

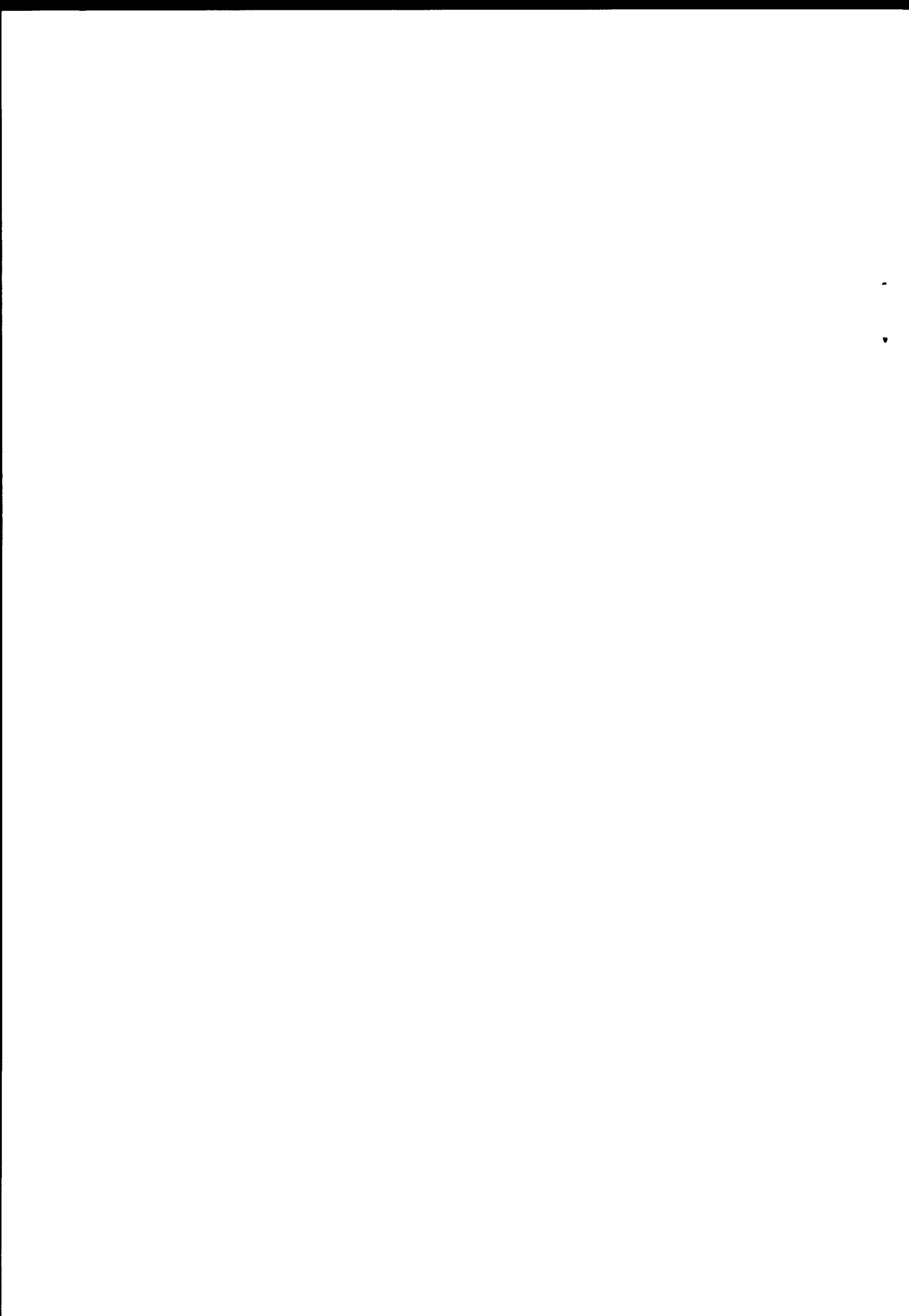
COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 683 final
Brussels, 21 December 1993

Proposal for a
COUNCIL REGULATION (EC, Euratom)
amending Regulation (EEC, Euratom) No 1552/89
implementing Decision 88/376/EEC, Euratom
on the system of the Communities' own resources

Proposal for a
COUNCIL REGULATION (ECSC, EC, Euratom)
amending the Financial Regulation of 21 December 1977
applicable to the general budget of the European Communities

(presented by the Commission)



EXPLANATORY MEMORANDUM

This proposal is a formal alternative to the Commission proposal of 14 September 1993 (COM(93) 437 final).

The objective is the same: to ensure that when Community expenditure complies, year after year, with the own resources ceiling set for the Community, all the financial resources mobilized may be deployed to finance Community policies.

This proposal differs from the initial one in that the legislative and budgetary procedure proposed here would not require the entry in the statement of expenditure of negative balances of resources resulting from errors in forecasting the structure of own resources since it would eliminate these balances. The question of whether they should count against the own resources ceiling would then become academic. To satisfy the undertaking it gave to Parliament when the Interinstitutional Agreement was concluded, the Council should adopt the proposal before the 1995 budgetary procedure starts.

- I. In its communication of 9 June 1993 (SEC(93) 851 final) the Commission drew the Council's and Parliament's attention to the problem that shortfalls in tax revenue as a result of the 1992-93 economic recession was eating into the own resources ceiling.

The reasons for these shortfalls are a yield of traditional own resources which is lower than forecast in the budget and a reduction in the VAT and GNP bases; initially, they affect the cash flow and, in the case of VAT and GNP-based resources, result in repayments to the Member States. In order to cover the expenditure approved and implemented in the financial year concerned, while complying with the principle that the budget must be in balance, they are then entered as expenditure in the budget for the next year or the next year but one, depending on the case.

For 1992 the shortfalls amount to almost ECU 2 billion; they could be double that in 1993. The financial regulations require these amounts to be entered in the budget in 1993, 1994 and 1995.

For the first time since 1988, all the own resources available beneath the ceiling will have to be entered in the initial budget for 1994, and very probably in the one for 1995 too. As there are no explicit rules about how the own resources ceiling should be applied in this case, it might be considered that past years' revenue shortfalls must be entered by a supplementary and amending budget as expenditure counting against this ceiling, thus implying an equivalent reduction in the expenditure adopted for the year in question, while Community expenditure will remain well below the own resources ceiling in 1992 and 1993.

The Commission's initial proposal was designed to specify the rules for dealing with past years' balances in relation to the own resources ceiling for the year in which these balances are entered in the budget in specific circumstances which are not explicitly provided for in the current rules.

The treatment recommended in line with the spirit of the own resources Decision was to neutralize them symmetrically and conditionally:

- symmetrically, since provision would be made to allow negative balances from earlier years to be financed in the year in which they are entered in the budget in excess of the own resources ceiling for that year. Conversely, there should be no possibility of using positive balances from earlier years in the year in which they are entered in the budget in excess of the own resources ceiling;
- conditionally, since this would be subject to an ex post check that budget expenditure in the reference year was kept below the actual own resources ceiling.

II. Since then, the problem has changed:

- The budgetary authority has accepted the Commission's proposals that the shortfalls which can already be identified for 1992 and 1993 should be partly financed in 1993. This precautionary move does not, however, resolve the entire problem. It concerns only part of the expected shortfall and cannot be repeated in 1994 even though there is almost ECU 2 billion to be covered. The reduction in the GNP growth rate on which the 1993 budget was based and the monetary realignments of 1992 have led to a large reduction in the bases. However, the total payment appropriations contained in the financial perspective agreed at Edinburgh will hit the own resources ceiling in 1994. The same will probably be true in 1995. This means that there will be insufficient appropriations available those years to absorb the considerable shortfalls from 1993.
- The Council rejected the Commission's initial proposal since it would allow adoption of a budget which appeared to exceed the own resources ceiling. Although legally compatible with the own resources Decision, this possibility was politically unacceptable to a number of Member States.
- The Commission has considered an alternative which is set out below and which has attracted the interest of the Council and Parliament.
- Parliament has made its acceptance of the Interinstitutional Agreement subject to the "express condition of a prior agreement with the Council on how to deal with the negative balances arising from fiscal shortfalls which must be budgetized in such a way that they do not undermine the availability of expenditure ceilings for the financing of ordinary expenditure".
- During the negotiations on the finalization of the Interinstitutional Agreement, the Council acknowledged that "every effort must be made to ensure that available funds provided for in the financial perspective can be used to meet financing requirements of the Community's budget expenditure, while complying in full with the annual ceiling on own resources". It undertook to "work out an appropriate solution to the problem of the treatment of balances and notes that an alternative suggestion to the original Commission proposal is currently being examined in detail".

- In its resolution on the adoption of an Interinstitutional Agreement on budgetary discipline and improvement of the budgetary procedure for 1993-99, Parliament interpreted the assurances given by the Council Presidency as meaning that, if the own resources ceiling were respected, the Council guaranteed that the expenditure ceilings contained in the financial perspective would remain fully available for ordinary expenditure.
- Finally, Parliament has stated that it will ensure that this undertaking is respected during the budgetary procedures.

III. In these circumstances, the Commission has decided to withdraw its initial proposal and formally propose the alternative explored during finalization of the negotiation of the Interinstitutional Agreement. The initial proposal aimed to neutralize the balances; the alternative would eliminate them, both symmetrically and conditionally.

When implementation of a budget is completed and the VAT and GNP bases are established, the financing of this budget would be recalculated and the amounts required redistributed among the Member States in the light of all actual revenue and expenditure for year n as resulting from the revenue and expenditure account and the real VAT and GNP bases.

On this basis refunds would be made to Member States or they would have to make additional payments to adjust the payments made during the year. The balances which occur under the current arrangements would thus disappear. This would apply to both surpluses and shortfalls.

In the specific case of expenditure actually exceeding the revised own resources ceiling, the refinancing of the budget would be calculated within the limit of the ceiling. The amount in excess of the ceiling would be refunded to the Member States in line with the current rules.

The proposal is being submitted because of the special circumstances currently prevailing. New legislation is needed if the Edinburgh financial perspective, the Interinstitutional Agreement and the own resources Decision are all to be respected in 1995.

The value of the system proposed is, however, long term. It avoids the artificial transfers of resources back and forth between the Member States and the Community. One paradoxical feature of the current system is that, in the event of favourable economic developments, Member States have to pay balances of resources from earlier years; this is equivalent to financing, in advance and for no good reason, part of the budget for the following year.

IV. New provisions to be incorporated in own resources legislation

The treatment proposed does not require any change in the system of own resources or the manner in which they are established.

- (a) Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources must, however, be amended to provide the following rules for implementing the solution proposed:

1. Provisions concerning the calculation of the refinancing of the budget

- The provision concerning the calculation of the previous year's VAT and GNP balances would be replaced by a provision stating that the financing of that year's budget would be recalculated the following November on the basis of the actual VAT and GNP bases and in line with actual implementation as shown in the revenue and expenditure account, including miscellaneous resources.
- The financing would be recalculated within the limit of the own resources ceiling since any amount in excess of this ceiling would be refunded to the Member States.
- The amounts resulting from the recalculation of the financing would be redistributed among the Member States.
- The average exchange rates for the year concerned would be used to recalculate the financing.

It would, of course, be for the budgetary authority, acting on a proposal from the Commission, to adopt a budgetary structure to accommodate the new system, replacing the structure of the existing system.

2. Provisions relating to subsequent adjustments of resources

The corrections to the VAT and GNP bases of year n after the initial revision in year $n + 1$ are not normally very large and lead to relatively small adjustments to VAT and GNP resources. The financing of a given financial year would be recalculated only once, during the following financial year. Subsequently:

- adjustments would be calculated as in the present system, but the uniform VAT rate and the GNP call-in rate resulting from the recalculation of the refinancing would be applied;
- as in the present system, the adjustments would take the form of operations for the financial year in which they take place and would thus, in due course, be included in the recalculation of the financing of that financial year.

3. Provisions relating to the specific eventuality of the own resources ceiling being exceeded

Should it be found that the own resources ceiling was in fact exceeded, the amount in excess would be refunded to the Member States on the first working day of December following the financial year concerned and would be entered in the budget, as is the case now, as negative expenditure under the own resources ceiling of the next financial year but one.

Appropriate estimates of any amounts in excess in the final outturn could be entered in the budget for the next financial year but one during the budgetary procedure, where necessary by means of a letter of amendment.

(b) At the same time, the Financial Regulation applicable to the general budget of the Communities would have to be amended to set out the procedural rules for:

- adjusting the financing of the budget for year n;
- the treatment of any amount in excess of the own resources ceiling.

V. Conclusions

This proposal is consistent with the own resources Decision, which sets the own resources ceiling every year, and with the Interinstitutional Agreement, which assumes that the resources should be used in full for financing Community policies.

It eliminates the appearance of parasitic balances by recalculating the financing of the budget for the year n, without exceeding the own resources ceiling, by reference to the figures in the revenue and expenditure account and the real VAT and GNP bases. It eliminates the anomalies of the present system under which Member States are refunded sums which they then have to pay back again shortly afterwards to restore the balance of the budget for a specific financial year or, conversely, are asked to pay additional resources which are no longer necessary. However, it does not impinge upon the current rules, which state that a negative balance resulting from the own resources ceiling being exceeded should count against the own resources ceiling of a subsequent financial year.

Proposal for a
COUNCIL REGULATION (EC, Euratom)
amending Regulation (EEC, Euratom) No 1552/89
implementing Decision 88/376/EEC, Euratom
on the system of the Communities' own resources

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European 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 Council Decision 88/376/EEC, Euratom of 24 June 1988 on the system of the Communities' own resources⁽¹⁾, and in particular Article 8(2) thereof,

Having regard to the proposal from the Commission⁽²⁾,

Having regard to the opinion of the European Parliament⁽³⁾,

Having regard to the opinion of the Court of Auditors⁽⁴⁾,

Whereas provision must be made for the financing capacity available for a given year up to the own resources ceiling to be used in full to cover expenditure during that year, with due respect for the principle of budgetary balance;

Whereas balances from earlier years should not therefore be taken into account, subject to the arrangements for dealing with an expenditure outturn exceeding the own resources ceiling in the previous year;

Whereas, for this purpose, the financing of the budget for each year should be recalculated after implementation and the overall cost redistributed between the Member States;

Whereas, should the expenditure outturn exceed the own resources ceiling in a given year, the excess amount should be refunded to the Member States;

⁽¹⁾ OJ No L 185, 15.7.1988, p. 24.

⁽²⁾ OJ No

⁽³⁾ OJ No

⁽⁴⁾ OJ No

Whereas Council Regulation (EEC, Euratom) No 1552/89⁽⁵⁾, as amended by Regulation (Euratom, EC) No 3464/93⁽⁶⁾, should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Council Regulation (EEC, Euratom) No 1552/89 is amended as follows:

1. Article 10 is amended as follows:

(a) The seventh subparagraph of paragraph 3 is replaced by the following:

"Without prejudice to paragraph 4, any change in the uniform rate of VAT resources, in the correction granted to the United Kingdom referred to in Article 5 of Decision 88/376/EEC, Euratom and in its financing, in the uniform rate of the additional resource and, where appropriate, in the GNP financial contributions, shall require the final adoption of a supplementary or amending budget and shall give rise to readjustments of the twelfths which have been entered since the beginning of the financial year."

(b) Paragraphs 4, 5 and 6 are replaced by the following:

"4. Before 15 November the Commission shall recalculate the financing of the budget for the previous year on the basis of:

- the annual statements of VAT resources bases provided by the Member States in accordance with Article 7(1) of Regulation (EEC, Euratom) No 1553/89,
- figures for the GNP aggregate provided by the Member States in accordance with Article 3(2) of Directive 89/130/EEC, Euratom,

and in the light of all revenue and expenditure operations as defined in Article 15 and as contained in the revenue and expenditure account.

Member States' VAT resources bases shall be capped in accordance with Article 2(1)(c) of Council Decision 88/376/EEC, Euratom.

⁽⁵⁾ OJ No L 155, 7.6.1989, p. 1.

⁽⁶⁾ OJ No L 317, 18.12.1993, p. 1.

On the basis of the Commission's calculation of the financing, each Member State shall be debited with the amounts shown to be due from it in respect of the VAT and GNP resources and credited with the amounts of such resources it has paid during the year in question, after subtraction of any refunds due under paragraph 5.

The Commission shall determine the corrections and shall inform the Member States in time for them to enter them in the account referred to in Article 9(1) of this Regulation on the first working day of December of the same year.

The average exchange rates for the year in question are used both for the conversion into ecus of the VAT and GNP bases and for the conversion into national currencies of the amount of these resources due from each Member State on the basis of the recalculation of the financing for the year in question.

5. Should expenditure exceed the own resources ceiling, budget financing shall be recalculated on the basis of the parameters stipulated in paragraph 4, with the exception of the amount of resources, which shall be replaced by the own resources ceiling.

Any amount exceeding the own resources ceiling for the previous year determined on the basis of the figures for the GNP aggregate and its components provided by the Member States in accordance with Article 3(2) of Directive 89/130/EEC, Euratom shall be refunded to the Member States on the first working day of December.

This refund shall be distributed between the Member States by reference to their payments of the GNP resource in the year in question. The amount by which expenditure exceeds the own resources ceiling for a given year shall be entered as negative revenue in the budget for the next year but one and shall count against the own resources ceiling for that year.

6. Any corrections to the VAT resources base under Article 9(1) of Regulation (EEC, Euratom) No 1553/89 and any changes made to GNP for earlier years pursuant to Article 3(2) of Directive 89/130/EEC, Euratom, subject to Article 6 of that Directive, shall give rise for each Member State concerned to the adjustment of the VAT and GNP resources.

The VAT resources base of a Member State shall be capped, where appropriate, in accordance with Article 2(1)(c) of Decision 88/376/EEC, Euratom.

The Commission shall calculate the adjustment by applying to the revised bases the uniform VAT rate and the GNP call-in rate resulting from the recalculation of the financing for the year in question. It shall inform the Member States of the adjusted amounts in time for them to enter them in the account referred to in Article 9(1) of this Regulation on the first working day of December of the same year."

(c) Paragraph 7 is deleted.

(d) Paragraphs 8 and 9 are replaced by the following:

"8. After 30 September of the fourth year following a given financial year, any changes to GNP shall ~~no longer be~~ taken into account, except on points notified within this time limit either by the Commission or by the Member State.

9. The operations referred to in paragraph 6 constitute modifications to revenue in respect of the financial year in which they occur."

2. In Article 15, the first subparagraph is replaced by the following:

"The balance of a given financial year shall consist of the difference between:

- all the revenue collected in respect of that financial year, and
- the amount of payments made against appropriations for that financial year increased by the amount of the appropriations for the same financial year carried over pursuant to Article 7(1)(b) and (c) and (2)(b) of the Financial Regulation."

3. Article 16 is replaced by the following:

"Article 16

The Commission shall, before the end of October in each financial year, make an estimate of the own resources, referred to in Article 2(1)(a) and (b) of Decision 88/376/EEC, Euratom, collected for the entire year, on the basis of the data at its disposal at that time.

If appreciable differences from the original estimates appear, they shall give rise to a supplementary or amending budget."

4. Article 16a is inserted, as follows:

"Article 16a

Should the expenditure outturn exceed the own resources ceiling in a given year, as referred to in Article 10(5), an appropriate estimate of the excess amount shall be entered in the budget of the next year but one during the budgetary procedure, where necessary by means of a letter of amendment.

If it is not possible to enter the definitive excess amount in the budget before it has been adopted, the difference in relation to the estimate shall be entered by means of a supplementary or amending budget."

Article 2

This Regulation shall enter into force on the seventh day following that of its publication in the Official Journal of the European Communities.

However, it shall not apply to any adjustments of VAT and GNP-based resources for years prior to 1993.

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

Done at Brussels,

For the Council
The President

Proposal for a
COUNCIL REGULATION (ECSC, EC, Euratom)
amending the Financial Regulation of 21 December 1977
applicable to the general budget of the European Communities

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Treaty establishing the European 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 proposal from the Commission⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Court of Auditors⁽³⁾,

Whereas Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources⁽⁴⁾, as last amended by Regulation (EC, Euratom) No⁽⁵⁾, lays down the rules for clearing the balance from each year;

Whereas the aforesaid Regulation also contains provisions for dealing with the eventuality of the expenditure outturn exceeding the own resources ceiling;

Whereas the Financial Regulation of 21 December 1977⁽⁶⁾, as last amended by Regulation (Euratom, ECSC, EEC) No 610/90⁽⁷⁾, must be amended accordingly,

(1) OJ No

(2) OJ

(3) OJ

(4) OJ No L 155, 7.6.1989, p. 1.

(5) OJ No L

(6) OJ No L 356, 31.12.1977, p. 1.

(7) OJ No L 70, 16.3.1990, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

The Financial Regulation of 21 December 1977 is amended as follows:

1. The following paragraph is added to Article 6:

"The repayment of any amount in excess of the own resources ceiling shall be made in accordance with Article 10(5) of Regulation (EEC, Euratom) No 1552/89."

2. Article 32 is replaced by the following:

"Article 32

The balance from each financial year shall be cleared in accordance with Article 10(4) of Regulation (EEC, Euratom) No 1552/89.

Should the expenditure outturn exceed the own resources in a given year, the excess amount shall be entered as negative revenue in the budget of the next year but one in accordance with Article 10(5) of Regulation (EEC, Euratom) No 1552/89.

An appropriate estimate of the excess amount, calculated in accordance with Article 10(5) of Regulation (EEC, Euratom) No 1552/89 shall be entered in the budget during the budgetary procedure, if necessary by means of a letter of amendment.

If it is not possible to enter the definitive excess amount in the budget before it has been adopted, the difference in relation to the estimate shall be entered by means of a supplementary or amending budget.

The second paragraph of Article 14 and the first subparagraph of Article 15(3) shall not be applicable for the purposes of the presentation of the supplementary or amending budget provided for in Article 16(a) of Regulation (EEC, Euratom) No 1552/89."

Article 2

This Regulation shall enter into force on the seventh day following that of its publication in the Official Journal of the European Communities.

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

Done at Brussels,

For the Council
The President

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