

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 24 June 1988

on the system of the Communities' own resources

(88/376/EEC, Euratom)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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⁾,

Whereas Council Decision 85/257/EEC, Euratom of 7 May 1985 on the Communities' system of own resources ⁽⁴⁾, as last amended by the Single European Act, raised to 1,4 % the limit for each Member State on the rate applied to the uniform value-added tax (VAT) base previously set at 1 % by the Council Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources ⁽⁵⁾ hereinafter referred to as 'the Decision of 21 April 1970';

Whereas the resources available within the limit of 1,4 % are no longer sufficient to cover the estimates of Community expenditure;

⁽¹⁾ OJ No C 102, 16. 4. 1988, p. 8.

⁽²⁾ Opinion delivered on 15 June 1988 (not yet published in the Official Journal).

⁽³⁾ OJ No C 175, 4. 7. 1988.

⁽⁴⁾ OJ No L 128, 14. 5. 1985, p. 15.

⁽⁵⁾ OJ No L 94, 28. 4. 1970, p. 19.

Whereas the Single European Act opens up new possibilities to the Community; whereas Article 8a of the Treaty establishing the European Economic Community provides for the completion of the internal market by 31 December 1992;

Whereas the Community must possess stable and guaranteed revenue enabling it to stabilize the present situation and operate the common policies; whereas this revenue must be based on the expenditure deemed necessary to this end which was determined in the financial estimates in the Interinstitutional Agreement between the European Parliament, the Council and the Commission, which will take effect on 1 July 1988;

Whereas the European Council meeting in Brussels on 11, 12 and 13 February 1988 reached certain conclusions;

Whereas, in accordance with these conclusions, the Community will, by 1992, be assigned a maximum amount of own resources corresponding to 1,2 % of the total of the Member States' gross national product for the year at market prices, hereinafter referred to as 'GNP';

Whereas observance of this ceiling requires that the total amount of own resources at the Community's disposal for the period 1988 to 1992 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 shall correspond to application of the guidelines established for growth in Community expenditure as laid down in the European Council conclusions concerning budgetary discipline and budget management, and a safety margin of 0,03 % of Community GNP aimed at coping with unforeseen expenditure;

Whereas a global ceiling of 1,30 % 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, 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 and enlarged; whereas it is necessary for this purpose:

- to fix at 1,4 % the maximum rate to be applied to each Member State's uniform base for value added tax, limited where appropriate to 55 % of its GNP;
- to introduce an additional type of own resource to balance budget revenue and expenditure, based on the sum of Member States' GNP; for this purpose, the Council will adopt a Directive on the harmonization of the compilation of gross national product at market prices;

Whereas the customs duties on products coming under the Treaty establishing the European Coal and Steel Community should be included in Community own resources;

Whereas the conclusions of the European Council of 25 and 26 June 1984 on the correction of budgetary imbalances continue to apply for the duration of this Decision's validity; whereas the present compensation mechanism must, however, be adjusted to take account of the capping of the VAT base and the introduction of an additional resource and must provide for financing of the correction on the basis of a GNP key; whereas this adjustment should ensure that the VAT share of the United Kingdom is replaced by its share of payments under the third and fourth resources (those provided by VAT and GNP respectively) and that the effect on the United Kingdom, in respect of a given year, of the capping of the VAT base and of the introduction of the fourth resource which is not compensated by this change will be offset by an adjustment to the compensation in respect of that year; whereas the contributions of Spain and Portugal should be reduced in accordance with the rebates provided for in Articles 187 and 374 of the 1985 Act of Accession;

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 conclusions of the European Council of 11, 12 and 13 February 1988 provided for the creation, in the Community budget, of a monetary reserve, hereinafter referred to as the 'EAGGF monetary reserve', to offset the impact of significant and unforeseen fluctuations in the ECU/dollar parity on the expenditure under the Guarantee

Section of the European Agricultural Guidance and Guarantee Fund (EAGGF); whereas that reserve should be covered by specific provisions;

Whereas provisions must be laid down to cover the changeover from the system introduced by Decision 85/257/EEC, Euratom to that arising from this Decision;

Whereas the European Council of 11, 12 and 13 February 1988 provided that this Decision should take effect on 1 January 1988,

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.

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 for any Member State to be taken into account for the purposes of this Decision shall not exceed 55 % of its GNP;
- (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 to be laid down in a Directive adopted under Article 8 (2) of this Decision.

2. Revenue deriving from any new charges introduced within the framework of a common policy, in accordance with the Treaty establishing the European Economic Community or the Treaty establishing the European Atomic Energy Community, provided the procedure laid down in Article 201 of the Treaty establishing the European Economic 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 of 1,4 % to the VAT assessment base for the Member States, 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). For 1988, the gross amount of the reference compensation shall be reduced by 780 million ECU.

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 whatever provisions may be adopted in accordance with Article 8 (2) by reason of the entry of an EAGGF monetary reserve in the budget, shall remain applicable until the entry into force of the new rates.

7. By way of derogation from 1 (c), if, on 1 January of the financial year in question, the rules for determining the uniform basis for assessing VAT are not yet applied in all the Member States, the financial contribution which a Member State not yet applying this uniform basis is to make to the budget of the Communities in lieu of VAT shall be determined according to the proportion of its gross national product at market prices to the sum total of the gross national product of the Member States at market prices in the first three years of the five-year period preceding the year in question. This derogation shall cease to have effect as soon as the rules for determining the uniform basis for assessing VAT are applied in all Member States.

8. 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 1,20 % 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 1988 to 1992 period, exceed the following percentages of the total GNP of the Community for the year in question:

- 1988: 1,15,
- 1989: 1,17,
- 1990: 1,18,
- 1991: 1,19,
- 1992: 1,20.

2. The commitment appropriations entered in the general budget of the Communities over the period 1988 to 1992 must follow an orderly progression resulting in a total amount which does not exceed 1,30 % of the total GNP of the Community in 1992. A precise 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.

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.

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 (1) (c). 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) up to a 1,4% VAT rate and Article 2 (1) (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 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, entered in the budget of the Communities, shall not be called up from the Member States until the reserve is implemented. Provisions for the operation of that reserve shall be adopted as necessary in accordance with Article 8 (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 Economic Community.

Article 7

Any surplus of the Communities' revenue over total actual expenditure during a financial year shall be carried over to the following financial year. However, any surplus generated by a transfer from EAGGF Guarantee chapters to the monetary reserve shall be regarded as constituting own resources.

Article 8

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 Economic 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.

Article 9

The mechanism for the graduated refund of own resources accruing from VAT or GNP-based financial contributions introduced for the Kingdom of Spain and the Portuguese Republic 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 these two 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.

Article 10

The Commission shall submit, by the end of 1991, a report on the operation of the system, including a re-examination of the correction of budgetary imbalances granted to the United Kingdom, established by this Decision.

Article 11

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 1988.

2. (a) Subject to (b) and (c), Decision 85/257/EEC, Euratom shall be repealed as of 1 January 1988. Any references to the Decision of 21 April 1970 or to Decision 85/257/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 assessment basis for value added tax in 1987 and earlier years. For 1988 the deduction in favour of the United Kingdom in respect of previous financial years shall be calculated in accordance with points (b) (i), (ii) and (iii) of Article 3 (3) of the said Decision. The distribution of the cost of financing it shall be calculated in accordance with Article 5 (1) of this Decision. The amounts corresponding to the deduction and the distribution of the cost of financing it shall be dealt with in accordance with Article 5 (2) of this Decision. When Article 2 (7) has to be applied, the value added tax payments shall be replaced by financial contributions 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.

(c) Article 4 (2) of Decision 85/257/EEC, Euratom shall continue to apply to the financial contributions needed to finance the completion of the supplementary programme for the operation of the HFR (high-flux reactor) reactor of 1984 to 1987.

Done at Luxembourg, 24 June 1988.

For the Council
The President
M. BANGEMANN