

## EUROPEAN PARLIAMENT

# Working Documents

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DOCUMENT 1-226/84

### SECOND REPORT

drawn up on behalf of the Committee on Budgets

on the second amendment to the proposal from the Commission of the European Communities to the Council (Doc. 1-1039/83 - COM(83) 621 final) for a regulation amending Regulation (EEC, EURATOM, ECSC) No. 2891/77 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

Rapporteur: Mr H. NOTENBOOM



By letter of 11 November 1983, the President of the Council of the European Communities requested the European Parliament to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a second amendment to the proposal for a Council Regulation (EEC, Euratom, ECSC) amending Regulation (EEC, Euratom, ECSC) No. 2891/77 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources.

On 16 November 1983, the President of the European Parliament referred this proposal to the Committee on Budgets as the committee responsible and to the Committee on Economic and Monetary Affairs and the Committee on Budgetary Control for opinions. At its meeting of 23 November 1983, the Committee on Budgets appointed Mr NOTENBOOM rapporteur.

The committee considered the Commission's proposal and the draft report at its meetings of 25 January, 22 February and 21 March 1984 and, at the last meeting, decided unanimously to recommend to Parliament that it adopt the Commission's proposal with the amendments tabled in its first report (Doc. 1-78/84).

The committee then unanimously adopted the first motion for a resolution as a whole.

Present: Mr Lange, chairman; Mr Notenboom, rapporteur; Mr Arndt, Mr Adonnino, Mr Balfe, Lord Douro, Mr Helms (deputizing for Mr Pfennig), Mr Hord (deputizing for Mr R. Jackson), Mr Louwes and Mr Newton Dunn.

The first report was tabled on 26 March 1984. On a proposal by the rapporteur, Parliament referred it back to the Committee on Budgets on 13 April 1984 to give the committee an opportunity to consider new proposals put forward by the Commission and the rapporteur.

At its meeting of 18 April 1984, the Committee on Budgets considered these new proposals. It decided to recommend to parliament that it adopt the Commission's proposal together with the amendments tabled hereinafter.

The Commission of the European Communities stated before the Committee on Budgets that it was prepared to agree to the latter's amendments. The Committee on Budgets then unanimously adopted the motion for a resolution as a whole.

Present: Mr Lange, chairman; Mr Notenboom, rapporteur; Mr Battersby (deputizing for Lord Douro), Mrs Hoff, Mr Kellett-Bowman, Mr Langes, Mr Louwes, Mr Pfennig, Sir James Scott-Hopkins (deputizing for Mr R. Jackson) and Mr Seeler (deputizing for Mr Arndt).

The explanatory statement will be presented orally by the rapporteur.

The report was tabled on 2 May 1984.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

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The Committee on Budgets hereby submits to the European Parliament the following amendments to the Commission's proposal and motion for a resolution:

Second amendment to the proposal for a Council regulation (EEC, EURATOM, ECSC) No. 2891/77 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

Amendments tabled by the  
Committee on Budgets

Text proposed by the Commission of  
the European Communities

Amendment No. 1

After the third recital add the following two new recitals:

After the third recital, add the following new recital:

Whereas, pending harmonization measures which will make it possible to implement the system of own resources uniformly, it is necessary for the time being to draw up a harmonized definition of the concept of establishment of own resources.

Whereas the concept of establishment should be clearly defined to ensure that it is applied in an adequately uniform manner; whereas Community customs legislation introduced the concept of 'entry in the accounts', defined as the official act by which the amount of the import duties or export duties to be collected by the competent authorities is duly determined; whereas the establishment of entitlements should be provided for even in cases where it is not possible to make an entry in the accounts as so defined.

Whereas Community customs legislation introduced the concept of 'entry in the accounts', defined as the official act by which the amount of the import duties or export duties to be collected by the competent authorities is duly determined; whereas the establishment of entitlements should be allowed for even in cases where it is not possible to make an entry in the accounts as so defined;

Amendment No. 2

After the fifth recital, add the following new recital:

Whereas entitlements should be made available following their establishment; whereas, however, where recovery is delayed or proves impossible, provision should be made for the making available of entitlements to be deferred; whereas this possibility should be strictly limited in order to protect the Community's financial interests; whereas appropriate procedures should be laid down.

Amendment No. 3

The following new point is inserted before point 1 of the proposal:

- Article 1 is amended as follows:

Article 1

The Community's own resources within the meaning of Article 2 of the Decision of 21 April 1970, hereinafter called 'own resources', shall belong to the Community from the moment that event giving rise to them takes place.

These own resources shall be established by Member States in accordance with their own provisions laid down by law, regulation or administrative action and taking into account all the relevant provisions of Community law. They shall be made available to the Commission and inspected as specified in this Regulation,

After the fifth recital, add the following new recital:

Whereas after entitlements have been established, the corresponding own resources should be made available; whereas, however, where recovery is delayed or proves impossible, provision should be made for the making available of entitlements to be deferred or definitively waived; whereas this possibility should be strictly limited in order to protect the Community's financial interests; whereas appropriate procedures should be laid down.

Article 1 of Regulation 2891/77

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 and inspected as specified in this Regulation, without prejudice to Council Regulation (EEC, Euratom, ECSC) No. 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions



Amendment No. 3 (cont.)

without prejudice to Council Regulation (EEC, Euratom, ECSC) No. 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources.

from Member States by the Communities' own resources.

Amendment No. 4

Article 2 is amended as follows:

Article 2

1. (a) Unchanged (in the English text)

1. The first (unnumbered) paragraph of Article 2 is numbered paragraph 1 and is amended as follows:

(a) For the purpose of applying this Regulation, in cases where Community rules impose an obligation to enter an entitlement in the accounts, the entitlement shall be deemed to be established as soon as it has been entered in the accounts.

(b) In cases not yet covered by these rules, however, shall be deemed to be established as soon as its amount has been determined for the first time or can be estimated by the appropriate department or agency of the Member State.

(b) In cases not covered by these rules, however, an entitlement shall be deemed to be established as soon as its amount has been determined by the appropriate department or agency of the Member State.

2. Where it becomes necessary to rectify an establishment recorded in accordance with paragraph 1, the appropriate department or agency of the Member State shall make a new establishment.

2. The second (unnumbered) paragraph of Article 2 is numbered paragraph 2.

Amendment No. 5

4. Article 10(1) is amended  
as follows:

Article 10

1. Subject to the provisions of  
Articles 10a and 10 b, the entry  
referred to in Article 9(1) shall  
be made not later than the first  
working day after the 19th day of  
the second month following that  
in which the entitlement was  
established as provided for in  
Article 2.

4. At the beginning of Article 10(1)  
the following is inserted:

'Subject to the provisions of  
Articles 10a and 10b, the ...'

Amendment No. 6

5. The following Article 10a is inserted  
after Article 10:

Article 10a

Paragraph 1: Article 17(1)  
becomes Article 10(1)

Paragraph 2:

(a) The Commission may authorize the  
Member States to defer making  
available an entitlement established  
in accordance with Article 2(1)(b)  
where the entitlement cannot be  
recovered within the normal time  
allowed.

(b) (22 words deleted) ...

After consulting the Committee  
referred to in Article 20, the Comm-  
ission shall draw up a list of model  
cases in which this provision may be  
applied without prior authorization.

The following Article 10a is inserted after  
Article 10:

- Paragraph 1: Article 17(1) becomes  
Article 10a(1).

- Paragraph 2:

(a) The Member State may, however, subject to the  
conditions set out below, defer making  
available an entitlement established in  
accordance with Article 2(1)(b) where the  
entitlement cannot be recovered within the  
normal time allowed.

(b) The Member States shall send the Commission a  
description of the situations in which they  
plan to make use of this provision. After  
consulting the Committee referred to in  
Article 20 the Commission shall draw up a  
list of model cases in which this provision  
may be applied

Amendment No. 6 (cont.)

(c) Unchanged.

(c) The amounts of the entitlements to which the Member State applies this provision shall be recorded in a special section of the own resources accounts referred to in Article 6, broken down by the type of resource involved and the type of case as contained in the list provided for in (b) above.

(d) Unchanged.

(d) The entitlements referred to in this paragraph shall be made available to the Commission not later than the first working day after the 19th day of the second month following that in which:

- they were recovered; any interest paid on the entitlements by the person liable shall also be made available;
- the Member State decided to terminate the recovery procedure without making use of the provisions of Article 10b;

e) Unless the Commission decides otherwise in accordance with paragraphs a and b, the making available of an entitlement may not be deferred for longer than three months. The authorization permitting deferral may be renewed.

Amendment No. 7

The following new point is added after point 6 of the proposal:

6a. The following Article 10c is added after Article 10b:

Article 10c

The request for authorization referred to in Article 10a and 10b shall only affect the application of Article 11 in cases where such authorization is actually granted. However, in the event of authorization being refused, the Commission may waive payment of interest in respect of delay for reasons of equity.

Amendment No. 8

The following new point is added after point 7 of the proposal:

7a. The following Article 24a is added after Article 24:

Article 24a

Article 9 of Council Regulation No. 1677/79 of 24 July 1979<sup>1</sup> is deleted.

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<sup>1</sup> OJ No. L 197, 3.8.1979, p. 1

## MOTION FOR A RESOLUTION

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embodying the opinion of the European Parliament on a second amendment to the proposal from the Commission of the European Communities to the Council for a regulation amending Regulation (EEC, Euratom, ECSC) No. 2891/77 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources.

### The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council (COM(83) 621 fin.),
  - having been consulted by the Council (Doc. 1-1039/83),
  - having regard to its opinion on the basic proposal from the Commission for a regulation amending Regulation 2891/77 (Doc. 1-1006/82 - OJ No. C 13, 17.1.83),
  - having regard to the first amendment of the above-mentioned proposal pursuant to Article 149 of the EEC Treaty and Article 119 of the Euratom Treaty (COM(83) 254 final),
  - having regard to the first report of the Committee on Budgets and the opinion of the Committee on Economic and Monetary Affairs (Doc. 1-78/84),
  - having regard to the second report of the Committee on Budgets (Doc. 1-226/84),
  - having regard to the result of the vote on the Commission's proposal,
- A. whereas the Commission's aim with this proposal is to improve the system of levying\* own resources and the Commission's ability to control and monitor the transfer of those entitlements in respect of which problems arise in their establishment at national level;
- B. whereas these amendments should in no case weaken the financial autonomy of the Community and whereas, on the contrary, significant progress is urgently required in this area, not least in view of the increasing number of abuses connected with the system of own resources;
1. Notes that, 14 years after the decision to introduce own resources, there are still major differences in the way in which Member States establish, collect and make available own resources;

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\* See Article 6(1) of the Decision of 21 April 1970

2. Regrets that the Council and Commission have made little progress since 1970 in drawing up Community rules for a uniform method for determining own resources and have permitted the system of own resources to be undermined;
3. Recognises that the present proposals from the Commission are intended to make concrete improvements to the arrangements for making available own resources; considers, however, that these proposals also weaken the entitlement of the Community to these own resources;
4. Hopes therefore that the Commission will amend its proposal, particularly with a view to
  - making clear that own resources are to be acquired by the Community from the moment that the event entitling them to be levied occurs;
  - achieving progress towards harmonization of national provisions in order to secure a uniform application of the system of own resources;
  - defining more precisely the exceptions to the obligation to make entitlements available;
5. Views these proposals as emergency measures designed to rectify certain shortcomings observed in the collection of own resources; takes note of the Commission's undertaking to revitalize the process of harmonizing national laws with a view to the uniform application of the system of own resources and requests the Commission to submit by the end of June 1985 a report detailing the progress made and the measures still to be taken in this field;
6. Regrets the delay caused to the Community by the Council with the revision of Regulations 2891 and 2892/77; urges the opening of the conciliation procedure on this revision, including the present proposals, as quickly as possible;
7. Instructs its President to forward to the Council and Commission, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.