 4(3));
- introduction of an annual summary statement of entitlements established; as a result of the system of own resources from VAT, this statement could be produced after the closure of the financial year to which it refers (Article 5(1));
- deletion from the Commission's original proposal of all references to the provisions on the payment of own resources (Articles 5 and 8), as these provisions are incorporated in the regulation replacing Regulation No 2/71.

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<sup>1</sup>OJ No C 120, 6 May 1977, p. 2.

<sup>2</sup>Primarily the proposal for a Regulation No .... (EEC, Euratom, ECSC) implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources.

<sup>3</sup>Doc. 759/71 (ASS 479), 20 June 1977.

3. The amendments proposed by the European Parliament in its Resolution (embodying an Opinion) of 16 June 1977 all tend to strengthen the Commission's original proposal; with one exception the Commission can accept them and they have therefore been incorporated in this proposal.

However, the Parliament's proposal to increase by 10% the own resources established on the basis of appropriate data cannot be accepted, for major legal reasons. Although it is an incentive in the direction of the harmonization provided for in the Sixth Directive, this penalty system does not comply with the principles laid down in the Decision of 21 April 1970 as regards the uniform assessment base and the single rate throughout the Community.

Its inclusion could, moreover, cause considerable delays in the adoption of the Regulation.

This amendment has therefore not been incorporated in this proposal.

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The amended proposal annexed hereto incorporates only the text of those articles of the Commission's original proposal which have been amended. The changes are underlined.

AMENDED PROPOSAL

for a

Council Regulation implementing, in respect of the own resources from VAT, the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources<sup>1</sup>

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Introduction, recitals and Articles 1 to 3: no change

Article 4

1. no change

2(a) no change

2(b) transactions as set out in Annex F to the Sixth VAT Directive which the Member States exempt in accordance with the option provided for in Article 28(3)(b) of that Directive; shall be the added value as established from declarations to be made by the taxable persons or, failing these, from appropriate data, such as tax declarations, business accounts and complete statistical series.

3. The Member States shall inform the Commission, before the beginning of each financial year and prior to its presenting the Preliminary Draft Budget, of the solutions they propose to adopt to determine the assessment base for each of the categories of transaction referred to in paragraph 2, indicating, where applicable, the nature of the data which they consider appropriate, and an estimate of the value of the assessment base corresponding to each of these categories of operations.

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<sup>1</sup> Complete text: see OJ No C 110, 6 May 1977, p.2.

This information for the financial year 1978 shall be sent as soon as possible and not later than 1 October 1977.

4. Either on its own initiative or at the request of a Member State, the Commission shall examine, on the spot if need be, problems arising from the implementation of the provisions of paragraph 2, and shall decide which data to take into consideration under the conditions set out in Article 12 of this Regulation.

#### Article 5

1. VAT resources shall be determined:

- in the cases referred to in Article 3(1) and (2) of this Regulation, when the declaration is lodged by the taxable person, in accordance with the provisions of Article 22(4) of the Sixth VAT Directive, or by the person liable for payment of the tax on importation, in accordance with Article 23 of that Directive, or, in the absence of such declaration, when they are established officially by the competent authority of the Member State,
  
- in the cases referred to in Article 4(1) and (2), as soon as the assessment base has been determined by the competent authority of the Member State. Such determination must be made as soon as possible and in any event in good time for inclusion of the corresponding VAT resources in the annual summary statement under Article 6(4) of Regulation (EEC, Euratom, ECSC) No ...

2. Correction by the competent authority of the Member State of an incorrect or incomplete establishment shall be regarded as a fresh establishment.

3. Every establishment or correction made too late to be included in the annual summary statement referred to in Article 6(4) of Regulation No ... shall be added to or deducted from the amount of entitlements established during the month in which the establishment or correction itself was made.

Former 3: deleted

Article 6

no change

Article 7

1. - The accounting of VAT resources shall be governed by the provisions of Article 5, 6 and 7 of Regulation (EEC, Euratom, ECSC) No ...
- the making available of VAT resources shall be governed by the provisions of Articles 8(1) and (3), 9, 10, 11 and 12 of Regulation (EEC, Euratom, ECSC) No...
2. The closing statement of account, and the monthly statements and the annual summary statement sent to the Commission in accordance with Articles 5 and 6(2) of Regulation (EEC, Euratom, ECSC) No... shall distinguish between VAT resources established in accordance with the first indent of Article 5(1) and each category established in accordance with the second indent of the said Article 5(1).
3. If the Community rate is changed during the financial year, the amount of own resources entered in the account held by the Member State shall be corrected accordingly as from the date of the change in the Community rate.

Article 8

deleted

Article 9

The provisions of Articles 3,4,22 and 23(3) of Regulation (EEC, Euratom, ECSC) No... shall apply to VAT resources.

Article 10

1. The Member States shall conduct the verifications and enquiries concerning the establishment and making available of VAT resources. The Commission shall take part therein at its own request. During these checks the Commission shall ascertain that the assessment base centralizing operations have been performed correctly, and that the appropriate data have been used and that the calculations made to determine the amount of own resources in the cases provided for in Article 4(1) and (2) comply with the provisions of this Regulation.
2. The Commission may request the Member States to conduct additional checks. It shall take part therein at its own request.
3. No change

Article 11

1. A Committee on own resources from VAT (hereinafter called "the Committee"), consultative in nature, is hereby set up.
2. No change
3. No change

Article 12

1. The Committee shall examine questions raised by its chairman, on his own initiative or at the request of the representative of a Member State, which concern the application of this Regulation, and in particular the following:
  - (a) the information and communications provided for in Article 4(1)(b), 5 and 22(3) of Regulation (EEC, Euratom, ECSC) No...

- (b) cases of force majeure as referred to in Article 22(2) of Regulation (EEC, Euratom, ECSC) No....:
- (c) measures of control and inspection as provided for in Article 10;
- (d) the determination by the Member States of the added value established in accordance with the provisions of Article 4(1).

Article 13

No change