

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 71 final

Brussels, 07.03.1994

AMENDED PROPOSAL FOR A COUNCIL DECISION REPLACING DECISION 88/376/EEC, EURATOM ON THE SYSTEM OF THE COMMUNITIES' OWN RESOURCES

(presented by the Commission pursuant to Article 189 A (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

On 14 September 1993 the Commission presented a proposal for a Council Decision on the system of the Communities' own resources.¹

The Council consulted the institutions concerned. The Economic and Social Committee delivered its opinion on 30 November 1993 and Parliament delivered its opinion on 9 February 1994.

In accordance with Article 189a(2) of the EC Treaty, the Commission has amended its proposal to take into account the opinions delivered by the institutions which have been consulted.

The amendments accepted by the Commission may be summarized as follows:

- changes have been made to the drafting of the second, third, fifth, ninth, fifteenth and nineteenth recitals; in particular the reference to the European Council of 11 and 12 December 1992 has been omitted, as a similar reference is already included in the fourth recital;
- the tenth recital has been retained, but now states that the formula for calculating the correction of budgetary imbalances is confirmed (by the new Decision itself), rather than indicating that the European Council has already confirmed it;
- the sixteenth recital has been amended to omit the reference to the Copenhagen European Council and add the phrase "with a view to improving the own resources system". Parliament had proposed the phrase, "partly with a view to the establishment of a genuine own resources system";
- the seventeenth recital has been amended to omit the reference to the European Council and to stipulate that the Commission has been asked to submit proposals for reforming the financing of the Communities. However, the Commission cannot undertake to submit these proposals before the intergovernmental conferences open in 1996, as requested by Parliament.

¹ COM(93) 438 final.

- a new recital has been added which states that the total amount of available own resources will be calculated as a percentage of GNP until the appropriate institutions adopt a different system;
- Article 3(2) has been amended to stipulate that the total commitment appropriations entered in the general budget of the Communities over the period 1995 to 1999 may not exceed 1.335% of the total GNP of the Community in 1999, subject to a possible adjustment agreed by the institutions constituting the budgetary authority.
- the first sentence of Article 4 has been amended to read as follows: "The United Kingdom shall continue to be granted a correction in respect of budgetary imbalances.";
- Article 9 has been amended to state that the Commission will present a study on the options for reforming the financing of the Communities, possibly before the report scheduled for 1999. However, the Commission cannot undertake to present this study before the intergovernmental conferences open in 1996, as requested by Parliament.

Finally, the Commission has not accepted Parliament's proposal to add the following recital:

"Whereas the institutions of the European Union agree to elaborate, in connection with the 1996 intergovernmental conferences, a new own resources system which should be based on the conclusions of the 1994 conference on own resources between Parliament, the Council and the Commission, and should be guided by the criteria of direct revenue-raising, equal, direct and equitable European taxation, transparency and identifiability;"

Parliament's proposal is not the subject of an agreement between the institutions.

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Amended proposal for a COUNCIL DECISION
replacing decision 88/376 EEC, Euratom
on the system of the Communities' own resources

(presented by the Commission pursuant to Article 189 A (2)
of the EC-Treaty)

Having regard to the opinion of the European Parliament and of the Economic and Social Committee the Commission submits its
proposal amended as follows :

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty establishing the European Community, and in particular Articles 199 and 201 ,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 171(1) and 173 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 Economic and Social Committee, ³

1 OJ No C

2 Opinion delivered on

3 OJ No C

Whereas Council Decision 88/376/EEC, Euratom of 24 June 1988 on the system of the Communities' own resources ⁴ expanded and amended the composition of own resources by capping the VAT resources base at 55% of gross national product for the year at market prices (hereinafter "GNP") with the maximum call-in rate being maintained at 1.4%, and by introducing an additional resource, based on the total GNP of Member States, designed to guarantee budgetary balance between revenue and expenditure;

Whereas this system has produced a sounder basis for financing the Community; whereas, however, the structure of the system should make more allowance for each Member State's ability to contribute by correcting the regressive aspects of the system for the least prosperous Member States;

Whereas the Community must have adequate resources to finance its policies; whereas its revenue must match the expenditure judged necessary for these policies, for which the priorities were set in the financial perspective contained in the Interinstitutional Agreement between the European Parliament, the Council and the Commission, which will take effect on 1 January 1995;

Whereas this system has produced a basis for financing the Community; ...

Whereas the Community must have adequate own resources to finance its policies; whereas its own resources are based on the expenditure judged necessary for these policies, for which the priorities were set in the financial perspective contained in the Interinstitutional Agreement between the European Parliament, the Council and the Commission, which took effect on 29 October 1993 ;

Whereas the European Council meeting in Edinburgh on 11 and 12 December 1992 reached certain conclusions;

Whereas, in accordance with these conclusions, the Community will, by 1999, be assigned a maximum amount of own resources corresponding to 1.27% of the total of the Member States' GNP;

Whereas observance of this ceiling requires that the total amount of own resources at the Community's disposal for the period 1995 to 1999 does not in any one year exceed a specified percentage of the sum of the Community's GNP for the year in question; whereas that percentage has been set by reference to the expenditure ceilings agreed by the Community institutions;

Whereas an overall ceiling of 1.335% of the Member States' GNP is set for commitment appropriations; whereas an orderly progression of commitment appropriations and payment appropriations must be ensured;

Whereas these ceilings should remain applicable until this Decision is amended;

Whereas, in accordance with these conclusions, the Community should, by 1999, be assigned a maximum amount of own resources corresponding to 1.27% of the total of the Member States' GNP;

Whereas, with a view to matching the resources paid by each Member State more closely with its ability to contribute, the European Council of 11 and 12 December 1992 decided to amend the composition of Community own resources:

- by lowering the ceiling for the uniform rate to be applied to the uniform value added tax base of each Member State from 1.4% to 1.0% in equal steps between 1995 and 1999;
- by, if necessary, capping at 50% of GNP from 1995 onwards the value added tax base of the Member States whose per capita GNP is less than 90% of the Community average and by reducing the capping of the base from 55% to 50% in equal steps over the period 1995-99 for the other Member States;

Whereas the European Council of 11 and 12 December confirmed the formula for the calculation of the correction of budgetary imbalances defined in the Decision 88/376/EEC, Euratom;

Whereas, with a view to matching the resources paid by each Member State more closely with its ability to contribute, the composition of Community own resources should be amended ;

- by, capping at 50% of GNP from 1995 onwards the value added tax base of the Member States whose per capita GNP is less than 90% of the Community average and by reducing the capping of the base from 55% to 50% in equal steps over the period 1995-99 for the other Member States;

Whereas the formula for calculation of the correction of budgetary imbalances defined in Decision 88/376/EEC, Euratom, is confirmed ;

Whereas, by virtue of Article 127 of the 1979 Act of Accession and Articles 187 and 374 of the 1985 Act of Accession, Greece until 1985 and Spain and Portugal until 1991 were refunded a proportion of their payments of VAT own resources, the GNP-based resource and GNP-based financial contributions; whereas these refunds constituted expenditure from the general budget;

Whereas any adjustments of VAT and GNP bases for the years from 1981 to 1991 will entail corrections of the amounts of the refunds; whereas arrangements should be made to take account of such adjustments in the general budget;

Whereas the budgetary imbalances should be corrected in such a way as not to affect the own resources available for the Community's policies;

Whereas the monetary reserve, hereinafter referred to as the 'EAGGF monetary reserve', is covered by specific provisions;

Whereas the conclusions of the European Council of 11 and 12 December 1992 provided for the creation in the Community budget of two reserves, one designed to respond rapidly to emergency aid requirements in non-member countries, the other to finance a loan guarantee fund; whereas these reserves should be covered by specific provisions;

Whereas two reserves are to be created in the Community budget one designed to respond rapidly to emergency aid requirements in non-member countries, the other to finance a loan guarantee fund; whereas these reserves should be covered by specific provisions;

Whereas the European Council of Copenhagen of 22 and 23 June 1993 underlined the importance of continuing to combat fraud and irregularities in connection with the Community budget; whereas more detailed provisions should be laid down concerning the Commission's role in improving national VAT registration, calculation, recovery and control procedures;

Whereas the European Council has asked the Commission to carry out a study of possible candidates for a fifth resource;

Whereas provisions must be laid down to cover the changeover from the system introduced by Decision 88/376/EEC, Euratom to that arising from this Decision;

Whereas the European Council of 11 and 12 December 1992 provided that this Decision should take effect on 1 January 1995;

HAS LAID DOWN THESE PROVISIONS, WHICH IT RECOMMENDS TO THE MEMBER STATES FOR ADOPTION:

Article 1

The Communities shall be allocated resources of their own in accordance with the following Articles in order to ensure the financing of their budget.

Whereas the importance of continuing to combat fraud and irregularities in connection with the Community budget also makes it necessary for more detailed provisions to be laid down concerning the Commission's role in improving national VAT registration, calculation, recovery and control procedures with a view to improving the own resources system;

Whereas the Commission has been asked to consider proposals for reforming the Union's finances and a possible fifth resource.

New consideration

The total amount of available own resources shall be equivalent to a percentage of the gross national product until the appropriate institutions adopt a different system.

Whereas it is intended that this Decision should take effect on 1 January 1995;

The budget of the Communities shall, irrespective of other revenue, be financed entirely from the Communities' own resources.

Article 2

1. Revenue from the following shall constitute own resources entered in the budget of the Communities:

- (a) levies, premiums, additional or compensatory amounts, additional amounts or factors and other duties established or to be established by the institutions of the Communities in respect of trade with non-member countries within the framework of the common agricultural policy, and also contributions and other duties provided for within the framework of the common organization of the markets in sugar;
- (b) Common Customs Tariff duties and other duties established or to be established by the institutions of the Communities in respect of trade with non-member countries and customs duties on products coming under the Treaty establishing the European Coal and Steel Community;

(c) the application of a uniform rate valid for all Member States to the VAT assessment base which is determined in a uniform manner for Member States according to Community rules; however, the assessment base to be taken into account for the purposes of this Decision shall not exceed 50% of GNP in the case of Member States whose GNP is less than 90% of the Community average; for Member States not fulfilling this condition, the assessment base to be taken into account shall not exceed:

54% of their GNP in 1995

53% of their GNP in 1996

52% of their GNP in 1997

51% of their GNP in 1998

50% of their GNP in 1999

(d) the application of a rate - to be determined under the budgetary procedure in the light of the total of all other revenue - to the sum of all the Member States' GNP established in accordance with Community rules laid down in Council Directive 89/130/EEC, Euratom.⁵

⁵ OJ No L 49, 21.2.1989, p. 26

2. Revenue deriving from any new charges introduced within the framework of a common policy, in accordance with the Treaty establishing the European Community or the Treaty establishing the European Atomic Energy Community, provided the procedure laid down in Article 201 of the Treaty establishing the European Community or in Article 173 of the Treaty establishing the European Atomic Energy Community has been followed, shall also constitute own resources entered in the budget of the Communities.

3. Member States shall retain, by way of collection costs, 10% of the amounts paid under 1(a) and (b).

4. The uniform rate referred to in 1(c) shall correspond to the rate resulting from:

(a) the application to the VAT assessment base for the Member States of:

- 1.32% in 1995
- 1.24% in 1996
- 1.16% in 1997
- 1.08% in 1998
- 1.00% in 1999, and

(b) the deduction of the gross amount of the reference compensation referred to in Article 4(2). The gross amount shall be the compensation amount adjusted for the fact that the United Kingdom is not participating in the financing of its own compensation and the Federal Republic of Germany's share is reduced by one-third. It shall be calculated as if the reference compensation amount were financed by Member States according to their VAT assessment bases established in accordance with Article 2(1)(c).

5. The rate fixed under paragraph 1(d) shall apply to the GNP of each Member State.

6. If, at the beginning of the financial year, the budget has not been adopted, the previous uniform VAT rate and rate applicable to Member States' GNP, without prejudice to the provisions adopted in accordance with Article 7(2) as regards the EAGGF monetary reserve, the reserve to finance the Loan Guarantee Fund and the reserve for emergency aid in non-member countries, shall remain applicable until the entry into force of the new rates.

7. For the purposes of applying this Decision, GNP shall mean gross national product for the year at market prices.

Article 3

1. The total amount of own resources assigned to the Communities may not exceed 1.27% of the total GNP of the Community for payment appropriations.

The total amount of own resources assigned to the Communities may not, for any of the years during the period 1995 to 1999, exceed the following percentages of the total GNP of the Community for the year in question:

- 1995: 1.21,
- 1996: 1.22,
- 1997: 1.24,
- 1998: 1.26,
- 1999: 1.27.

2. The commitment appropriations entered in the general budget of the Communities over the period 1995 to 1999 must follow an orderly progression resulting in a total amount which does not exceed 1.335 % of the total GNP of the Community in 1999. An orderly ratio between commitment appropriations and payment appropriations shall be maintained to guarantee their compatibility and to enable the ceiling mentioned in paragraph 1 to be observed in subsequent years.

3. The overall ceilings referred to in paragraphs 1 and 2 shall continue to apply until such time as this Decision is amended.

2. The commitment appropriations entered in the general budget of the Communities over the period 1995 to 1999 must follow an orderly progression resulting in a total amount which, subject to an adjustment agreed by the institutions constituting the budgetary authority, must not exceed 1.335% of the total GNP of the Community in 1999.

Article 4

The United Kingdom shall be granted a correction in respect of budgetary imbalances. This correction shall consist of a basic amount and an adjustment. The adjustment shall correct the basic amount to a reference compensation amount.

The United Kingdom shall continue to be granted a correction in respect of budgetary imbalances.

1. The basic amount shall be established by:

- (a) calculating the difference, in the preceding financial year, between:
 - the percentage share of the United Kingdom in the sum total of the payments referred to in Article 2(1)(c) and (d) made during the financial year, including adjustments at the uniform rate in respect of earlier financial years, and
 - the percentage share of the United Kingdom in total allocated expenditure;
- (b) applying the difference thus obtained to total allocated expenditure;
- (c) multiplying the result by 0.66.

2. The reference compensation shall be the correction resulting from application of (a), (b) and (c) below, corrected by the effects arising for the United Kingdom from the changeover to capped VAT and the payments referred to in Article 2(1)(d).

It shall be established by:

- (a) calculating the difference, in the preceding financial year, between:
 - the percentage share of the United Kingdom in the sum total of VAT payments which would have been made during that financial year, including adjustments in respect of earlier financial years, for the amounts financed by the resources referred to in Article 2(1)(c) and (d) if the uniform VAT rate had been applied to non-capped bases, and
 - the percentage share of the United Kingdom in total allocated expenditure;
- (b) applying the difference thus obtained to total allocated expenditure;
- (c) multiplying the result by 0.66;

- (d) subtracting the payments by the United Kingdom taken into account in the first indent of 1(a) from those taken into account in the first indent of 2(a);
- (e) subtracting the amount calculated at (d) from the amount calculated at (c).

3. The basic amount shall be adjusted in such a way as to correspond to the reference compensation amount.

Article 5

1. The cost of the correction shall be borne by the other Member States in accordance with the following arrangements:

the distribution of the cost shall first be calculated by reference to each Member State's share of the payments referred to in Article 2(1)(d), the United Kingdom being excluded; it shall then be adjusted in such a way as to restrict the share of the Federal Republic of Germany to two-thirds of the share resulting from this calculation.

2. The correction shall be granted to the United Kingdom by a reduction in its payments resulting from the application of Article 2. The costs borne by the other Member States shall be added to their payments resulting from the application for each Member State of Article 2.

3. The Commission shall perform the calculations required for the application of Article 4 and this Article.

4. If, at the beginning of the financial year, the budget has not been adopted, the correction granted to the United Kingdom and the costs borne by the other Member States as entered in the last budget finally adopted shall remain applicable.

Article 6

The revenue referred to in Article 2 shall be used without distinction to finance all expenditure entered in the budget of the Communities. However, the revenue needed to cover in full or in part the EAGGF monetary reserve, the reserve to finance the Loan Guarantee Fund and the reserve for emergency aid in non-member countries, entered in the budget of the Communities, shall not be called up from the Member States until the reserves are implemented. Provisions for the operation of these reserves shall be adopted as necessary in accordance with Article 7(2).

The preceding subparagraph shall be without prejudice to the treatment of contributions by certain Member States to supplementary programmes provided for in Article 130L of the Treaty establishing the European Community.

Article 7

1. The Community own resources referred to in Article 2(1)(a) and (b) shall be collected by the Member States in accordance with the national provisions imposed by law, regulation or administrative action, which shall, where appropriate, be adapted to meet the requirements of Community rules. The Commission shall examine at regular intervals the national provisions communicated to it by the Member States, transmit to the Member States the adjustments it deems necessary in order to ensure that they comply with Community rules and report to the budget authority. Member States shall make the resources under Article 2(1)(a) to (d) available to the Commission.

2. Without prejudice to the auditing of the accounts and to checks that they are lawful and regular and as laid down in Article 206a of the Treaty establishing the European Community, such auditing and checks being mainly concerned with the reliability and effectiveness of national systems and procedures for determining the base for own resources accruing from VAT and GNP and without prejudice to the inspection arrangements made pursuant to Article 209(c) of that Treaty, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, adopt the provisions necessary to apply this Decision and to make possible the inspection of the collection, the making available to the Commission and payment of the revenue referred to in Articles 2 and 5.

On the basis of these provisions, the Commission shall examine the VAT registration, calculation, recovery and control procedures applied in the Member States and shall, if necessary, make recommendations for enhancing the effectiveness of these procedures.

Article 8

The mechanism for the graduated refund of own resources accruing from VAT or GNP-based financial contributions introduced for Greece up to 1985 by Article 127 of the 1979 Act of Accession and for Spain and Portugal up to 1991 by Articles 187 and 374 of the 1985 Act of Accession shall apply to the own resources accruing from VAT and the GNP-based resource referred to in Article 2(1)(c) and (d) of this Decision. It shall also apply to payments by the two lastnamed Member States in accordance with Article 5(2) of this Decision. In the latter case the rate of refund shall be that applicable for the year in respect of which the correction is granted. Corrections of refunds resulting from any adjustments of VAT and GNP bases for the years from 1981 to 1991 shall be entered as negative or positive revenue, as appropriate, in the general budget.

Article 9

The Commission shall submit, by the end of 1999, a report on the operation of the system established by this Decision. Together with this report or separately, it shall also present a report on the findings of a study of the possibilities for creating a fifth own resource.

The Commission shall submit, by the end of 1999, a report on the operation of the system established by this Decision. Together with this report or separately, it shall also present a report on the possibilities for reforming the financing of the Union, including a possible fifth resource.

Article 10

1. Member States shall be notified of this Decision by the Secretary-General of the Council of the European Communities; it shall be published in the Official Journal of the European Communities.

Member States shall notify the Secretary-General of the Council of the European Communities without delay of the completion of the procedures for the adoption of this Decision in accordance with their respective constitutional requirements.

This Decision shall enter into force on the first day of the month following receipt of the last of the notifications referred to in the second subparagraph. It shall take effect on 1 January 1995.

2. (a) Subject to (b), Decision 88/376/EEC, Euratom shall be repealed as of 1 January 1995. Any references to the Decision of 21 April 1970, to Decision 85/257/EEC, Euratom or to Decision 88/376/EEC, Euratom shall be construed as references to this Decision.

(b) Article 3 of Decision 85/257/EEC, Euratom shall continue to apply to the calculation and adjustment of revenue accruing from the application of rates to the uncapped uniform VAT base for 1987 and earlier years. Articles 2, 4 and 5 of Decision 88/376/EEC, Euratom shall continue to apply to the calculation and adjustment of revenue accruing from the application of a uniform rate valid for all Member States to the VAT base determined in a uniform manner and limited to 55% of the GNP of each Member State and to the calculation of the correction of budgetary imbalances granted to the United Kingdom for the years 1988 to 1994. When Article 2 (7) has to be applied, the value added tax payments shall be replaced by financial contribution in the calculations referred to in this paragraph for any Member State concerned ; this system shall also apply to the payment of adjustments of corrections for earlier years.

Done at Brussels,

For the Council

The President

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