

## Proposal for a Council Decision on the system of the European Union's own resources

(1999/C 274 E/06)

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(Submitted by the Commission on 12 July 1999)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 269 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 173 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Court of Auditors,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

- (1) Whereas Council Decision 94/728/EC, Euratom of 31 October 1994 on the system of the European Communities' own resources <sup>(1)</sup> amended the determination of own resources for the year 1999 by capping the base of the VAT resource at 50 % of gross national product (GNP) at market prices, and by reducing the maximum VAT call rate to 1,0 %;
- (2) Whereas according to the said Decision the maximum ceiling of own resources for 1999 was set equal to 1,27 % of the European Union GNP at market prices and an overall ceiling of 1,335 % of the European Union GNP was set for commitments appropriations;
- (3) Whereas the European Council meeting in Berlin on 24 and 25 March 1999 reached certain conclusions;
- (4) Whereas the Union's own resources system must ensure adequate resources for the orderly development of the Union's policies, subject to the need for strict budgetary discipline;
- (5) Whereas the system should be equitable, transparent, cost-effective and simple;
- (6) Whereas the system should be based on criteria which best express each Member State's ability to contribute;
- (7) Whereas it is appropriate that the best quality data are used for the purposes of the EU budget and its own resources; whereas the application, upon the entry into force of a new decision repealing Council Decision 94/278/EC, Euratom, of the new system of integrated economic accounts in accordance with Council Regulation 2223/96 (ESA 95) <sup>(2)</sup> will improve the quality of measurement of national accounts data; whereas the use of the new system might result in a change in the maximum amount of resources made available to the EU corresponding to the GNP ceilings expressed as a percent of GNP; whereas it is appropriate to adapt the ceiling expressed as a percent of GNP so as to maintain unchanged the amount of financial resources put at the disposal of the Union; whereas reliable estimates of EU GNP according to both the ESA 95 and the ESA second edition will become available with some delay; whereas it is appropriate to establish a formula for the determination of the new ceilings to be used in connection with the GNP calculated according to ESA 95, to be applied at the time of the entry into force of the current Decision;
- (8) Whereas it is appropriate that the same methodology be used in the future on the occasion of changes in the national system of accounts which may have significant effects on the level of GNP;
- (9) Whereas the European System of Accounts (ESA 95) adopted by the Council by Regulation 2223/96 does not explicitly contain the concept of GNP and the definition of GNP should be introduced therein; whereas it is necessary to adapt Council Directive 89/130/EC, Euratom <sup>(3)</sup> to take account of Regulation 2223/96 (ESA 95);
- (10) Whereas an orderly progression of commitment appropriations and payment appropriations should be ensured;
- (11) Whereas, in order to further continue the process of making allowance for each Member State's ability to contribute to the system of own resources and of correcting the regressive aspects of the current system for the least prosperous Member States the European Council reached the conclusion that the Union's financing rules will be amended as follows:
- the maximum rate of call of the VAT resource will be reduced to 0,75 % in 2002 and 2003 and to 0,50 % from 2004 onwards,
  - the value added tax base of the Member States will continue to be restricted to 50 % of their GNP;

<sup>(1)</sup> OJ L 293, 12.11.1994, p. 9.

<sup>(2)</sup> OJ L 310, 30.11.1996, p. 1.

<sup>(3)</sup> OJ L 49, 13.2.1989, p. 26.

- (12) Whereas the European Council has considered appropriate to adapt the amount retained by Member States to cover the costs of collection, monitoring, fraud-fighting and reporting in connection with the so-called traditional own resources paid to the budget of the European Union; whereas it is desirable to improve further the effectiveness of the management of these resources and, for reasons of transparency and good financial management, Member States must account for all anomalies encountered in the operation of the collection systems;
- (13) Whereas the budgetary imbalances should be corrected in such a way as not to affect the own resources available for European Union policies;
- (14) Whereas the European Council of 24 and 25 March 1999 concluded that the manner for calculating the correction of budgetary imbalances defined in Decision 88/376/EEC, Euratom and confirmed by the Decision 94/728/EC, Euratom, should be modified to exclude the windfall gains resulting from changes in the financing system and from future enlargement;
- (15) Whereas the European Council of 24 and 25 March 1999 concluded that the financing of the correction of budgetary imbalances in favour of the United Kingdom should be modified to allow Austria, Germany, the Netherlands and Sweden to see a reduction in their financing share to 25% of the normal share;
- (16) Whereas the monetary reserve, hereinafter referred to as 'the EAGGF monetary reserve', the reserve for the financing of the Loan Guarantee Fund and the reserve for emergency aid in non-member countries are covered by specific provisions;
- (17) Whereas the European Council of 24 and 25 March 1999 invited the Commission to submit, before 1 January 2006, a report reviewing the operation of the own resources system and, in particular, the effects of enlargement on the financing of the budget; whereas the report should also review the correction of budgetary imbalances granted to the United Kingdom as well as the granting to Austria, Germany, the Netherlands and Sweden of the reduction in the financing of the budgetary imbalances in favor of the United Kingdom; whereas the report should also address the feasibility of creating new autonomous own resources as well as arrangements for the possible introduction of a fixed uniform rate applicable to the VAT assessment bases;
- (18) Whereas provisions must be laid down to cover the changeover from the system introduced by Decision 94/728/EC, Euratom to that arising from this Decision;
- (19) Whereas the European Council provided that this Decision should take effect on 1 January 2002,

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

#### Article 1

The Union shall be allocated resources of its own in accordance with the rules laid down in the following Articles in order to ensure, in accordance with Article 269 of the EC Treaty and Article 173 of the Euratom Treaty, the financing of its budget.

The budget of the Union shall, without prejudice to other revenue, be financed wholly from the Union's own resources.

#### Article 2

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

- (a) levies, premiums, additional or compensatory amounts, additional amounts or factors and other duties established or to be established by the institutions of the Union 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 organisation of the markets in sugar;
- (b) Common Customs Tariff duties and other duties established or to be established by the institutions of the Union 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 harmonised VAT assessment bases determined according to EU rules. The assessment base to be taken into account for this purpose shall not exceed 50 % of GNP for each Member State;
- (d) the application of a rate — to be determined pursuant to the budgetary procedure in the light of the total of all other revenue — to the sum of all the Member States' GNPs.

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 269 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 Union.

3. Member States shall retain, by way of collection, monitoring, fraud-fighting and reporting costs, 25 % of the amounts referred to in paragraph 1(a) and (b), which have been established after 31 December 2000. For amounts established or which should have been established before that date, the applicable rate of retention shall be 10 %.

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

(a) the maximum rate of call of the VAT resource which is fixed at

— 0,75 % in 2002 and 2003

— 0,50 % from 2004 onwards,

and

(b) a rate ('frozen rate') equivalent to the ratio between the amount of the compensation referred to in Article 4 and the sum of the VAT assessment bases (established in accordance with Article 2(1)(c)) of all Member States, taking into account the fact that the United Kingdom is excluded from the financing of its correction and that the share of Austria, Germany, the Netherlands and Sweden in the financing of the UK correction is reduced to one fourth of its normal value.

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' GNPs, without prejudice to the provisions adopted in accordance with Article 8(2) as regards the EAGGF monetary reserve, the reserve for financing the Loan Guarantee Fund and the reserve for emergency aid in third countries, shall remain applicable until the entry into force of the new rates.

7. For the purposes of applying this Decision, the Council, ruling unanimously on a Commission proposal and after consultation with the European Parliament, will adopt by means of a Regulation the definition of GNP which must be incorporated in Regulation 2223/96 EC as well as a new GNP Directive which will replace Directive 89/130/EC, Euratom.

#### Article 3

1. The total amount of own resources assigned to the Union to cover payments appropriations may not exceed a certain percentage of the total GNPs of the Member States. This percentage, expressed in two decimal places, will be determined by the Commission in December 2001 on the basis of the following formula:

Maximum own resources =

$$1,27 \% \times \frac{1998 + 1999 + 2000 \text{ GNP ESA second edition}}{1998 + 1999 + 2000 \text{ GNP ESA 1995}}$$

2. The commitment appropriations entered in the general budget of the Union must follow an orderly progression resulting in a total amount, which does not exceed a certain percentage of the total GNPs of the Member States. This percentage, expressed in two decimal places, will be determined by the Commission in December 2001 on the basis of the following formula:

Maximum commitment appropriations =

$$1,335 \% \times \frac{1998 + 1999 + 2000 \text{ GNP ESA second edition}}{1998 + 1999 + 2000 \text{ GNP ESA 1995}}$$

An orderly ratio between commitment appropriations and payment appropriations shall be maintained to guarantee their compatibility and to enable the ceilings mentioned in paragraph 1 to be respected in subsequent years.

3. The Commission shall communicate to the budgetary authority the new ceilings for own resources before 31 December 2001.

4. The same procedure described in this Article, paragraphs 1 and 2, will be followed in the case of modifications of the European system of integrated economic accounts (ESA) which result in significant changes in the level of GNP.

#### Article 4

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

This correction shall be established by:

(a) calculating the difference, in the preceding financial year, between:

— the percentage share of the United Kingdom in the sum of uncapped VAT assessment bases,

and

— the percentage share of the United Kingdom in total allocated expenditure;

(b) multiplying the difference thus obtained by total allocated expenditure;

(c) multiplying the result under (b) by 0,66;

(d) subtracting from the result under (c) the effects arising for the United Kingdom from the changeover to capped VAT and the payments referred to in Article 2(1)(d), that is the difference between

— what the United Kingdom would have had to pay for the amounts financed by the resources referred to in Article 2(1)(c) and (d), if the uniform rate had been applied to non-capped VAT bases,

and

— the payments of the United Kingdom resulting from the application of Article 2(1)(c) and (d);

- (e) from the year 2001 onwards, subtracting from the result under (d) the gains of the United Kingdom resulting from the increase in the percentage of resources referred to in Article 2(1)(a) and (b) retained by Member States to cover collection and related costs;
- (f) at the time of each enlargement of the EU an adjustment to the result under (e) shall be calculated to reduce the compensation thereby ensuring that expenditure which is unabated before enlargement remains unabated after enlargement. This adjustment shall be made by reducing total allocated expenditure by an amount equivalent to the annual pre-accession expenditure in the acceding countries.

All amounts so calculated shall be carried forward to subsequent years and shall be adjusted annually by applying the Euro GNP deflator used for the adaptation of the Financial Perspective <sup>(1)</sup>.

#### 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 Austria, Germany, the Netherlands and Sweden to one fourth of the shares 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(1)(c) and (d). 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(1)(c) and (d).
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 needed to cover in full or in part the EAGGF monetary reserve, the reserve for the financing of the Loan Guarantee Fund and the reserve for emergency aid in third countries, entered in the budget shall not be called up from the Member States until the reserves are implemented.

Provisions for the operation of those reserves shall be adopted as necessary in accordance with Article 8(2).

#### Article 7

Any surplus of the Union's revenue over total actual expenditure during a financial year shall be carried over to the following financial year.

Any surpluses generated by a transfer from EAGGF Guarantee Section chapters, or surplus from the Guarantee Fund arising from external measures, transferred to the revenue account in the budget, shall be regarded as constituting own resources.

#### Article 8

1. The Union's 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 provided for in Article 2(1)(a) to (d) available to the Commission.

Member States shall inform the Commission at regular intervals of any anomalies having financial impact encountered in their collection process, in particular those where they erroneously failed to establish the Union's entitlement to the own resources referred to in Article 2(1)(a) and (b) or where those entitlements were not established in due time.

2. Without prejudice to the auditing of the accounts and to checks that they are lawful and regular as laid down in Article 248 of the Treaty establishing the European Community and Article 160C of the Euratom Treaty, 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 279(c) of the EC Treaty and Article 183(c) of the Euratom 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.

#### Article 9

The Commission shall submit, before 1 January 2006, a report reviewing the operation of the own resources system and, in particular, the effects of enlargement on the financing of the budget. The report shall also review the correction of budgetary imbalances granted to the United Kingdom as well as the granting to Austria, Germany, the Netherlands and Sweden of the reduction referred to in Article 5(1). The

<sup>(1)</sup> OJ C 172, 18.6.1999, p. 3.

report shall also address the possibility of modifying the structure of the own resources by creating new autonomous own resources as well as arrangements for the possible introduction of a fixed uniform rate applicable to the VAT base.

#### Article 10

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

Member States shall notify the Secretary-General of the Council 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 on the month following receipt of the last of the notifications referred to in the second subparagraph. It shall take effect on 1 January 2002 except for Article 2(3) and (4), which shall take effect on 1 January 2001.

2. (a) Subject to (b), Decision 94/728/EC, Euratom shall be repealed as of 1 January 2002. Any references to the Council Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities own resources<sup>(1)</sup>, to Council Decision 85/257/EEC, Euratom of 7 May 1985 on the Communities' system of own resources<sup>(2)</sup>, to Decision 88/376/EEC, Euratom<sup>(3)</sup>, or to Decision 94/728/EC, Euratom shall be construed as references to this Decision.

(b) Articles 2, 4 and 5 of Decisions 88/376/EEC, Euratom and 94/728/EC, 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 between 50 % to 55 % of the GNP of each Member State, depending on the relevant year, and to the calculation of the correction of budgetary imbalances granted to the United Kingdom for the years 1988 to 2000.

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<sup>(1)</sup> OJ L 94, 28.4.1970, p. 19.

<sup>(2)</sup> OJ L 128, 14.5.1985, p. 15. Decision repealed by Decision 88/376/EEC, Euratom.

<sup>(3)</sup> OJ L 185, 15.7.1988, p. 24.