

COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 19 April 1985

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Report from the Commission

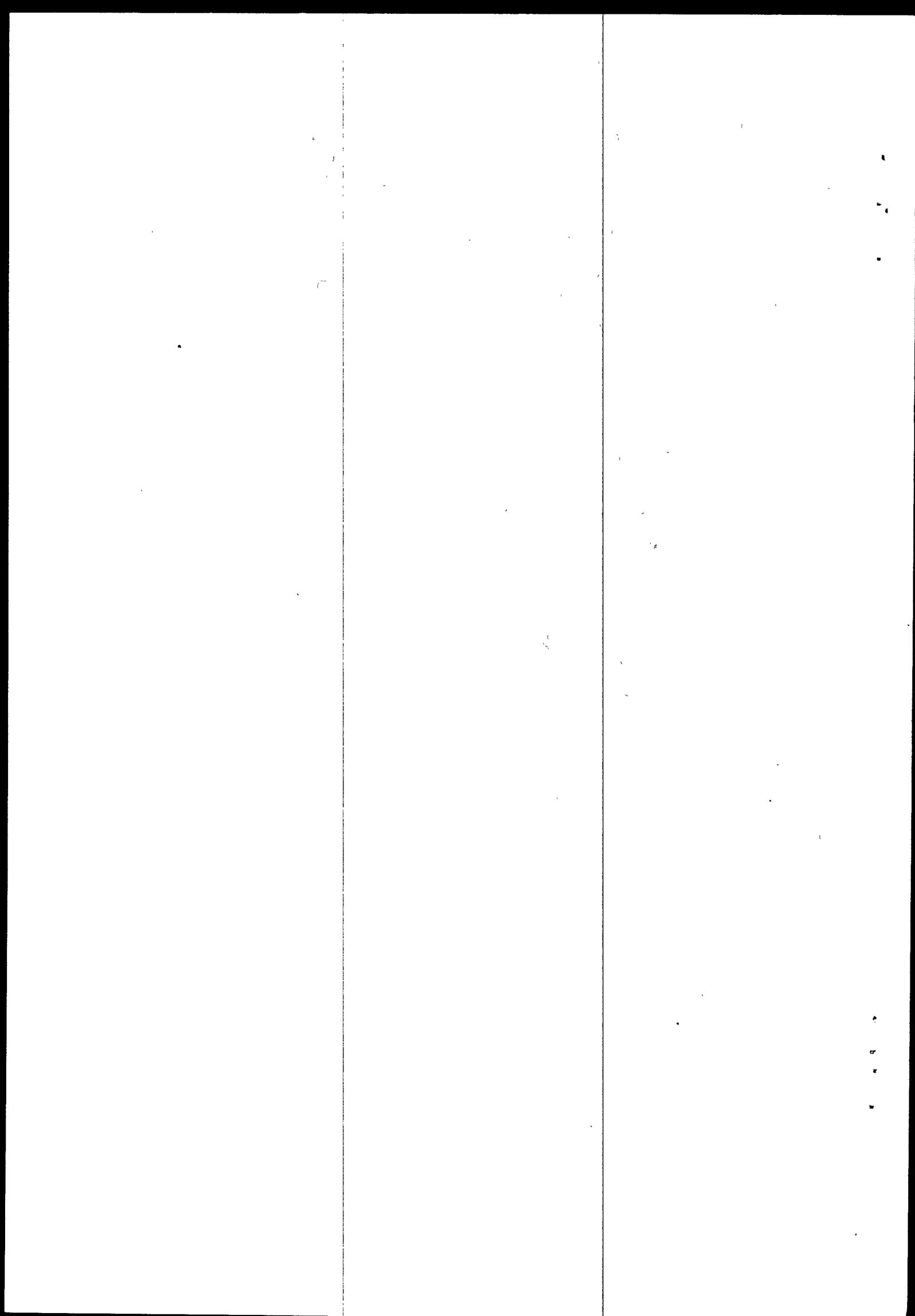
on the implementation of Council Regulations (EEC, Euratom, ECSC)
Nos 2891/77 and 2892/77 of 19 December 1977 implementing the
Decision of 21 April 1970 on the replacement of financial
contributions from Member States by the Communities'
own resources

Proposal for a

COUNCIL REGULATION (ECSC, EEC, Euratom)

extending the term of validity of Regulation (EEC, Euratom, ECSC)
No 2892/77 implementing in respect of own resources accruing
from value added tax the Decision of 21 April 1970 on the
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(submitted to the Council by the Commission)



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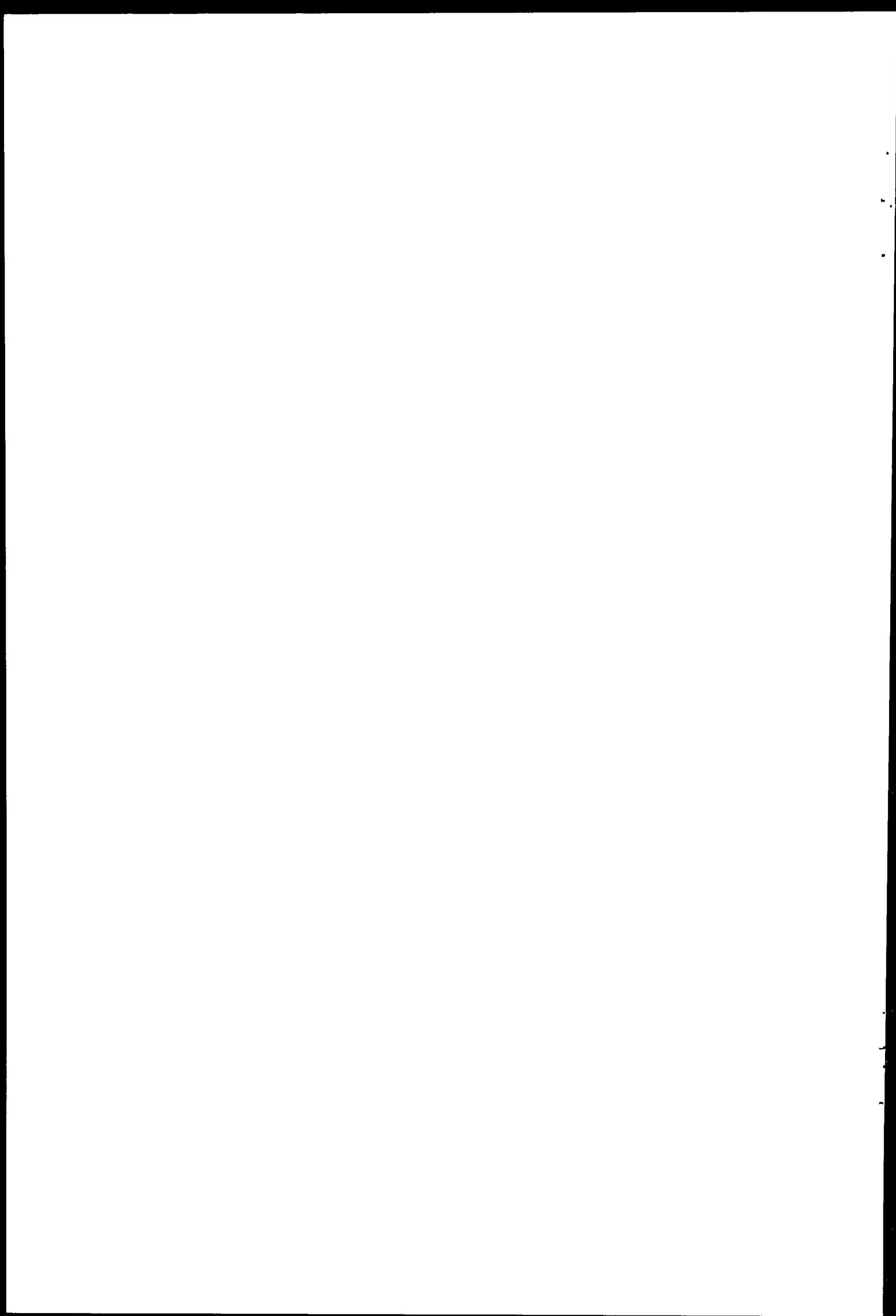
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The basis of the Community own resources system is the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources. The implementing rules are contained in the following two regulations:

- Council Regulation (EEC, Euratom, ECSC) No 2891/77 of 19 December 1977 implementing the Decision of 21 April 1970. In 1982, 1983 and 1984 the Commission proposed amendments to this regulation which are still being considered by the Council. The regulation is not limited in time;
- Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970. This regulation was originally due to expire at the end of 1982 and in July of that year the Commission proposed amendments to it. Following its extension to the end of 1985 by Council Regulation (ECSC, EEC, Euratom) No 3550/82 of 28 December 1982, amendments based on the Commission's proposals were made by Regulation (EEC, Euratom, ECSC) No 3625/83 of 19 December 1983.

When it was consulted about the proposed amendments to these regulations and also in its resolution on the discharge for 1981, Parliament drew the Commission's attention to certain points connected with the implementation of the Decision of 21 April 1970; it asked the Commission to prepare a report on the implementation of Regulations Nos 2891/77 and 2892/77 by the end of 1984.

This report has therefore been designed to serve two purposes:

- to provide the evaluation of the operation of the own resources system requested by Parliament ;
- to conform to the obligation referred to in the article 14 of Regulation No. 2892/77 as amended and to propose, in the light of the conclusions of this report, a three-year extension, to 31 December 1988, of Regulation N°. 2892/77.

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Explanatory memorandum

Proposed Regulation

NB : - The text of this report has been closed on February 15th 1985.
- ALL references for documents cited are given in Annex I.

PART ONE

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REPORT ON THE IMPLEMENTATION OF COUNCIL REGULATIONS (EEC, Euratom, ECSC)
Nos 2891/77 AND 2892/77 OF 19 DECEMBER 1977 IMPLEMENTING THE DECISION OF
21 APRIL 1970 ON THE REPLACEMENT OF FINANCIAL CONTRIBUTIONS FROM MEMBER STATES
BY THE COMMUNITIES' OWN RESOURCES

1. BACKGROUND AND PURPOSE

This report has been prepared in response to various requests by Parliament, notably when it was consulted about the Commission's proposals for amendments to Regulations Nos 2891/77 and 2892/77, and ahead of the expiry of Regulation No 2892/77 on 31 December 1985. It covers the whole of the own resources system, dealing in turn with the implementation of Regulations No 2891/77 and 2892/77. It is an interim report in the sense that it has been prepared at a time when the rules governing the own resources system are undergoing a series of changes.

1. In a number of resolutions, listed in Annex I, Parliament asked the Commission to prepare by 31 December 1984 a report on the implementation of the rules on the Community system of own resources, with particular reference to a number of specific aspects: the way the VAT base is determined, problems of using statistics and national accounts and the treatment of own resources in national budgets.

2. Because work on the revision of the implementing regulations with which it deals has not progressed in accordance with the timetable foreseen in 1982, the date for which the report was requested falls awkwardly. The present situation, which is described in detail below, needs to be outlined here so that the background to the preparation of the report can be properly understood.

3. Council Regulation (EEC, Euratom, ECSC) No 2891/77 of 17 December 1977 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources came into force from the 1978 financial year. Amendments were proposed in July 1982 and this proposal was itself amended three times subsequently.

The original proposal and the later amendments to it are still being considered by the Council.

4. On account of delays in implementing the Sixth VAT Directive, Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 17 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources was not implemented until 1979 (and then only by six Member States - Belgium, Denmark, France, Italy, the Netherlands and the United Kingdom - until 1979; all nine Member States applied it in 1980. It was originally to apply for a transitional period ending on 31 December 1982 and in July of that year the Commission proposed amendments, which were subsequently amended themselves in the light of Parliament's opinion. This led to the adoption of Council Regulation (ECSC, EEC, Euratom) No 3550/82 of 28 December 1982 and Council Regulation (EEC, Euratom, ECSC) No 3625/83 of 19 December 1983.

These regulations extended respectively the transitional period to 31 December 1985 and provided for the Commission to report on implementation of the regulations by 31 December 1984.

5. Greece has participated since accession in the Community system of own resources, paying over to the Community budget customs duties, agricultural levies and sugar and isoglucose storage and production levies. However, on 19 December 1983 the Council adopted its Fifteenth Directive on the harmonization of the laws of the Member States relating to turnover taxes - deferment of the introduction of the common system of value added tax in the Hellenic Republic, which authorized Greece not to introduce VAT until 1 January 1986. Until that date it will pay a financial contribution based on its share of Community GNP.

Spain and Portugal will contribute to the Community budget from the date they join but they will not fully apply the Decision of 21 April 1970 immediately; they will implement it gradually during a transitional period.

6. The Decision of 21 April 1970, implemented by Regulations Nos 2891/77 and 2892/77, is itself being amended. To give effect to the conclusions of the Fontainebleau European Council in June 1984, the following month the Commission sent the Council an amendment to the proposal for a decision on Community own resources which it had sent to the Council in May 1983. The adoption of this decision will mark an important step in the development of Community own resources, since it will change not only their amount but also their role. This means that there may well also be changes to the entire context in which the implementing regulations are applied.

7. It is also worth noting that since June 1978 a number of amendments have been proposed to the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ; these are now being considered by the Council after having received the opinion of the European Parliament. In a number of instances, consistent or even identical solutions must be found to problems arising under both the own resources rules and the Financial Regulation.

8. The report requested by Parliament should logically conclude with proposals on the choice of a single, definitive method for determining VAT own resources. But the achievement of this objective is subject to three constraints.

The first is that Regulation No 2891/77 is still in the process of being amended and so the conclusions of the report on its implementation presented in 1982 have not yet been transformed into regulations. While certain aspects of that report can now be dealt with in more detail, the Commission is unable to report new developments on all the points raised by Parliament, since a number of these relate to provisions on which no decision has yet been taken.

Secondly, although Regulation No 2892/77 was amended in time to be used for the calculation of 1983 VAT bases, the Commission has as yet no experience of the new provisions since the statement setting out the calculation of the 1983 VAT base was not sent by the Member States until July 1984, as stipulated in Article 10. Furthermore, the fact that eight Member States (1) have now opted for the "revenue method" has created a situation quite different from that originally envisaged and one which is made even more uncertain by the delays with the VAT harmonization directives.

Finally, it would be somewhat artificial, and in any case impracticable, to separate too rigorously the problems of implementing Regulation No 2891/77 from those involved in the implementation and amendment of Regulation No 2892/77. The system for implementing the Decision of 21 April 1970, or any decision which replaces it, must continue to form part of a complete and coherent whole.

9. The Commission has therefore made two choices in deciding on the form this report should take:

- it intends to cover all problems raised by the implementation of the own resources system, that is those raised by the various institutions in respect of both Regulation No 2891/77 and Regulation No 2892/77;
- because of the lack of a decision on amendments to Regulation No 2891/77 and the lack of experience of implementing the new version of Regulation No 2892/77, it is an interim report. A further reason for this is the decision to send the Council a proposal for extending Regulation No 2892/77 as last amended by Regulation No 3625/83.

(1) The Hellenic Republic does not yet pay VAT own resources.

2. IMPLEMENTATION OF REGULATION NO 2891/77

2.1 POSITION REGARDING PROPOSALS FOR AMENDMENT

The amendment of Regulation No 2891/77, which began with the presentation of the Commission's first proposals in July 1982, has not yet been completed, and the Commission's various proposals are still being examined by the Council.

10. Regulation (EEC, Euratom, ECSC) No 2891/77 implementing the Decision of 21 April 1970 on the replacement of financial contributions from the Member States by the Communities' own resources, adopted by the Council on 19 December 1977, replaced Council Regulation (EEC, Euratom, ECSC) No 2/71 of 2 January 1971 which had governed the implementation of the Decision of 21 April 1970 from 1971 to 1977.

11. Article 22 of Regulation No 2891/77 stipulated that the Commission should submit, by 30 September 1979, a report on implementation together with, where appropriate, any proposals for amendments.

In fact, it was in July 1982 that the Commission sent the Council the first report on the implementation of Regulation No 2891/77. This delay in relation to the date originally planned was mainly due to the need to take into account the initial experiences of the operation of VAT own resources. Since this did not take place in all the Member States until 1980, the Commission did not receive the first statements of the VAT base for all the Member States until July 1981.

12. The objectives of the proposal for an amendment to Regulation No 2891/77 were described in the accompanying report and explanatory memorandum and will not be dealt with in detail here. However, it should be recalled that, in addition to a number of adjustments which could be described as technical, this proposal sought changes on the following points:

- reports to be produced by the Member States on the entry of own resources in the accounts and the problems encountered with inspection and disputes;
- the possibility for the Commission's accounts with the national treasuries to bear interest;
- calculation of interest on late payments;
- rules for making available adjusted amounts after the adoption of an amending or supplementary budget or if no budget has been adopted;
- incidence on the budget of corrections to VAT statements;
- treatment of balances;
- attribution to the Commission of autonomous powers of inspection.

After consulting Parliament in December 1982, the Commission submitted in May 1983 the first amendment to its proposal concerning:

- the financial institutions with which the Commission has accounts;
- the rules for making resources available if no budget had been adopted;
- the calculation of interest on late payments;
- the presentation of a report on implementation by the end of the third year in which the amended Regulation has been applied.

13. In October 1983 the Commission sent the Council a second amendment to its proposal amending Regulation No 2891/77. The aim of this amendment, announced in the implementation report of July 1982 and submitted in response to the conclusions of a report on the establishment of own resources (customs duties and agricultural levies in the Member States was to:

- define more precisely the concept of establishment;
- specify in what circumstances and subject to what conditions the making available of established entitlements may be deferred;
- specify in what circumstances and subject to what conditions a Member State may be definitively released from its obligations to make entitlements available.

After being consulted on this second amendment in May 1984 and following a conciliation meeting with the Commission under Rule 36(2) of its rules of procedure, Parliament hoped that the Commission would make clearer that own resources belong to the Communities from the moment that the event entitling them to be levied occurs, achieve progress towards harmonization of corresponding national provisions and define more precisely the exceptions to the obligation to make entitlements available. In July 1984 the Commission sent the Council the third amendment to its proposal incorporating all the amendments adopted by Parliament.

14. In spring 1985 all these proposals amending Regulation No 2891/77 are still being examined by the Council; discussion centres on the most sensitive aspects of the Commission's proposals, in particular those connected with the possibility for the Commission's accounts to bear interest and the attribution to the Commission of autonomous powers of inspection.

The Commission would point out in this respect that it shares Parliament's desire, expressed in May 1984 when consulted on the second amendment to the proposal amending Regulation No 2891/77, that revision of this regulation should be speeded up and brought to an end.

2.2 ESTABLISHMENT AND MAKING AVAILABLE

The current rules regarding the establishment and making available of the Communities' own resources need to be made clearer; this was the purpose of the latest proposals for amending Regulation No 2891/77.

15. The rules to be followed by the Member States for the establishment and making available of own resources are laid down in Article 1 of Regulation No 2891/77, which obliges them to establish customs duties and agricultural levies in accordance with their own provisions laid down by law, regulation or administrative action. Article 2 states that, for the purpose of applying this Regulation, an entitlement shall be deemed to be established as soon as the corresponding claim has been duly determined by the appropriate department or agency of the Member States. These two articles thus refer to the national provisions of each Member State to determine whether and when establishment should take place. Community customs legislation has started harmonization of the concepts and procedures directly linked with the establishment of entitlements without, however, resulting directly in a more precise definition of this concept.

Articles 9 and 10 of Regulation No 2891/77 state that the customs duties and agricultural levies should be credited by each Member State to the account opened for this purpose in the name of the Commission with its Treasury or with the body it has appointed by the 20th day of the second month following the month during which the entitlement was established. Under Article 17, Member States are free from the obligation to place established entitlements at the disposal of the Commission solely if, for reasons of force majeure, the amounts have not been collected.

16. The Member States therefore have an obligation to establish traditional own resources, and the obligation to make the own resources available relates to the established entitlements and not to the revenue collected. However, there have been many difficulties i.e. in meeting these obligations when imports have not taken place under normal conditions.

17. The first difficulty is that Regulation No 2891/77 gives a definition of establishment which refers to national provisions for determining the corresponding claim. It does not therefore necessarily lead to uniform or even sufficiently harmonized application to guarantee the equivalent result in financial terms in the various Member States.

18. A second difficulty involves application of the concept of force majeure, the only exception to the obligation to make available an established entitlement. The Commission, in line with Court rulings interpreting the concept of force majeure in other contexts, informed the Member States at an ACOR meeting that it considered force majeure to depend on outside factors which were unforeseeable and irresistible, and ruled out cases in which recovery was impossible for reasons such as the disappearance or bankruptcy of the taxable person. However, it appears that this definition is not applied uniformly in all the Member States.

19. In addition, current Community law contains an important exception to the principle that all own resources must be established and made available to the Commission irrespective of whether they are collected. This is in Article 9 of Council Regulation (EEC) No 1697/79 of 24 July 1979 on the post-clearance recovery of import duties or export duties which have not been required of the person liable for payment on goods entered for a customs procedure involving the obligation to pay such duties.

Article 9 states that, until the implementation of Community provisions specifying the conditions under which Member States shall establish own resources, they are not obliged to, where, pursuant to this Regulation, they have taken no action for the post-clearance recovery of such duties.

20. In October 1983 the Commission presented the second amendment to its proposal amending Regulation No 2891/77 to provide a more harmonized definition of establishment and the rules for making own resources available. The object was to define more precisely the concept of establishment by referring to the concept of entry in the accounts and to specify the circumstances and conditions under which Member States may defer the making available of established entitlements or may be definitively released from this obligation.

21. The introduction of the concept of entry in accounts to supplement the definition of establishment for the purposes of own resources presents a number of advantages. It is a concept which is harmonized at Community level; customs law has transposed it into practice through a number of regulations and it is thus applied in everyday customs operations. It obviates the need to use the concept of a claim by the public authorities on a taxable person, as harmonization of this would demand a thorough reform of the legal or even constitutional systems of the Member States.

In practice, this provision would not alter the current situation in the cases which do not create difficulties, which are the vast majority of cases; as soon as the chargeable event takes place, the entitlements will be established and entered in the accounts in accordance with Community rules and then made available as at present. On the other hand, in cases where entry in the accounts cannot take place normally, the establishment will take place as soon as an administrative authority has calculated the amount of the entitlements which it considers should be claimed from the taxable person, the advantage then being that all the Member States have to determine a figure for entitlements evaded (perhaps only a provisional figure) if only for the purposes of starting court proceedings.

22. As the concept of force majeure has not been applied satisfactorily, the Commission has proposed that it be replaced by provisions to implement and effectively control cases in which there could be exceptions to the obligation to make own resources available.

These proposals would provide extremely strict rules to govern cases in which public authorities unable to recover entitlements owing to unforeseeable circumstances beyond their control could be released from the obligation to make own resources available. They would also provide for the conditions for making own resources available to the Commission to be adjusted to the actual possibilities of the Member States in certain cases determined in advance and, in return, ensure that the Commission is given the necessary information on the type of case and the procedure applied.

2.3 INSPECTION AND FRAUDS

The Commission's powers on inspection and correction of irregularities affecting traditional own resources remain inadequate and must be increased as the Commission suggests in its proposals for amendments to Regulation No 2891/77 and the Regulation on irregularities.

23. The procedure for inspecting own resources is set out in Article 18 of Regulation No 2891/77 which states that Member States shall carry out the verifications and inquiries concerning the establishment and the making available of own resources and that they shall carry out any additional inspection measures the Commission may ask for in a reasoned request. They must also associate the Commission, at its request, with the inspection measures which they carry out.

Regulation (EEC, Euratom, ECSC) No 165/74 of the Council of 21 January 1974 determining the powers and obligations of officials appointed by the Commission also applies to these inspections. Article 4 of this Regulation states that these inspections should relate to the establishment, based on information available to the national departments, of own resources, accounting therefor and making available thereof, the conformity of these operations with Community rules and the existence of supporting documents and their conformity with these operations.

24. Although own resources have been allocated to the Communities, the Commission still exercises no more than imperfect control. Firstly, the Commission can only inspect the activities of the administrations and bodies concerned, without being able to control taxpayers directly. The only exception to this rule is the inspection of sugar levies for which the Commission is associated in the inspection of the accounts and stocks of sugar producers in some Member States. Similarly, the Commission cannot carry out independent inspections and must provide the Member States with a reasoned request for additional inspections. Although these provisions have not so far raised any particular difficulties and Member States have always agreed to the Commission's requests, a question of principle is involved which still has not been settled satisfactorily, since the Council has not yet taken a decision on the Commission proposal that it should be allowed to conduct its own inspections.

25. It is no easy matter to present and, above all, justify a judgment on the findings of the inspections and on their effectiveness. A quantitative evaluation is especially difficult in the case of traditional resources.

The inspections are of a one-off nature and cover the operations conducted over a given period by a specific customs office. Some entries in the books may be corrected on this occasion, but the main effect produced by the comments made during the inspection visits is to improve application of Community rules as regards any problems detected; this of course has implications for all operations of the same type. It is difficult to quantify the effects, and a simple financial balance sheet of the direct results cannot really be representative.

26. For all types of resources, the inspections are the Commission's main opportunity for checking that the Community system of own resources is operating properly as regards application not only of the financial regulations but also of customs and tax law. However, these inspections cannot systematically detect cases of fraud and irregularities on the part of the taxable persons and it must be admitted that the Commission's information on these cases is far from being as complete as it should be.

27. An appreciable improvement in the information sent to the Commission has been realised due to Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of the agricultural levies and customs duties and value added tax and Council Regulation (EEC) No 1468/81 of 14 March 1981 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs or agricultural matters. However, this information is still far from exhaustive, and covers only partly the financial effects of the files evoked.

Under Article 17 of Regulation No 2891/77, Member States must also present a six-monthly report on the most important problems arising out of application of this Regulation and in particular matters in dispute. These reports provide a good deal of information on the difficulties encountered by the Member States in implementing the own resources system.

Although Member States adopted a new layout in 1983, this information is still general and not suited to a detailed analysis of individual cases of frauds and irregularities. The Commission's initial information on these cases is often obtained via far less formal channels such as national newspapers or direct contact with national administrations.

28. There is still no channel of regular, systematic and compulsory information on cases of fraud and irregularities. In March 1979 the Commission tried to fill the gap by transmitting to the Council a proposal for a Council Regulation on the measures to be taken in the event of irregularities affecting the own resources referred to in the Decision of 21 April 1970 and the organization of an information system for the Commission in this field. Under this proposal, which covered all own resources, the Commission would have been informed every three months of irregularities which have been the subject of an initial official record of an administrative or legal nature and the action taken as a result. However, the Council has still not taken a decision and in February 1984 the Commission asked it to resume its examination of the proposal.

It should also be noted that the proposals for amending Regulation No 2891/77 as regards the establishment and making available of own resources include a whole series of obligations for informing the Commission and the Member States on cases involving this type of problem.

2.4 TREATMENT OF OWN RESOURCES IN MEMBER STATES' BUDGETS AND NATIONAL ACCOUNTS

The treatment of the Communities' own resources in national budgets and national accounts is not always in keeping with the nature of these resources. Despite the difficulties linked with the diversity of the national budget systems, this situation could be improved.

29. The problem raised by Parliament in point 4 of its resolution closing the procedure for consultation on the proposals from the Commission concerning amendment of Regulation No 2891/77 actually covers two different problems: budget documents and national accounts are different in nature and scope.

Budget documents are the legislative expression of the authorization to collect revenue and effect expenditure and permit inspection of these operations; national accounts have no legislative value and aim only to provide statistical information on the performance of the national economy. Furthermore, budget documents have a wide diversity of form and content while the national accounts have a harmonized structure.

30. Despite this diversity, the budget documents of the Member States can be divided into three main categories:

- the year's finance law or laws containing estimates and authorizing all or part of State revenue and expenditure;
- the annexed statements which explain some of the provisions of the finance laws and thus have equivalent legal value;
- the annexes to the finance bill which, since they are for information purposes only, have no legal value.

31. The logic of the own resources system would require that they should not be entered in a budget to receive legislative authorization, since they have been allocated once and for all to the Community budget and control should not be of the responsibility of the national parliaments but of the Budgetary Authority of the Communities. However, the legal, tax and budgetary rules of all the Member States provide that public revenue must receive legislative authorization in one form or another.

Since the collection of the Communities' own resources is still performed by the national authorities, the above principle has not yet been applied in full in all the Member States.

Annex II contains a description of the practices of each Member State on the treatment of own resources in national budget documents. This account clearly shows that up to now only Belgium, Germany, Luxembourg and the Netherlands have a method of presentation anywhere near in keeping with the nature of own resources. The presentation employed in Denmark and France is still ambiguous. The most that can be said of the other Member States is that their methods of presentation and information have no major practical implications either politically or legally.

32. The national accounts present a retrospective image of the national accounting system. They provide a framework in which are classified the various economic operators and the operations they conduct and give all the corresponding figures, derived from observation, summaries and statistical processing. The drafting of these national accounts thus requires strict definitions which, since 1970, have been set out for the Community in the European System of Integrated Economic Accounts.

The description of national accounting practices given in Annex II shows that, except for Germany and depending on how the Greek national accounting system develops, the Member States treat own resources in their national accounts in accordance with Community rules.

2.5 ADVISORY COMMITTEE ON OWN RESOURCES

For nearly fifteen years the ACOR has proved to be a particularly efficient forum for discussing problems related to the operation of the own resources system.

33. Articles 20 and 21 of Regulation No 2891/77 set up an Advisory Committee on Own Resources (ACOR). The Committee is chaired by a representative of the Commission and consists of representatives of the Member States and of the Commission. Its role is to examine all questions related to application of Regulation No 2891/77 and, in particular, the findings of inspections and the reports sent periodically to the Commission by the Member States on the questions of principle concerning the most important problems arising out of application of the Regulation.

34. In fact, the ACOR meets in three formations with different fields of activity:

- the ACOR "meeting under Article 21 of Regulation No 2891/77", which is responsible for general problems of implementing this Regulation and for examining inspection reports on traditional resources (customs duties, agricultural and sugar levies);
- the "Estimates" subcommittee, which is responsible for examining the estimates of own resources drawn up by the Member States and the Commission as part of preparations of the preliminary draft budget and preliminary supplementary and amending budgets;
- the ACOR "meeting under Article 13 of Regulation No 2892/77", which is responsible for problems in implementing Regulation No 2892/77 which extended the Committee's field of activity to VAT own resources.

35. In November 1984 the ACOR "meeting under Article 21 of Regulation No 2891/77" held its 49th meeting since it was set up in July 1971. Its activities have concentrated on examination and discussion of the reports on the inspection of traditional own resources in the Member States, thus providing a comparison of the situation in the various countries. However, its meetings have also resulted in a number of solutions to specific problems arising from implementation of Regulation No 2891/77.

2.6 CONCLUSION

The amendments to Regulation No 2891/77 need to be adopted as soon as possible.

36. For the Commission, the prime objective in connection with Regulation No 2891/77 is to complete its amendment. The two series of proposals transmitted to the Council since July 1982 will enable considerable progress to be made on several issues, both questions of principle and operation. In conjunction with other rules, such as the Regulation on irregularities, Regulation No 2891/77 could serve as an effective means of implementing the Decision of 21 April 1970 and the new decision on the system of own resources for the Communities.

37. Until a decision has been taken on the Commission's proposals and until this first revision has been completed, any report on implementation of Regulation No 2891/77 must inevitably be interim, since it can deal only with developments deriving from the original provisions of the Regulation.

However, the Commission considers that the undertaking given in the first amendment to its initial proposal at Parliament's express request must be respected: within three years of the entry into force of the amended Regulation No 2891/77 the Commission will present Council with a report on its implementation which, where appropriate, will result in new proposals for amendment.

3. IMPLEMENTATION OF REGULATION No 2892/77

3.1 PRESENT STATE OF THE REGULATION

The amended version of Regulation No 2892/77 adopted at the end of 1983 was used for the first time to calculate VAT own resources bases for 1983, which were sent to the Commission in mid-1984. The amended version will remain in force until the end of 1985.

38. Article 14 of Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources provided for the Regulation to apply from 1 January 1978 for a transitional period ending on 31 December 1982. This article also stated that the Council, acting on a proposal from the Commission, should adopt, before 30 June 1982, the provisions relating to the definitive uniform system for levying VAT resources and the detailed rules for implementing this system. The length of the transitional period was initially set at five years.

39. In practice, however, since most Member States found difficulties in implementing the Sixth VAT Directive from 1 January 1978, actual implementation of Regulation No 2892/77 was postponed to 1 January 1979 in the case of six Member States (Belgium, Denmark, France, Italy, the Netherlands and the United Kingdom) and to 1 January 1980 for the other three (Germany, Ireland and Luxembourg). Since Greece was authorized by the Fifteenth VAT Directive not to introduce VAT until 1 January 1986, until that date it will continue to pay a financial contribution based on its share of Community GNP.

The provisions of Regulation No 2892/77, and in particular Article 10, were such that the Commission did not receive VAT statements from all the Member States until 30 June 1981. These related to 1980. This meant that the first full set was not available until two years later than originally planned.

40. In July 1982, in the light of this initial experience, the Commission nevertheless sent the Council a proposal to amend Regulation No 2892/77 and extend it from the end of 1982 to the end of 1985 so as to restore the original five-year transitional period. The proposals for amendment concerned:

- the method of determining the correction to the VAT own resources base required in respect of transactions by taxable persons with an annual turnover of less than 10 000 ECU;
- the concept of estimated assessments;

- the method of calculating the weighted average rate and, in particular, questions connected with the definition of categories of consumption, arrangements for dealing with consumption on the farm and direct sales by flat-rate farmers, the order in which statistical sources are to be used, the treatment of changes in VAT rates during the year and the weighting to be given to the different rates;
- methods of calculating under-compensation for flat-rate farmers' inputs;
- the content of the annual statement of the VAT base;
- corrections to the VAT base;
- the procedure for taking decisions on authorizations and solutions relating to the calculation of the VAT base.

41. Parliament was consulted on this proposal. In December 1982 it gave a favourable opinion and also asked amendments dealing with:

- the treatment of corrections to the VAT base so as to afford the Commission greater opportunities for using its own initiative;
- a report on the implementation of the amended regulation;
- the procedure for taking decisions on authorizations and solutions.

In March 1983, acting in response to this opinion, the Commission sent the Council an amended proposal incorporating the first two of the points made by Parliament; the third was considered premature at this stage.

42. Since Regulation No 2892/77 was to expire on 31 December 1982 and the Council had not at that stage acted on the Commission's proposed amendments, Regulation (EEC, Euratom, ECSC) No 3550/82 was adopted on 28 December 1982 to extend Regulation No 2892/77 until 31 December 1985; the Council was to reach a decision on the Commission's proposals concerning a definitive uniform system before 30 June 1985.

One year later, on 19 December 1983, the Council adopted Regulation No 3625/83 amending Regulation No 2892/77. In view of the final date for revision laid down by Regulation No 3550/82 and Parliament's request for a report on implementation to accompany proposals for a single method of determining the basis of collection to be made by 31 December 1984, the revised version applies to VAT bases from 1983 for a transitional period expiring on 31 December 1985.

The Member States accordingly sent to the Commission by 30 June 1984 the statements of their VAT bases for 1983, the first prepared in accordance with the amended version of Regulation No 2892/77.

3.2 CHOICE OF METHOD FOR DETERMINING THE VAT BASE

From 1983 eight Member States use the revenue method (method B) instead of the returns method originally proposed by the Commission and endorsed by Parliament. This means that the transitional period for implementing Regulation No 2892/77 has produced the opposite of what was intended by the Commission and Parliament.

43. The Commission originally proposed that the VAT base should be calculated in accordance with a method based on returns from taxable persons during a given year (the "base on base" or "returns" method).

However, although the Council, when adopting Regulation No 2892/77, agreed that a single system should be used for collecting VAT own resources, the Member States were allowed to choose for a transitional period between the above method (method A) and the revenue method (method B), which determines the own resources base by applying the rate or rates in force during the year to the total revenue collected during that year.

The main difference between the two methods is that, in principle, method A is based directly on the returns made by taxable persons - subject to the treatment of estimated assessments - while method B involves calculations which are not exclusively of a fiscal nature.

44. Since 1979 or 1980 seven Member States - Belgium, Germany, France, Italy, Luxembourg, the Netherlands and the United Kingdom - have used the second method. Denmark and Ireland originally opted for method A but Denmark will use method B to calculate bases from 1983 onwards and Ireland remains the only Member State using method A to calculate its VAT base.

45. This means that some harmonization has taken place since all the Member States except one are using the same method. This method, which does not reflect the original wishes of either the Commission or Parliament, raises problems, both as regards the calculation (these are described in section 3.5) and the principles relating to the very concept of own resources. There are a number of aspects of the method which must be considered.

46. It should first be borne in mind that Community own resources accruing from VAT were designed to provide funds to meet the Community's budget needs in a manner which would demonstrate a direct link between the taxpayer and the budget. The large number of rates applied in the Member States and the variety of national taxation policies ruled out any form of direct collection. Use of the returns made by taxable persons in method A did, however, retain this link while method B, which is based on the revenue received by the Member State, tends to make the Member State itself the actual taxpayer. Like Parliament, the Commission has constantly deplored the insertion of an intermediary between the Community citizen and the Community budget.

It is nevertheless true that, even calculated by method B, VAT own resources are derived from the first tax to be harmonized at Community level. The recent discussions about raising the ceiling on these resources have clearly imprinted on public opinion in the Member States the role which VAT plays in financing the work of the Community.

47. The second point to make is that in view of the difficulties which the Member States have invoked in support of their claim that method A is unworkable, particularly the inadequacy of the returns for that purpose, the use of another method, albeit less direct, is perhaps the only way of ensuring the payment of VAT own resources without further considerable delay. It is pertinent to ask what was the point of a transitional period during which the Member States were able to choose between the two methods; since method B is fundamentally different from method A, it provided no preparation for the Member States to change to method A but instead required them to adopt a relatively complex mechanism which would not otherwise have been required.

48. Do the two methods produce the same result? Here a number of comments may be made.

The aim of method B is to reconstitute the base from the revenue collected by the Member State. This means that it involves a stage more than method A, where the base may be calculated directly by subtracting taxable amounts, corresponding to tax which has been deducted, from total taxable amounts. The aim of method B is thus the same as that of method A, but it pursues it in an indirect way. Moreover, because of the lack of precision in returns concerning zero-rated transactions in Member States using method A, large statistical corrections not unlike those used in method B have had to be made. The case of Denmark, which has just changed from method A to method B, is instructive. The 1983 VAT base (calculated by method B) was 6.9% larger than the 1982 base (calculated by method A). This appears more or less in line with the growth rates of previous years (1981-82: 10.7%; 1980-81: 5.6%; 1979-80: 6.7%).

49. Some guidance may also be gleaned from an exercise requested during the preparation of Regulation No 3625/83 when the base used for the determination of VAT own resources was evaluated using data taken from the ESA. Details of these calculations are given in Annex III. It will be seen that the difference between the amounts derived from national accounts figures and the VAT bases calculated by the Member States does not appear to be related to the method of calculation used. The VAT base calculated by Denmark was appreciably lower than that derived from the national accounts, while that calculated by Ireland was slightly higher.

50. One of the factors determining the choice between the two methods is their respective costs and the differences in the administrative charges which they entail for both taxable persons and the departments responsible for controls. These points were stressed by the Member States during the discussions which culminated in the Council proposing the possibility of a choice during the transitional period.

It is very difficult to assess the differences, mainly because no comparison can be made within the same Member State and there is no precise information on the real cost to the Member States of preparing the statement. In any case, they would at best have information only on the costs involved with the method they use.

What is clear is that method A requires returns from taxable persons to contain details, particularly on the breakdown of purchases by rate, which were not always required when national VAT systems were set up, while method B uses figures which should already be available to the national administrations. However, experience has shown that the use of these figures for the purposes of Community own resources demands special processing or a certain amount of specific research.

3.3. VAT BASE: PURPOSE AND CONTROL

The own resources base is calculated annually by the Member States and controlled by the Commission. The control and the meetings of the Advisory Committee for Own Resources provide an opportunity to settle a number of technical problems raised by the implementation of Regulation No 2892/77. These inevitably involve corrections to the base, sometimes affecting bases dating back a number of years.

Since the base is derived from returns made by taxable persons or the revenue collected by the Member State, the Commission has at present no means for direct action concerning VAT frauds.

51. Whatever the method used to establish the base, VAT own resources are made available to the Commission in accordance with Article 10(3) of Regulation No 2891/77. This is done on the first working day of each month by crediting the accounts opened for this purpose by the Member States with one twelfth of the VAT resources entered in the budget, that is the amount resulting from the application to an estimated base of a VAT call-in rate determined by the budget of the Communities.

In accordance with Article 10(4) of the same regulation, these payments of twelfths are regularized following the transmission to the Commission by the Member States of the statement of the total final amount relating to transactions for which tax has become chargeable during a year. Article 10(1) of Regulation No 2892/77 as amended requires that this statement be sent before 1 July of the year following the calendar year to which it refers and adds that it must contain all the relevant figures used to determine the base which are required for control purposes.

52. The annual statements are the keystone of the VAT own resources system. From a budgetary point of view, they permit calculation of the difference between VAT own resources payments made by the Member States during a given year and the final amount which results from applying the VAT rate fixed by the Community budget to the final VAT bases of each of the Member States.

They also constitute the only proof of the VAT own resources base in each of the Member States and the controls provided for by Article 12 of Regulation No 2892/77 as amended, which may lead to amendments of the bases (Article 12(3)), are based upon them.

The statements and the resulting control reports provide the only complete description of how VAT own resources bases are constituted.

53. The annual statements of the VAT own resources bases are normally checked during a single control visit undertaken each year by the administration of the Member State and the Commission. The Directorate-General for Budgets is responsible for the Commission's team, but the Statistical Office of the European Communities, the Directorate-General for Financial Institutions and Taxation and the Directorate-General for Financial Control are also represented.

The purpose of the control is clearly set out in Article 12 of Regulation No 2892/77 as amended which states that it shall cover the correctness of the operations to centralize the assessment basis, total net VAT revenue collected and determination of the weighted average rate and ensure that the calculations to determine the various compensations are in line with Regulation No 2892/77. The only inspection as such covers the centralization of returns or revenue; in all other cases what is considered is ways of solving the various problems which arise.

By contrast with the inspections of traditional own resources, these controls are organized by the national authorities specifically to check on the establishment of the VAT base, a procedure which is required only for Community purposes.

54. Council Regulation (EEC, Euratom, ECSC) No 165/74 of 21 January 1974 determining the powers and obligations of officials appointed by the Commission, which applies to VAT control visits by virtue of Article 12(2) of Regulation No 2892/77 as amended, provides in particular that after every control visit the Commission shall draw up a report setting out its results within two months. The Member State has two months in which to make known its comments to the Commission, which then produces a summary document, setting out the corrections accepted by the Commission and the Member State and the points on which agreement has not yet been reached.

The three documents, which constitute the control report, are then sent to the Advisory Committee on Own Resources, whose discussions offer an opportunity for a useful comparison between the various national procedures and for pointing the way towards solutions to problems. They also permit useful discussion on follow-up action to be taken by the Commission and the Member States.

55. Even the amended version of Regulation No 2892/77 could not resolve all the problems of implementation. Discussions within the ACOR on control reports or papers on specific problems prepared by the Commission have made a useful contribution to the implementation of the Community's system of own resources.

By autumn 1984 the Committee had held 29 meetings since it first met in June 1979. Besides considering the annual control reports, these have covered Commission decisions on the authorizations and solutions provided for by Articles 5 and 9 of Regulation No 2892/77 as amended (see para. 66 et seq. below) and the discussion of working papers, most of which have subsequently provided guidelines for the implementation of certain specific provisions of Regulation No 2892/77. These include, by way of example:

- the practical and legal consequences of failure to respect the deadlines laid down by Regulation No 2892/77;
- the interpretation of financial rules as regards VAT;
- the layout of the statement and the periods to be taken into consideration;
- the treatment of small firms;
- the calculation of the right to deduct in respect of cars for business use;
- the exchange rates to be used;
- the corrections to be made following controls;
- the correction of errors and adjustments to data;
- evaluation of the base from statistical data;
- the problems of calculating the weighted average rate;
- the treatment of flat-rate farmers;
- the calculation of certain compensations.

56. Corrections to the base following a control can be carried out in a number of ways. The simplest is obviously an agreement between the Member State and the Commission on the nature and amount of the correction to be made either immediately, during the control, or at a later date, after the control report has been written or submitted to the ACOR.

Article 10b of Regulation No 2892/77 as amended provides for corrections to be incorporated in an aggregate statement showing the situation at 30 June. In general, adjustments to the amounts payable as a consequence of these corrections are combined with the adjustments made following receipt of the definitive statements, that is with the August payment. The possibility of early adjustment, as provided for in the revision of Regulation No 2891/77, is still being discussed by the Council.

57. If the Commission and the Member State disagree, it is up to the Commission to take steps in order to ensure the correct application of Community rules and to initiate, if necessary, the infringement procedure of Article 169 of the EEC Treaty against the Member State.

In 1984, in respect of twelve cases of infringement of the Sixth VAT Directive, the Commission wrote to the Member States concerned, asking them to pay to the Community budget the own resources due. In the cases where the answer were not satisfactorily, the Commission initiated the formal infringement procedure. A similar procedure is in course for three cases in which the Commission believes that the implementation by certain Member States of Regulation No 2892/77 had been made incorrectly.

58. Leaving aside the question of the sums involved, the above account clearly demonstrates the importance the controls have assumed for the correct implementation of Regulation No 2892/77. Control visits provide an opportunity for representatives of the national departments concerned with the calculation of the VAT base and Commission officials to meet and clear up any problems they encounter and discuss the methods used. The comparisons made in the ACOR and the summary situations produced further enhance this methodological aspect which supplements the more traditional purpose of a control.

59. A measure of the impact of controls in terms of amounts involved is provided by the total corrections made by 30 June 1984 to bases for previous years as contained in the annual statements submitted under Article 10. Not all these corrections were the result of controls, however; some of them were effected spontaneously by the Member State, sometimes several months after the annual statement had been sent. Subject to this proviso, total corrections to the base at present stand at : *

1979 base:	6 900 million ECU (about 1.1% of the original base)
1980 base:	29 600 million ECU (2.8%)
1981 base:	6 700 million ECU (0.6%)
1982 base:	3 300 million ECU (0.3%).

60. It will be seen that one of the consequences of the difficulties of implementing Regulation No 2892/77 has been an increase in the number of corrections required for a given year. The time taken to make the corrections is gradually shortening since in 1984 no further corrections were made to the 1979 base except for one Member State and the 1980 base was corrected only for five Member States. In any event, the amounts of the corrections are diminishing as the year in question recedes and the number of unresolved problems declines.

Corrections to bases after a number of years are an inherent part of the own resources system ; it should also be noted that the procedures referred to in para. 57 will, when completed, lead to corrections to comparatively old bases.

* These figures take no account of whether the correction increased or decreased the base.

61. The final aspect of VAT base controls which should be included in this report is that of fraud, one which Parliament has mentioned on a number of occasions and particularly in its resolution of 10 April 1984 on frauds against the Community budget (the Gabert resolution). Here a certain amount of caution is required.

In the first place, it should be noted that the own resources system, and Regulation No 2892/77 in particular, bases the Community's VAT own resources on the returns made to national administrations or the revenue they collect and that the Commission's powers of verification extend only to this stage of the procedure. Since the bulk of the VAT collected goes to the Member States, it is they who have the greatest interest in seeing that it is collected in full.

62. The Commission cannot, however, ignore this aspect, which it included in its proposal for a Council Regulation (EEC) on the measures to be taken in the event of irregularities affecting the own resources referred to in the Decision of 21 April 1970 and the organization of an information system for the Commission in this field. The Council has not yet taken a decision on this proposal, which dates from March 1979, and in February 1984 the Commission asked it to resume examination of it.

The Commission is now considering whether it can investigate VAT frauds in the Member States, as requested by Parliament in the resolution referred to above.

63. These investigations will not, however, have the practical effect which Parliament seems to desire when it says "on the basis of which the Community's share (of the proceeds of VAT) levied in each Member State could be revised." Such an approach goes far beyond the possibilities given by the actual rules and is even contradictory to its philosophy and would, in the Commission's view, undermine the fiscal nature of Community VAT and, by adding a further correction to the returns by taxable persons or national revenue, tend to turn it into a financial contribution. It would, in any case, further complicate the existing system. In practice, permanent investigation of VAT fraud implies a substantial increase in the staff of the Commission departments now engaged in controls.

3.4 CORRECTIONS TO THE BASE AND TO REVENUE

The varying national situations and the exemptions allowed by the Sixth VAT Directive mean that corrections have to be made to the returns made by taxable persons or to the revenue collected by the Member State. These are small in amount and apply more or less equally to both methods of determining the VAT base. Most of the calculation problems which they raise have been resolved.

64. The definitive VAT own resources base to which the rate fixed by the Community budget must be applied is determined either from the intermediate base derived from returns made by taxable persons (method A) or from the net receipts collected by the Member States (method B). In the second case, an intermediate base is derived from the calculation and application of the weighted average rate.

The derogations provided by the Sixth VAT Directive and special national circumstances, for instance of an administrative or geographical nature, mean that both the intermediate bases and net receipts must be corrected so as to place every Member State in the same position from the point of view of the collection of own resources.

The calculation of these corrections for the two methods is set out in more detail in Annex IV but the two main features may be mentioned here.

65. First the corrections should be precisely defined. They have only one purpose, to reconstitute the VAT own resources base in the form which it would have had if a fully harmonised VAT system had been applied uniformly in all the Member States. Since the national situations differ, the procedures for doing this must also differ. Each Member State must undertake different operations to calculate its VAT base because each national system diverges in different ways from the harmonized system, which is still the common goal.

Secondly, while methods A and B require their own corrections, many of these corrections are also common to both methods and arise directly from the derogations and exceptions permitted by the Sixth VAT Directive.

66. Regulation No 2892/77 as amended provides for compensations to be carried out in a number of ways:

- the Member State may use suitable data to arrive at a precise figure for the compensation. Regulation No 2892/77 refers to this as a solution;
- the Member State may use estimates to calculate certain stages. The regulation refers to this as an authorization to use approximate estimates;

- the Member State is unable to make even an approximate estimate and may be authorized to ignore the operation. The regulation refers to this as an authorization not to take into account.

The relevant decisions are taken by the Commission at the request of the Member State concerned and after the Advisory Committee on Own Resources has been consulted. In 1983 there were 66 solutions and authorizations to use approximate estimates in force and 20 authorizations not to take into account. Such decisions were taken annually until 1983 but are now valid for three years unless national rules change.

67. The largest group of compensations, from the point of view of the number of operations, the calculations to be made and their impact on the base, are those arising from Annex E (transactions which may continue to be taxed although they should be exempt) and Annex F (transactions which may continue to be exempt although they should be taxed) to the Sixth VAT Directive.*

The Sixth Directive originally authorized these derogations for a period of five years from the date when it came into force. On 17 January 1983 the Commission sent the Council a report on the use made by the Member States of these derogations and the difficulties which ending them would pose. On the basis of this report and the first report on the application of the common system of value added tax presented under Article 34 of the Sixth VAT Directive, on 4 December 1984 the Commission sent the Council a proposal for an Eighteenth Directive laying down a timetable for the gradual termination of these derogations. The process would extend to 1 January 1988 and certain derogations would remain in force until the next review, scheduled for 1989.

A further series of compensations must be calculated for the restriction of the right to deduct in respect of motor vehicles and oil products. Here too, the transitional period laid down by the second subparagraph of Article 17(6) and Article 17(7) of the Sixth VAT Directive is still in force.

Harmonization of the VAT base will not be complete and the system of compensations will have to be retained until all the derogations have been eliminated.

* Annex G (the right of option) is no longer applicable.

3.5 WEIGHTED AVERAGE RATE

The weighted average rate is central to calculating the VAT own resources base by the revenue method and its calculation is a complex operation needing a large volume of non-fiscal data. Although substantial progress has been made since 1979, some problems still exist.

69. The revenue method (method B) is described in Articles 6, 7 and 8 of Regulation No 2892/77 as amended, which states that the VAT own resources base shall be calculated by dividing the total net VAT revenue collected by a Member State by the rate at which VAT was levied during that year.

70. Although the principle is simple, the method is complicated by the fact that virtually all the Member States have more than one VAT rate, and changes are sometimes made during the year. The situation in 1983 was as follows:

VAT rates in the Member States (%)

Belgium:	0 - 6 - 17 - 19 - 25
Denmark:	0 - 22
Germany:	up to 1 July 1983: 6.5 - 13 from 1 July 1983: 7 - 14
France:	5.5 - 7 - 18.6 - 33.3
Ireland:	up to 1 March: 0 - 18 - 30 from 1 March: 0 - 23 - 35
Italy:	0 - 2 - 8 - 10 - 15 - 18 - 20 - 38
Luxembourg:	up to 1 July: 2 - 5 - 10 from 1 July: 6 - 12
Netherlands:	4 - 18
United Kingdom:	0 - 15

Additionally, the real value of these rates is further influenced by reductions in the taxable amount.

71. Because of the multiplicity of rates, Regulation No 2892/77 as amended provides that, where several VAT rates are applied, the VAT own resources base shall be determined by dividing total net VAT revenue collected by the average rate of VAT weighted as provided for in Article 7.

The weighted average rate is central to method B; it is not therefore surprising that the bulk of the amendments made to the initial version by Regulation No 3625/83 affected Article 7 of Regulation No 2892/77.

The weighted average rates in the Member States in 1983 according to their statements sent by 30 June 1984, and so before control, are given below for information. (In accordance with Article 6 of Regulation No 2892/77, this rate is expressed per hundred currency units and rounded to four decimal places)

Belgium:	15.0084%
Denmark:	22.0000%
Germany:	12.0186%
France:	16.2965%
Italy:	12.3714%
Luxembourg:	8.3668%
Netherlands:	14.0281%
United Kingdom:	9.3780%

72. Besides the fact that it is central to method B, the weighted average rate merits special attention in this report for two reasons. The first is that it affects the size of the own resources base very considerably. For example, if a Member State has VAT revenue totalling 50 000 million ECU, a weighted average rate of 13.00 % will give a base of 384 615 million ECU and so a 1% VAT own resources rate will yield 3 846 million ECU. A 1% increase in the weighted average rate, to 13.13%, would involve a reduction of 40 million ECU of VAT own resources (at the rate of 1%). Secondly, calculation of the weighted average rate requires data from the national accounts and statistics which are not exclusively fiscal in nature. This means that it involves something which is foreign to the VAT system and its use in this system is one of the major questions posed by method B.

The main characteristics of the calculation of the rate and the chief problems which they raise are set out below; further details are given in Annex IV.

73. The basic principle of the calculation is the breakdown among the various rates used of all the transactions giving rise to the collection of non-deductible VAT and hence to net revenue collected by the Member State (Article 7.1). This breakdown is carried out separately for the following categories (Article 7.2):

- final consumption of households and intermediate consumption by private non-profit institutions;
- intermediate consumption by other sectors;
- gross fixed-capital formation of public administrations;
- gross fixed-capital formation of other sectors;
- building land;
- consumption on the farm by flat-rate farmers and their direct sales to final consumers.

Transactions are broken down by category on the basis of data from national accounts prepared in accordance with the system of integrated economic accounts (ESA). Subject to some exceptions, the version of the accounts used is that for the penultimate year preceding the one for which the rate is calculated (Article 7.4). If necessary, such data may be supplemented by data taken from sources other than the ESA, particularly internal national accounts, or, in the absence of such accounts, from any other appropriate source (Article 7.5).

74. This means that, because of the time required to prepare the accounts and related data, the VAT legislation for the year in question (year n) is being applied to national accounts, possibly supplemented, for year n - 2. Since consumption patterns remain relatively stable in the short term, this method, imposed by practical constraints, may be considered acceptable.

However, the provisions as a whole raise a number of questions relating to the nature and appropriateness of the data used.

75. National accounts were not designed for fiscal purposes and so the breakdown of the transactions they contain by VAT rate involves approximations based on other sources; the extent of these approximations increases with the complexity of the VAT rate structure.

In any case, not all the Member States prepare their national accounts on the ESA model and if the Statistical Office of the European Communities gets an ESA model of their accounts, internal accounts must be used in order to obtain a certain level of detail. The difficulties involved are, however, practical ones of reconciling the different versions rather than genuine problems of principle.

In addition, it must be pointed out, that the difficulties in implementing method B are raised by the approximations. More the VAT number of VAT rates in a Member State is high, more the approximations are important and less reliable.

76. All the Member States which use method B do so on the basis of national accounts from year n - 2, with the exception of one, which has to use accounts from year n - 3. The supplementary data may, however, be older.

77. The first revision of Regulation No 2892/77 resolved the problem of how to cope with rate changes during a year. Regulation No 3625/83 states that transactions in respect of which the rate has been changed shall be allocated to the old and new rates pro rata temporis, with account being taken of the average period of time elapsing between the entry into force of the new rate and the collection of revenue resulting therefrom (Article 7.7).

This provision both clarifies the series of calculations to be undertaken when rates change and links the transactions more closely with the revenue which they generate.

78. Finally reference should be made to the differences in administrative organization between Member States, for these influence the way the weighted average rate is calculated and the ease with which controls can be conducted. In two Member States (Luxembourg and the Netherlands) the rate is calculated by the national statistical office while in the others it is the responsibility of the finance ministry, assisted to a varying extent by the national statistical office. Germany is one exception, the calculation has been carried out by a private institute under contract to the finance ministry.

3.6 CONCLUSION

In view of the choices made by the Member States as regards the method of calculating the VAT own resources base, the position with regard to the own resources rules in general and the failure to achieve the harmonization aimed at by the VAT directives, the Commission is proposing that Regulation No 2892/77 be extended for three years (see 2.6). An appropriate proposal for a regulation is contained in the second part of this document.

79. The transitional period for the system of collecting VAT own resources should come to an end in 1985. However, the choice of a definitive method is beset by two types of difficulties, one relating to the system and the other to the nature of the rules.

80. The above account has shown that the entire structure of financial and fiscal regulations is in the process of change. The basic regulation, Regulation No 2891/77, is being amended and so is the Financial Regulation.

The common system of value added tax and the uniform base have not been achieved, there are still many possibilities for derogations and in the past Parliament itself has recognized the link between the continued existence of these derogations and the transitional period for VAT own resources. A significant progress could be achieved by adoption of the Eighteenth Directive abolishing certain derogations provided for in the Sixth Directive, proposal actually being examined in the Council.

More generally, the changing nature of the Community's system of own resources and not just of Regulation No 2891/77, is underlined by the situation that will be created by amendment of the Decision of 21 April 1970 on the replacement of financial contributions from the Member States by the Communities's own resources, and in particular the possibility for budgetary imbalances to be corrected by adjustments to VAT revenue, and by the impending accession of two new Member States, which, in the near future, will both be paying VAT own resources.

81. Regulation No 2892/77 was amended at the end of 1983 and the Commission received the first year's statements prepared under it in July 1984. Only in 1985 will these be controlled and the problems they raise discussed.

In December 1983 the Council's Fifteenth VAT Directive authorized Greece to delay the introduction of the common system of VAT, and hence the payment of VAT own resources, to 1 January 1986.

82. More fundamentally, all the Member States with one exception have chosen the least direct method, method B, while both the Commission and Parliament have always held the view that method A not only provided a means of calculating VAT own resources payments, but also met the aim of introducing a real new own resource for the Community.

83. In the circumstances, the Commission considers that it would be premature at this stage to present a proposal involving a choice between the two methods. It believes more time is needed to prepare a definitive method in view of uncertainties concerning rules and the present choice made by the Member States.

It therefore proposes that the transitional period be extended by three years, to the end of 1988, and sends the Council and Parliament a proposal to this effect.

The Commission's aim is to arrive at a single method. A report and proposal for a regulation will be presented by December 1987, so that a decision can be taken in the first half of 1988.

ANNEX I: REFERENCES

A. REGULATIONS AND REPORTS

Own resources system

- Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources.
 - . Publication: OJ L 94, 28 April 1970, p.19.
 - . Proposal for a Council Decision on the Communities' system of own resources: OJ C 145, 3 June 1983, p.5 (COM(83)270 of 5 May 1983).
 - . Opinion of the European Parliament: OJ C 342, 19 December 1983, p. 31.
 - . Amended proposal for a Council Decision on the Communities' system of own resources: OJ C 193, 21 July 1984, p.5 (COM(84)384 of 9 July 1984).

- Council Regulation (EEC, Euratom, ECSC) No 2/71 of 2 January 1972 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources.
 - . Publication: OJ L 3/71, 5 January 1971, p. 1.

- Council Regulation (EEC, Euratom, ECSC) No 2891/77 of 19 December 1977 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources.
 - . Publication: OJ L 336, 27 December 1977, p.1.
 - . Report on the implementation of and proposal amending Regulation No 2891/77: OJ C 231, 4 September 1982, p.15 (COM(82)316 of 20 July 1982).
 - . First amendment to the proposal amending Regulation No 2891/77: OJ C 146, 4 June 1983, p.4 (COM(83)254 of 10 May 1983).
 - . Second amendment to the proposal amending Regulation No 2891/77: OJ C 303, 10 November 1983, p.19 (COM(83)621 of 21 October 1983).
 - . Third amendment to the proposal amending Regulation No 2891/77: OJ C 219, 21 August 1984, p.7 (COM(84)465 of 31 July 1984).

- Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources.
 - . Publication: OJ L 336, 27 December 1977, p.8.
 - . Proposal amending Regulation No 2892/77: OJ C 200, 4 August 1982, p.12 (COM(82)412 of 9 July 1982).

- . Council Regulation (EEC, Euratom, ECSC) No 3550/82 of 28 December 1982: OJ L 373, 21 December 1982, p. 1.
- . Amendment to the proposal for a Regulation amending Regulation No 2892/77: OJ C 67, 12 March 1983, p. 6 (COM(83)101 final of 1 March 1983).
- . Council Regulation (EEC, Euratom, ECSC) No 3625/83 of 19 December 1983 amending Regulation No 2892/77: OJ L 360, 23 December 1983, p. 1.

VAT

- Sixth Council Directive (77/388/EEC) of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes - Common system of value added tax: uniform basis of assessment: OJ L 145, 13 June 1977, p. 1.
- First report from the Commission to the Council on the application of the common system of value added tax, submitted in accordance with Article 34 of the Sixth Directive (77/388/EEC) of 17 May 1977 (COM(83)426 final of 14 September 1983).
- Report from the Commission to the Council on the transitional provisions applicable under the common system of VAT, submitted in accordance with Article 28 of the Sixth Council Directive of 17 May 1977 (COM(82) 885 final).
- Report from the Commission to the Council submitted in accordance with Article 24, paragraph 8 of the 6th Council Directive of 17 May 1977 (Harmonization of laws relating to turnover taxes). Description, analysis and suggestions for the harmonization of national schemes for small undertakings (Situation as at 31.12.1982). (COM(83) 748 final).
- Report from the Commission to the Council - Proposals for improving and adjusting the arrangements introduced by certain Member States under the Common flat-rate scheme for farmers (COM(83) 435 final).

- Proposal for an eighteenth Council Directive on the harmonization of the laws of the Member States relating to turnover taxes - abolition of certain derogations provided for in Article 28(3) of Directive 77/388/EEC - common system of value added tax.
OJ No C 347, 29.12.1984.
- Proposal for a nineteenth Council Directive on the harmonization of the laws of the Member States relating to turnover taxes, amending Directive 77/388/EEC - common system of value added tax.
OJ No C 347, 29.12.1984.

Controls and irregularities

- Council Regulation (EEC, Euratom, ECSC) No 165/74 of 21 January 1974 determining the powers and obligations of officials appointed by the Commission pursuant to Article 14(5) of Regulation (EEC, Euratom, ECSC) No 2/71: OJ L 20, 24 January 1974, p. 1.
- Proposal for a Council Regulation (EEC) on the measures to be taken in the event of irregularities affecting the own resources referred to in the Decision of 21 April 1970 and the organization of an information system for the Commission in this field.
Publication: OJ C 88, 4 April 1979, p. 4.
- Communication from the Commission to the Council on the resumption of consideration of the proposal: (COM(84)58 of 10 February 1984).
- Council Regulation (EEC) No 1468/81 of 19 May 1981 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs or agricultural matters: OJ L 144, 2 June 1981, p. 1.
- Council Directive of 15 March 1976 on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties, and in respect of value added tax (76/308/EEC): OJ L 73 of 19 March 1976, p. 18. The Directive was amended by the Council Directive of 6 December 1979: OJ L 331, 27 December 1979, p. 10.

Customs duties

- Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties: OJ L 175, 12 July 1979, p. 1.
- Council Regulation (EEC) No 1697/79 of 24 July 1979 on the post-clearance recovery of import duties or export duties which have not been required of the person liable for payment on goods entered for a customs procedure involving the obligation to pay such duties: OJ L 197, 3 August 1979, p. 1.
- Council Directive 78/453/EEC of 22 May 1978 on the harmonization of provisions laid down by law, regulation or administrative action concerning deferred payment of import duties or export duties: OJ L 146, 25 June 1978, p. 19.
- Council Directive 79/623/EEC of 25 June 1979 on the harmonization of provisions laid down by law, regulation or administrative action relating to customs debt: OJ L 179, 17 July 1979, p. 31.

B. RESOLUTIONS ADOPTED BY THE EUROPEAN PARLIAMENT

Resolution of the European Parliament closing the procedure for consultation on the proposal for a Regulation amending Regulations No 2891/77 and No 2892/77: OJ C 13, 17 January 1983, p. 218.

(Parliament)

"3. expects the Commission to submit a further report by 31 December 1984 on the implementation of the regulations relating to own resources and to cover in that report all the aspects which have a decisive bearing on the choice of the definitive method for the calculation of the VAT base, with particular reference to the additional burdens which arise for the taxpayer and public control bodies as a function of the method of determining the base.

4. hopes that on this occasion a report will also be submitted on the way in which the law resources of the Community are shown in the national budgetary documents and accounts and on the compatibility thereof with the financial autonomy of the Community."

Resolution of the European Parliament closing the discharge procedure in respect of the 1981 financial year: OJ L 174, 30 June 1983, p. 21:

(Parliament)

"1. recalls its resolution of 17 December 1982 on the amending and extending of Regulations 2891/77 and 2892/77, and wishes in particular to stress paragraphs 4, 6 and 7 thereof; similarly, in the transition period where two methods of determining the VAT base continue to be permitted, the Commission should pay particular attention to harmonization and to the accuracy of the national accounting systems of the Member States; in this connection the Commission and the Court of Auditors are urgently requested to find a solution to the problems that have hitherto prevented them from examining the relevant statistics."

- Resolution of the European Parliament on action taken on the observations accompanying the discharge decision for 1981: OJ C 77, 19 March 1984, p. 157:

(Parliament)

"5. notes that the Commission is to devote particular attention to the following points:

- (a) harmonization of the basis for VAT assessment:
The efforts in this field to eliminate, in agreement with the Member States, the shortcomings of the statistical systems as soon as possible are to be continued, with the aim avoiding possible repercussions on the Community's own resources;"

- Opinion of the European Parliament on the second amendment to the proposal for a Regulation amending Regulation No 2891/77: OJ C 172, 2 July 1984, p. 145:

(Parliament)

"5. views that these proposals as emergency measures designed to rectify certain shortcomings observed in the collection of own resources; takes note of the Commission's undertaking to revitalize the process of harmonizing national laws with a view to the uniform application of the system of own resources and requests the Commission to submit by the end of June 1985 a report detailing the progress made and the measures still to be taken in this field;"

- Opinion of the European Parliament on the proposal for a Council Regulation (EEC) on the measures to be taken in the event of irregularities affecting the own resources referred to in the Decision of 21 April 1970 and the organization of an information system in this field:
OJ C 140, 5 June 1979, p. 147.
- Resolution adopted by the European Parliament on 10 April 1984 on frauds against the Community budget: OJ C 127, 14 May 1984, p. 52.

ANNEX II: TREATMENT OF OWN RESOURCES IN THE BUDGET DOCUMENTS AND NATIONAL ACCOUNTS OF THE MEMBER STATES

A. BUDGET DOCUMENTS

1. Four Member States include the Communities' own resources in the revenue side of their budget before entering transfers to the Community budget on the expenditure side.

- Greece, which pays only customs duties, agricultural and sugar levies as own resources. Since it has been authorized not to introduce VAT until 1 January 1986, Greece will pay a financial contribution up to that date.
- Ireland, where a note attached to the estimates of revenue and expenditure explains the own resources system,
- Italy, where the Communities' own resources have a special heading in the revenue entered in the national budget and where the amount paid to the Community appears in the expenditure of the Treasury Ministry marked "compulsory expenditure".
- The United Kingdom, where the revenue entered in the budget includes the Communities' own resources with this point being mentioned for customs duties and agricultural levies which appear under a specific heading. The amount of own resources paid to the Communities is included in the net payments to the Community budget contained in the chapter "Overseas aid and other overseas services".

Both Greece and the United Kingdom provide notes and tables explaining all financial relations with the Communities.

2. In the other six Member States, payments to the Community budget are not included in expenditure. However, the Communities' own resources are shown in budget documents in various ways, allowing three groups of countries to be distinguished.

3. In Denmark and France, the Communities' own resources are first included in State revenue before being deducted; the Finance Act thus presents a total net of payments to the Community budget. In Denmark, this is done by including the gross yield of taxes raised in the body of the Finance Act and subtracting Community revenue as "negative revenue". In France, total revenue in the Finance Act is adopted net after elimination of revenue made over, including the Communities' own resources which are contained in the section "Payments from State revenue to the European Communities" in the "Table of Ways and Means" annexed to the Finance Act.

4. In Belgium and the Netherlands the revenue entered in the budget does not include own resources. The total of customs duties and VAT own resources is indicated for information purposes in the ways and means budget in Belgium and in the statement of means in the Netherlands. The agricultural and sugar levies are indicated in an annex to the agriculture budget (Fonds agricole/Landbouwfonds in Belgium and Landbouwegalisatiefonds in the Netherlands).

5. In the Federal Republic of Germany and in Luxembourg the revenue entered in the budget is only that actually available to the State and does not therefore include the Communities' own resources, which are set out for information purposes in an annex to the general finance chapter in Germany and to the revenue and expenditure budget in Luxembourg.

B. NATIONAL ACCOUNTS

Section 215¹ of the European System of Integrated Economic Accounts (ESA) states that where an institutional unit carries out distributive or financial transactions on behalf of another institutional unit, these transactions should be recorded once only, in the accounts of the latter. Section 419 lists the taxes linked to production and imports paid to the institutions of the European Communities. Accordingly Statistical Office publications concerning the national accounts show amounts collected for the European institutions not as a transfer by general government to the rest of the world but as resources of the institutions of the European Communities; the amount of taxes linked to production and imports entered as² resources in the distribution of income account of general government² is thus the net amount excluding payments to the Community institutions, which are contained in a separate account (taxes linked to production and imports paid to the institutions of the European Communities).

The current situation in the Member States is as follows:

- Eight Member States treat own resources in accordance with ESA principles (Belgium, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands and the United Kingdom).
- Contrary to what is required by the ESA, Germany continues to present own resources as resources of general government, then as a use of general government under current international cooperation and as resources of the institutions of the European Communities under this heading. The SOEC therefore makes an adjustment when preparing its publications.
- At present the SOEC has only aggregated statistics for Greece which do not show in detail the flows between institutional sectors.

¹ESA - Second edition (1979), p. 24.

²Item R20 of Table 1 for Sector S60 of the General Government Accounts and Statistics - Eurostat 1983.

ANNEX III: ESTIMATING THE VAT OWN RESOURCES BASE FROM NATIONAL ACCOUNTS
AGGREGATES

1. In the course of preparatory work within the Council on Regulation No 3625/83 amending Regulation No 2892/77, the Commission was asked to present a report to the Council by the end of 1984 assessing the base used for determining VAT own resources, principally in the light of ESA (1) data provided by the Statistical Office of the European Communities.

2. Work in fact began in 1980 and the methodology proposed was put before the Advisory Committee on Own Resources at its 15th meeting under Article 13 of Regulation No 2892/77 on 25 February 1981. In response to the undertaking it has given, the Commission is presenting in this paper the results of its estimates for the most recent years: 1980, 1981 and 1982.

3. This paper sets out the details of the calculations made by the Statistical Office for all the Member States paying VAT own resources with the exception of Luxembourg, for which the figures available to the Statistical Office are too patchy.

4. The methods used call for several comments. First it must be remembered that the national accounts are produced by aggregating data, calculations and estimates of very varied origins. Similarly these accounts have a specific purpose: to provide figures on domestic economic activity. To use them for any other purpose implies adapting the specific concepts, nomenclatures and data in line with that new purpose. This is possible only if certain assumptions or estimates are made which, in fact, amount to simplifications and must therefore be used with extreme caution.

In particular the exercise described here calls for three general reservations:

- it involves the use of nomenclatures which were not designed for tax purposes and which therefore have to be either supplemented by additional material or treated as approximations. For example, use is made of classifications (the purposes of consumption of households, NACE-CLIO R 44 and R 25) which do not give a breakdown between taxable and non-taxable transactions; similarly these transactions are defined for the purposes of the national accounts in terms of elements which differ from those used in the Sixth Directive;

(1) European System of Integrated Economic Accounts

- the national accounts of the Member States have to be drawn up in accordance with the European System of Integrated Economic Accounts (ESA). However, when the ESA is applied to differing national situations the concepts used may sometimes have to be adapted; the basic data, too, may differ on occasions;
- in view of the mismatch between the data available in the national accounts and the purpose of the present exercise, the Statistical Office has had to make a large number of estimates itself (these are indicated in the country tables below). The figures given are the best possible approximation that can be obtained in the light of the information currently available; but they are still more in the nature of an exploratory inquiry rather than an official statistical survey.

5. Subject to these reservations the Statistical Office sets out in the following tables its calculation of the base (exclusive of VAT) in each of the Member States. The calculation is based on the sum of the totals for final consumption by households (less transactions exempted under the Sixth Directive, intermediate consumption by general government and branches exempt from VAT and gross fixed capital formation by general government and branches exempt from VAT.

The results can be assessed in the light of the table below showing the VAT base estimate obtained on the basis of the national accounts as a percentage of the amount of the VAT base communicated by the Member States in their annual statements (taking into account the corrections made up to 30 June 1984):

	1980	1981	1982
Belgium	113,3	109,6	110,9
Denmark	115,4	118,6	120,7
Germany	106,6	105,8	103,9
France	112,3	113,2	110,9
Ireland	109,7	101,3	96,3
Italy	133,6	140,5	145,4
Netherlands	110,0	110,1	113,7
United Kingdom	114,3	125,7	107,6

6. This comparison calls for two main comments:

- In all the Member States (with the exception of Ireland in 1982) the "national accounts" base is higher than the "VAT statement" base. The Commission departments are not yet able to provide a satisfactory general explanation for this phenomenon. However, research is continuing, in particular to determine whether the use of a more detailed nomenclature (which would, however, require a greater number of estimates) might make it possible to distinguish any elements included in the "national accounts" base which should, in fact, be excluded.

- For most of the Member States the discrepancy ranges between 4% and 13% except in the case of Ireland, as noted earlier, and in the case of two Member States where it is higher: Denmark and especially Italy. Here again research will have to continue in order to identify the peculiarities of the national accounting systems that might explain the difference.

7. While presenting these figures at the express request of a number of Member States, the Commission feels bound to stress once again that, at the present stage and with the information currently available, it regards the exercise as an exploratory project that does not provide any genuinely valid information and it therefore holds strong reservations as to the real value of the comparison. In particular this cannot be regarded as an approach that would allow a serious estimate to be made of the question of fraud nor as the outline of a third method of calculating the VAT own resources base.

BELGIUM

ESTIMATE OF VAT OWN RESOURCES BASE

million BFR

	CRONOS	1980	1981	1982
Final consumption of households on the economic territory	S1011000	2 146 206	2 295 534	2 511 147
To be deducted (classification of the purposes of consumption)				
Gross rent (31)	Z7027100	220 158	245 936	269 040
Domestic services (46)	Z7037100	40 830	42 732	46 750
Services of physicians (53)	Z7043100	88 151	96 494	105 560
Hospital care (54)	Z7044100	75 404	81 892	89 580
Accident and health insurance services (55)	Z7045100	614	688	750
Communication (64)	Z7052100	18 719	20 094	21 980
Education (74)	Z7059100	:	:	:
Financial services, n.e.c. (85)	Z7067100	46 223	48 982	53 580
Balance A		1 656 107	1 758 716	1 923 907
Intermediate consumption				
General government	A6021200	139 748	150 301	154 308
Private non-profit institutions	A7021200	:	:	:
Branches exempt from VAT on production (NACE/CLIO classification R 44) (1)				
Communication (670)		6 740*	7 010*	7 580
Services of credit institutions (690=69A=69B)		46 720*	48 530*	52 510
Services of renting (730)		23 060*	23 960*	25 930
Services of education (750)		:	:	:
Market services of health (770)		35 941*	37 340*	40 400
Total B		252 209	267 141	280 723
Gross fixed capital formation				
General government	A6021410	125 662	132 030	135 901
Private non-profit institutions	A7021410	:	:	:
Other branches exempt from VAT (NACE/CLIO classification R 25)	(2)			
Communication (67)	Z5026100	18 434	18 998	19 690
Credit institutions (69A)	Z5027100	12 665	12 916	13 380
Other market services (74)	Z5029100	264 837	178 996	185 490
Total C		421 598	342 940	354 461
Total base including VAT (A+B+C)	-	2 329 914	2 368 797	2 559 090
VAT to be deducted	A0112210	255 511	278 548	295 292
Total base excluding VAT	-	2 074 403	2 090 249	2 263 804

(1) Estimate by the Statistical Office on the basis of the 1975 input-output tables and an updating rate.

(2) GFCF by branch of ownership
S = SEC 1

Z = ZCN2

A = AMP1

*Statistical Office estimate.

DENMARK

ESTIMATE OF VAT OWN RESOURCES BASE

million DKR

	CRONOS	1980	1981	1982
Final consumption of households on the economic territory	S1011000	208 637	232 184	257 980
To be deducted (classification of the purposes of consumption)				
Gross rent (31)	Z7027100	39 386	43 561	48 400*
Domestic services (46)	Z7037100	882	1 001	1 110*
Services of physicians (53)	Z7043100	1 151	1 367	1 520*
Hospital care (54)	Z7044100	267	296	330*
Accident and health insurance services (55)	Z7045100	247	371	410*
Communication (64)	Z7052100	2 711	2 996	3 330*
Education (74)	Z7059100	2 580	3 144	3 490*
Financial services, n.e.c. (89)	Z7067100	2 146	2 262	2 510*
Balance A		159 267	177 186	196 880
Intermediate consumption				
General government	A6021200	34 185	39 264	44 940*
Private non-profit institutions	A7021200	:	:	:
Branches exempt from VAT on production (NACE/CLIO classification R 44) (1)				
Communication (670)		1 990*	2 190*	2 510*
Services of credit institutions (690=69A=69B)		2 980*	3 270*	3 740*
Services of renting (730)		6 850*	7 530*	8 610*
Services of education (750)		100*	100*	120*
Market services of health (770)		510*	560*	640*
Total B		46 615	52 914	60 590
Gross fixed capital formation				
General government	A6021410	12 809	12 031	14 170*
Private non-profit institutions	A7021410	:	:	:
Other branches exempt from VAT (NACE/CLIO classification R 25)	(2)			
Communication (67)	Z5026100			
Credit institutions (69A)	Z5027100			
Other market services (74)	Z5029100			
Total C		40 929	38 331	45 140
Total base including VAT (A+B+C)				
VAT to be deducted	A0112210	246 811	268 431	302 610
Total base excluding VAT		209 083	226 712	255 590

(1) Estimate by the Statistical Office on the basis of the 1975 input-output tables and an updating rate.

(2) GFCF by branch of ownership

S = SEC 1

Z = SCN2

A = AMP1

(3) Estimate based on the ratio 0.4 of GFCF.

(4) Estimate base on the rate of increase of the VAT base.

* Statistical Office estimate.

GERMANY

ESTIMATE OF VAT OWN RESOURCES BASE

million DM

	CRONOS	1980	1981	1982
. Final consumption of households on the economic territory	S1011000	895 850	943 290	972 330
. To be deducted (classification of the purposes of consumption)				
Gross rent (31)	Z7027100	104 430	111 420	114 850*
Domestic services (46) (4)	Z7037100	7 970*	8 390*	8 650*
Services of physicians (53))	Z7043100			
Hospital care (54))	Z7044100			
Accident and health insurance services (55)) (3)	Z7045100	123 900	133 400	137 510*
Communication (64)	Z7052100	14 500	15 180	15 650*
Education (74) (4)	Z7059100	2 690*	2 830*	2 920*
Financial services, n.e.c. (85) (4)	Z7067100	4 730*	4 980*	5 130*
. Balance A		637 630	667 090	687 620
Intermediate consumption				
. General government	A6021200	74 250	79 070	82 830
. Private non-profit institutions	A7021200	11 210	12 030	12 800
. Branches exempt from VAT on production (NACE/CLIO classification R 44) (1)				
Communication (670)		3 740*	3 890*	4 040*
Services of credit institutions (690=69A-69B)		19 420*	20 220*	20 960*
Services of renting (730)		23 510*	24 480*	25 370*
Services of education (750)		370*	380*	390*
Market services of health (770)		11 480*	11 950*	12 390*
Total B		143 980	152 070	158 780
Gross fixed capital formation				
. General government	A6021410	52 390	49 740	45 570
. Private non-profit institutions	A7021410	5 130	5 470	5 450
. Other branches exempt from VAT (NACE/CLIO classification R 25)	(2)			
Communication (67)	Z5026100	8 540*	8 550*	8 290*
Credit institutions (69A)	Z5027100	5 420*	5 460*	5 260*
Other market services (74)	Z5029100	144 310*	144 410*	140 000*
Total C		215 790	213 630	204 570
Total base including VAT (A+B+C)	-	997 400	1032 790	1050 970
VAT to be deducted	A0112210	96 450	100 690	101 320
Total base excluding VAT	-	900 950	932 100	949 650

(1) Estimate by the Statistical Office on the basis of the 1975 input-output tables and an updating rate

(2) GFCF by branch of ownership
S = SEC 1 Z = ZCN2 A = AMP1

(3) Including medicines and therapeutic equipment.

(4) Figures not available for Germany; estimates based on France.

*Statistical office estimate.

FRANCE

ESTIMATE OF VAT OWN RESOURCES BASE

million FF

	CRONOS	1980	1981	1982
. Final consumption of households on the economic territory	S1011000	1 745 090	2 008 060	2 303 320
. To be deducted (classification of the purposes of consumption)				
Gross rent (31)	Z7027100	211 261	248 297	284 810*
Domestic services (46)	Z7037100	15 526	17 444	20 010*
Services of physicians (53)	Z7043100	61 580	71 282	81 760*
Hospital care (54)	Z7044100	110 694	130 547	149 740*
Accident and health insurance services (55)	Z7045100	5 703	5 662	7 450*
Communication (64)	Z7052100	17 982	20 353	23 230*
Education (74)	Z7059100	5 243	5 937	6 810*
Financial services, n.e.c. (85)	Z7067100	9 215	10 907	12 510*
. Balance A		1 307 886	1 497 631	1 717 000
Intermediate consumption				
. General government	A6021200	144 283	170 388	199 248
. Private non-profit institutions	A7021200	9 990	11 216	12 591
. Branches exempt from VAT on production (NACE/CLIO classification R 44) (1)				
Communication (670)		10 520*	11 820*	13 510*
Services of credit institutions (690=69A-69B)		32 510*	36 520*	41 740*
Services of renting (730)		11 140*	12 510*	14 300*
Services of education (750)		5 030*	5 650*	6 460*
Market services of health (770)		34 010*	38 210*	43 660*
Total B		247 483	286 314	331 509
Gross fixed capital formation				
. General government	A6021410	77 512	89 100	101 214
. Private non-profit institutions	A7021410	2 073	2 339	2 631
. Other branches exempt from VAT (NACE/CLIO classification R 25) (2)				
Communication (67)	Z5026100	20 924	22 870*	25 350*
Credit institutions (69A)	Z5027100	4 908	5 360*	5 950*
Other market services (74)	Z5029100	235 670	257 560*	285 480*
Total C		341 087	377 229	420 625
Total base including VAT (A+B+C)	-	1 896 456	2 161 174	2 469 134
VAT to be deducted	A0112210	244 666	275 996	324 602
Total base excluding VAT	-	1 651 790	1 885 178	2 144 532

(1) Estimate by the Statistical Office on the basis of the 1975 input-output tables and an updating rate

(2) GFCF by branch of ownership
S = SEC 1 Z = ZCN2 A = AMP1

*Statistical office estimate.

IRELAND

ESTIMATE OF VAT OWN RESOURCES BASE

million IRL

	CRONOS	1980	1981	1982
. Final consumption of households on the economic territory	S1011000	5617.6	6735.0	7489.0
. To be deducted (classification of the purposes of consumption)				
Gross rent (31)	Z7027100	274	329*	365*
Domestic services (46)	Z7037100	15	18*	20*
Services of physicians (53)	Z7043100	45	54*	60*
Hospital care (54)	Z7044100			
Accident and health insurance services (55)	Z7045100	2	2*	3*
Communication (64)	Z7052100	41	49*	55*
Education (74)	Z7059100	129	155*	172*
Financial services, n.e.c. (85)	Z7067100	69	83*	92*
. Balance A		5042.6	6045	6722
Intermediate consumption				
. General government	A6021200	280.4	334.4*	392.8*
. Private non-profit institutions	A7021200	:	:	:
. Branches exempt from VAT on production (NACE/CLIO classification R 44) (1)				
Communication (670)		51.1*	61.0*	71.6*
Services of credit institutions (690=69A-69B)		93.7*	111.8*	131.3*
Services of renting (730)		40.2*	47.9*	56.3*
Services of education (750)		:	:	:
Market services of health (770)		:	:	:
Total B		465.4	555.1	652.0
Gross fixed capital formation				
. General government	A6021410	409.3	551.4	552*
. Private non-profit institutions	A7021410	:	:	:
. Other branches exempt from VAT (NACE/CLIO classification R 25)	(2)			
Communication (67)	Z5026100	123.0	150*	150*
Credit institutions (69A)	Z5027100	73.0	89*	89*
Other market services (74)	Z5029100	699.0	853*	855*
Total C		1304.3	1643.4	1646
Total base including VAT (A+B+C)	-	6812.9	8243.5	9020.0
VAT to be deducted	A0112210	470.4	618.0	1000*
Total base excluding VAT	-	6341.9	7625.5	8020

(1) Estimate by the Statistical Office on the basis of the 1975 input-output tables and an updating rate

(2) GFCF by branch of ownership
S = SEC 1 Z = ZCN2 A = AMP1

*Statistical office estimate.

ITALY

ESTIMATE OF VAT OWN RESOURCES BASE

thousand million LIT

	CRONOS	1980	1981	1982
. Final consumption of households on the economic territory	S1011000	212 488	254 661	298 192
. To be deducted (classification of the purposes of consumption)				
Gross rent (31)	Z7027100	19 264	22 687	26 570*
Domestic services (46)	Z7037100	1 145	1 140	1 330*
Services of physicians (53)	Z7043100	4 294	5 374	6 290*
Hospital care (54)	Z7044100	733	894	1 050*
Accident and health insurance services (55)	Z7045100	:	:	:
Communication (64)	Z7052100	1 947	2 470	2 890*
Education (74)	Z7059100	746	930	1 090*
Financial services, n.e.c. (85)	Z7067100	597	722	950*
. Balance A		183 762	220 444	258 022
Intermediate consumption				
. General government	A6021200	15 237	19 634	23 923
. Private non-profit institutions	A7021200	:	:	:
. Branches exempt from VAT on production (NACE/CLIO classification R 44) (1)				
Communication (670)		1 190*	1 410*	1 650*
Services of credit institutions (690=69A-69B)		2 030*	3 470*	4 060*
Services of renting (730)		4 330*	5 130*	6 010*
Services of education (750)		250*	300*	350*
Market services of health (770)		730*	860*	1 010*
Total B		23 767	30 804	37 003
Gross fixed capital formation				
. General government	A6021410	11 509	15 180	19 165
. Private non-profit institutions	A7021410	91	110	120
. Other branches exempt from VAT (NACE/CLIO classification R 25)	(2)			
Communication (67)	Z5026100	2 558	2 843	3 130*
Credit institutions (69A)	Z5027100	1 130	1 527	1 680*
Other market services (74)	Z5029100	22 792	28 464	31 310*
Total C		38 080	48 124	55 405
Total base including VAT (A+B+C)	-	245 609	299 372	350 430
VAT to be deducted	A0112210	18 345	21 358	25 746
Total base excluding VAT	-	227 264	278 014	324 684

(1) Estimate by the Statistical Office on the basis of the 1975 input-output tables and an updating rate

(2) GFCF by branch of ownership

S = SEC 1 Z = ZCN2 A = AMP1

*Statistical office estimate.

NETHERLANDS

ESTIMATE OF VAT OWN RESOURCES BASE

million HFL

	CRONOS	1980	1981	1982
. Final consumption of households on the economic territory	S1011000	201 010	209 450	217 880
. To be deducted (classification of the purposes of consumption)				
Gross rent (31)	Z7027100	22 030	24 350	25 330*
Domestic services (46)	Z7037100	1 100	1 140	1 190*
Services of physicians (53)	Z7043100	7 280	7 640	7 950*
Hospital care (54)	Z7044100	14 800	16 130	16 780*
Accident and health insurance services (55)	Z7045100	:	:	:
Communication (64)	Z7052100	2 380	2 490	2 590*
Education (74)	Z7059100	720	860	890*
Financial services, n.e.c. (85)	Z7067100	5 320	5 350	5 570*
. Balance A		147 380	151 490	157 580
Intermediate consumption				
. General government	A6021200	17 120	18 530	19 460
. Private non-profit institutions	A7021200	:	:	:
. Branches exempt from VAT on production (NACE/CLIO classification R 44) (1)				
Communication (670)		1 060*	1 120*	1 160*
Services of credit institutions (690=69A-69B)		3 650*	3 820*	3 980*
Services of renting (730)		2 660*	2 790*	2 900*
Services of education (750)		750*	790*	820*
Market services of health (770)		3 300*	3 470*	3 600*
Total B		28 540	30 520	31 920
Gross fixed capital formation				
. General government	A6021410	10 970	11 200	10 690
. Private non-profit institutions	A7021410	:	:	:
. Other branches exempt from VAT (NACE/CLIO classification R 25)	(2)			
Communication (67)	Z5026100	1 460	1 400	1 380*
Credit institutions (69A)	Z5027100	290	290	290*
Other market services (74)	Z5029100	27 490	25 800	25 450*
Total C		40 210	38 690	37 810
Total base including VAT (A+B+C)	-	216 130	220 700	227 310
VAT to be deducted	A0112210	24 420	24 950	25 090
Total base excluding VAT	-	191 710	195 750	202 220

(1) Estimate by the Statistical Office on the basis of the 1975 input-output tables and an updating rate

(2) GFCF by branch of ownership
S = SEC 1 Z = ZCN2 A = AMP1

*Statistical office estimate.

UNITED KINGDOM

ESTIMATE OF VAT OWN RESOURCES BASE

million UKL

	CRONOS	1980	1981	1982
. Final consumption of households on the economic territory	S1011000	136 850	151 720	166 280
. To be deducted (classification of the purposes of consumption)				
Gross rent (31)	Z7027100	20 770	24 742	27 120*
Domestic services (46)	Z7037100	432	519	570*
Services of physicians (53)	Z7043100	266	328	360*
Hospital care (54)	Z7044100	273	346	380*
Accident and health insurance services (55)	Z7045100	17	19	20*
Communication (64)	Z7052100	2 002	2 480	2 720*
Education (74)	Z7059100	2 760	3 128	3 430*
Financial services, n.e.c. (85)	Z7067100	2 312	2 627	2 880*
. Balance A		108 018	117 569	128 800
Intermediate consumption				
. General government	A6021200	20 836	22 831	26 561
. Private non-profit institutions	A7021200	:	:	:
. Branches exempt from VAT on production (NACE/CLIO classification R 44) (1)				
Communication (670)		1 260*	1 390*	1 530*
Services of credit institutions (690=69A-69B)		1 920*	2 110*	2 320*
Services of renting (730)		1 140*	1 260*	1 380*
Services of education (750)		:	:	:
Market services of health (770)		:	:	:
Total B		25 156	27 591	31 791
Gross fixed capital formation				
. General government	A6021410	5 528	4 641	4 414
. Private non-profit institutions	A7021410	:	:	:
. Other branches exempt from VAT (NACE/CLIO classification R 25)	(2)			
Communication (67)	Z5026100	1 524	1 453	1 570*
Credit institutions (69A)	Z5027100	3 973	4 688	5 070*
Other market services (74)	Z5029100	9 539	9 005	9 730*
Total C		20 564	19 787	20 784
Total base including VAT (A+B+C)	-	153 738	164 947	181 375
VAT to be deducted	A0112210	11 445	12 525	14 255
Total base excluding VAT	-	142 293	152 422	167 120

(1) Estimate by the Statistical Office on the basis of the 1975 input-output tables and an updating rate

(2) GFCF by branch of ownership

S = SEC 1 Z = ZCN2 A = AMP1

*Statistical office estimate.

ANNEX IV - PROBLEMS OF CALCULATION

A. COMPENSATIONS

1. Irrespective of whether the VAT own resources base is calculated by method A or method B, the diversity of the VAT systems in the Member States means that corrections - mostly known as "compensations" - have to be made in order to take into account particular national features and to arrive at the situation that would have existed if the Sixth Directive had been fully applied in a uniform manner in all the Member States.

Most of the corrections are the same for both methods, although under method B they may be made either "to receipts" - i.e. before application of the weighted average rate - or "to the base" - i.e. afterwards. Article 8 of Regulation No 2892/77 as amended makes explicit provision for correction of receipts in only two cases, although it is often more convenient to correct receipts than the intermediate base. At all events, what is essential with method B is that receipts and the weighted average rate should be homogeneous, in other words should relate to precisely the same final purchases.

2. To give some idea of the scale of the compensations the table overleaf shows them in relation to either gross receipts revenue or the intermediate base. These data are taken from the 1983 VAT base statements, which were sent to the Commission by the end of June 1984, and do not, therefore, yet take account of the results of the controls provided for under Regulation No 2892/77.

3. There are no fundamental problems as regards the intermediate base obtained by centralizing returns and total receipts, which forms the starting point for calculating the definitive VAT own resources base. At the most there have been occasional difficulties due, for example, to prolonged strikes or computer failures, but these have always been resolved rapidly.

4. Under method A three types of correction have been necessary in order to take account of certain transactions giving rise to refunds, estimated assessments and the imprecision of some returns. All these corrections are calculated on the basis of administrative data, plus other statistics from various sources where necessary.

5. In Ireland the returns have to be adjusted first to take account of purchases by diplomatic personnel, fishing equipment (exempt under Article 15(5) of the Sixth Directive) and purchases of goods by foreign enterprises (for which the right of refund exists under Article 17(3)(a) of the Sixth Directive) and of the Eighth Directive. These have to be excluded from the VAT base under Article 2(1) and 4(1) of Regulation No 2892/77 as amended.

RELATIVE IMPORTANCE OF CORRECTIONS

1983 VAT BASE

(situation at 30.6.1984)

(%)

	Belgium	Denmark	Germany	France	Italy	Luxembourg	Netherlands	United Kingdom	Ireland ⁽¹⁾
I.1 Total receipts	100	100	100	100	100	100	100	100	100
I.2 Fines	- 0,0	-	-	- 0,2	- 0,0	-	- 1,5	-	-
I.3 Collection costs	-	-	-	+ 0,0	+ 0,0	-	-	-	-
I.4 Small businesses	- 0,3	- 0,2	-	-	- 0,2	-	-	(3)	-
I.5a Other corrections (+)	-	+ 0,7	+ 2,7	+ 0,1	+ 0,4	-	-	+ 6,6	+25,3
I.5b Other corrections (-)	- 2,0	- 2,0	-	-11,1	- 0,0	-	-	- 0,1	- 1,5
I.6 Graduated relief	-	-	+ 0,1	+ 0,2	-	+ 0,0	+ 0,3	-	-
I.7 Flat-rate farmers	-	-	- 0,2	- 0,4	+ 1,9	-	-	-	+13,7
Total corrections	- 2,3	- 1,5	+ 2,6	-11,4	+ 2,1	+ 0,0	- 1,3	+ 6,5	+37,5
III. Intermediate base	100	100	100	100	100	100	100	100	100
IV.1 Small businesses	-	-	-	-	- 1,1	-	+ 0,3	+ 0,0	+ 0,3
IV.2a Annex E	- 0,2	- 0,5	- 0,4	- 0,0	- 0,6	-	-	- 0,2	-
IV.2b Annex F	+ 1,2	+ 1,5	+ 1,5	+ 0,5	+ 1,2	+45,2	+ 1,5	+ 0,1	+ 0,9
IV.2c Annex G	-	-	-	-	-	-	-	-	-
IV.3a1 Motor vehicles	(2)	- 0,2	-	- 1,1	- 0,0	-	-	- 0,7	- 0,8
IV.3a2 Petroleum products	(2)	- 0,3	-	- 3,6	-	-	-	-	- 1,3
IV.3b Art. 17(7) Dir. 77/388	-	-	-	-	- 3,2	-	-	-	-
Total compensations	+ 1,0	+ 0,6	+ 1,1	- 4,2	- 3,8	+45,2	+ 1,7	- 0,8	- 1,0

(1) In 1983, Ireland was the only country using the returns method. The figures thus relate not to total receipts, but to the intermediate taxable base.

(2) Corrections made to receipts.

(3) Corrections made to the base.

6. The second correction is more significant in terms of amounts involved. Under Article 4(3) of Regulation No 2892/77 the taxable base represented by estimated assessments forms part of the VAT own resources base for Member States applying method A. This type of correction has been discussed on many occasions both between the Commission and the Member States and by the ACOR and the original wording had to be modified in 1983 to clarify the concept of estimated assessment, in particular so as to indicate that it applied not only where taxable persons had failed to make any returns, but also where additional assessments were made by the tax authorities. The calculation of the correction also had to be rectified on several occasions owing to the conceptual difficulties (taking into account systematic increases) and practical problems (processing for which national administrative systems were not geared) which it posed.

7. The Commission also had to authorize the Member States concerned - under Article 5(3)(b) of Regulation No 2892/77 as amended - to apply a correcting factor to the data on zero-rated transactions obtained from returns. This proved necessary because those concerned were not filling in their returns with sufficient care since, for them, no direct financial consequences were involved.

8. Under method B a number of items which do not, strictly speaking, constitute VAT proceeds must first be deducted from total receipts. These are items such as fines, interest on late payments and collection costs where the latter are included in receipts. Belgium, France, Italy and the Netherlands have to make corrections in respect of fines, while France and Italy also do so in respect of collection costs.

9. The other corrections apply equally to both methods. These are intended to take account of:

- special geographic and administrative conditions and the reduction of certain VAT rates;
- flat-rate scheme for farmers;
- special schemes for small firms;
- the options available under Annexes E and F of the Sixth Directive;
- the tax arrangements for motor vehicles and petroleum products.

10. The figure for total receipts has first to be corrected into more or into less to take account of various specific national features. For example :

- receipts in certain territories not covered by the Sixth Directive (Monaco, the Isle of Man, for example) ;
- reductions of VAT rate applicable to purchases from taxable persons in Berlin, the special rates for purchases and sales in the GDR, special reductions for certain transactions in Corsica ;
- refunds to do-it-yourself housebuilders, to the BBC and ITN, to the Northern Ireland authorities and to local authorities in the United Kingdom.

11. The corrections applied in respect of special schemes for small firms in fact cover several possibilities. In the first place, under Article 8(1) of Regulation No 2892/77 as amended, Member States applying a scheme of graduated tax relief for small firms in accordance with Article 24(2) of the Sixth Directive must add to total receipts the amount which would have been collected but for the scheme.

Four Member States (Germany, France, Luxembourg and the Netherlands) operate schemes of this kind and apply Article 8(1). Only Luxembourg and the Netherlands are able to indicate the exact amount of tax relief granted; the other countries obtain their figures by extrapolation from previous data or by sample surveys.

12. However, the main correction that has to be carried out is where Article 2(3) of Regulation No 2892/77 as amended is applied. This stipulates that transactions by taxable persons whose annual turnover does not exceed 10 000 ECU need not be taken into account for the purpose of determining VAT own resources. A Member State may, therefore, request negative compensation to take account of tax on turnovers below 10 000 ECU where the ceiling for exemption from VAT is less than that figure, while conversely it must make positive compensation where the ceiling is higher than 10 000 ECU.

13. Two of the Member States which could have claimed negative compensation, because their national ceilings are less than 10 000 ECU, have waived the right to do so (Ireland and Luxembourg). Germany, France and the Netherlands all apply graduated VAT relief schemes and have added the total amount of the tax reduction, making no distinction between small firms with a turnover of less than 10 000 ECU and those with a higher turnover.

This type of compensation is calculated by Belgium (which corrects its receipts), Denmark, Italy (which corrects its receipts in respect of small firms covered by the special flat-rate scheme existing until en 1982 and its intermediate tax base in respect of small firms subject to the normal arrangements) and the United Kingdom.

Ireland, the Netherlands and the United Kingdom make a positive compensation to take account of taxable transactions by businesses with a turnover of more than 10 000 ECU which are exempt. The calculation of this compensation still raises, however, specific problems.

14. To calculate these compensations information is needed on the value added by such firms and on how their sales are broken down between taxable persons and final consumers. This has posed numerous problems, most of which, however, have been solved. Generally speaking, no direct calculation can be made with the data available, and estimates have to be made on the basis of sample surveys or data for earlier years.

15. Under the optional flat-rate scheme, farmers are not allowed to deduct the VAT paid on their inputs nor to charge VAT on their sales. They do, however, receive flat-rate compensation, either from customers who are liable to tax or direct from the state, to offset the VAT charge on their inputs in part or in full. If the compensation is only partial, the Member State may (method B) deduct from receipts the full amount of tax not recouped (Article 8(2) of Regulation No 2892/77 as amended). Under method A the value added of flat-rate farmers must be added to the base obtained from the returns (Article 5(3)).

16. Four Member States made corrections of this kind in 1983 : Germany, France, Ireland and Italy. However, the calculation raises numerous problems. On one hand, the agricultural accounts for the year in question are not available. On the other hand, implementation of the Sixth Directive is sometimes incorrect and the very concept of the amount not recouped as well as over recouped are not sufficiently defined.

For these reasons the Council had hoped, when it adopted Regulation No 3652/83 amending Regulation No 2892/77, that the Commission would propose an amendment to the paragraph in question. However, the Commission had decided to initiate the Article 169 procedure against Italy because of its failure to apply the rules in force, and therefore considered it untimely to make any such proposals while the procedure was still under way.

17. As regards the compensations in respect of the options offered under Annex E (transactions which may continue to be taxed although they should be exempt) and Annex F (transactions which may continue to be exempted although they should be taxed) the principle applied is to seek to arrive at the situation which would exist if the Sixth Directive was applied in full. In the case of Annex E, purchases corresponding to supplies to taxable persons have to be added and the value added corresponding to sales to final consumers has to be deducted; in the case of Annex F, the value added corresponding to sales to final consumers has to be added and purchases corresponding to supplies to taxable persons deducted. This means that data must be available on purchases and on the breakdown of sales between intermediate and final consumers.

In practice the data used for this calculation are extremely varied, ranging from figures taken direct from the national accounts to statistics produced by trade associations and ad hoc surveys. In short, each compensation has to be calculated using a specific methodology and the calculations, which involve a considerable amount of work, have been the subject of numerous discussions during control visits. The number of problems currently still unresolved is very limited.

18. Compensations also have to be calculated for restrictions on the right to deduct in respect of motor vehicles and petroleum products, which are authorized - again for a transitional period which has not yet ended - under the second subparagraph of Article 17(6) and Article 17(7) of the Sixth Directive, since Article 9(4) of regulation No 2892/77 as amended stipulates that the own resources base should be calculated as if the exercise of the right to deduct had not been restricted.

The calculation must cover only purchases of petroleum products and motor vehicles used for business purposes. The portion accounted for by private use therefore has to be excluded; this is something which has also posed a large number of problems and the Commission initiated the Article 169 infringement procedure against the United Kingdom in 1984.

Five Member States calculate a compensation in respect of restrictions on the right to deduct for motor vehicles (Belgium - which makes the correction to its receipts - Denmark, Ireland, France, Italy and the United Kingdom). The same Member States, except for the United Kingdom, also calculate a compensation for restrictions on the right to deduct in respect of petroleum products.

These calculations are based either on input-output tables (France) or on data calculated by the national statistical offices from sales figures for vehicles and petroleum products and from tax statistics.

B. WEIGHTED AVERAGE RATE

19. The calculation of the weighted average rate is the most important aspect of the revenue method (method B), both as regards the methodology used and in terms of the volume of work involved. Consequently the statements of the VAT own resources base presented by the Member States pursuant to Article 10 of Regulation No 2892/77 as amended and the control reports prepared by the Commission and each of the Member States look into this matter in considerable detail. The ACOR has also frequently discussed various aspects of the calculation.

20. It is therefore almost impossible to summarize in only a few pages the various stages involved in practice and the problems that have been encountered since 1979. The following discussion will therefore be limited to a number of points relating to two particularly important aspects: the sources used and the way in which the final consumption of households is treated.

Regulation No 2892/77 as amended states that the source used in the first instance must be the national accounts prepared in accordance with the European System of Integrated Economic Accounts (ESA) and then internal national accounts and lastly any other appropriate source.

Belgium, Italy and Luxembourg use the ESA national accounts to calculate the weighted average rate; in Germany, France, the Netherlands and the United Kingdom the internal national accounts are the main source used. In the case of France, however, these coincide very nearly with the ESA presentation.

21. Since the national accounts are not designed for the purposes of fiscal analysis, other sources have to be used in all these cases to determine the breakdown of transactions by VAT rate where the finest breakdown in the national accounts still includes transactions taxed at different rates. In France and Italy the situation in this respect is rather special.

France uses a system known as the "modèle TVA" ("VAT model"), predating Regulation No 2892/77, under which a link is established between receipts and the national accounts. Italy, on the other hand, makes much greater use than other Member States of sources other than the national accounts and, in particular, of statistics based on the VAT returns of taxable persons and the findings of household spending surveys. However, all the Member States find themselves obliged to use some additional sources.

22. The breakdown of household consumption by rates has been chosen as an example because in all the Member States expenditure on household consumption constitutes by far the most important element of the taxable base, in other words of the weightings which determine the weighted average rate. It is also a category of expenditure on which the national accounts contain relatively detailed information; the table "Final consumption of households on the economic territory" (P3B) under the ESA provides a breakdown by some 40 items. However, in some cases these items have to be broken down using other sources, notably statistics based on VAT returns (Germany, France and Italy) and household expenditure surveys (Belgium and Italy).

Although the use of these statistics provides an objective basis for a breakdown by rate is not in general called into question, it does present certain difficulties because of the need to compare like with like. For example, when certain business classifications drawn from tax statistics are used for the breakdown, there is a danger that they may not allow a breakdown of all the transactions included under the item in the national accounts owing to the wide range of firms which sell certain products. Similarly it is hardly satisfactory that an item in the national accounts should be broken down by rate on the basis of a sales volume that is very much lower or higher than the item itself. In order that the same transactions may be deemed to have been covered the figures must be of much the same order of magnitude.

The same problems of correspondence between different classifications arise where household expenditure surveys are used as an additional source of information.

Information is sometimes provided by trade associations (France).

In other cases the breakdown may be on the basis of reasonable approximations or it may be traditional. This applies to the United Kingdom, for example, where an effort has been made every year to reconcile VAT receipts with the national accounts - even before VAT own resources began to be calculated - although the exercise is less developed than in France. The traditional percentages are obtained from the statistics on the receipts from the turnover tax which existed in the United Kingdom before the introduction of VAT. In some cases these breakdowns are completely arbitrary. As they are of only minor significance, they do not appreciably affect the weighted average rate, but they are discussed during control visits and sometimes negotiations may take place where percentage breakdowns have been made with no factual basis whatever.

23. In Belgium the breakdown of consumer expenditure by rate is based on the ESA table of the consumption of households on the economic territory. The additional source used for the breakdown of certain items is the household budget survey dating from 1978-79, which - although somewhat dated now - is accepted in the absence of any suitable alternative.

The difficulties inherent in applying the results of the household budget survey are illustrated by the breakdown of the sub item covering articles for personal care (which includes things such as toothpaste, hair lotion, and deodorants but not the associated appliances such as razors, toothbrushes and combs).

Originally the breakdown was based on the survey headings covering "toothpaste, shaving cream and perfume", leaving out of account the items "other personal items for men" and "other personal items for women and children". When this error, only minor in itself, was corrected, it was found that the first decimal place of the weighted average rate was affected.

24. In Germany the breakdown of private consumption between the two rates is relatively simple. However, the method is slightly different from that used in the other countries in that exempt expenditure and expenditure at the lower rate are deducted from the total figure for private consumption, the remainder being total expenditure at the standard rate. This approach is obviously correct in principle, but it has made control more difficult, since a breakdown by rate for each item of private consumption makes it easier to discover any anomalies. International air travel, for example, is included under the ESA in the consumption of households on the economic territory provided that the tickets are purchased in the country in question. Although technically speaking they are not exempt, they are considered such for the purposes of calculating VAT own resources. This was not done when the weighted average rate was first calculated in Germany and the officials carrying out the control would have discovered the error more easily if there had been a breakdown of the individual items of private consumption.

Cases of an arbitrary breakdown are rare: 50% of the turnover of taxis (drawn from tax statistics) and 30% of lawyers' services (until 1982) were deemed to fall within private consumption. In calculating the weighted average rate, consumption on the farm and direct sales by flat-rate farmers are weighted by means of the average rate applicable to inputs, expressed as a percentage of outputs.

25. In France, too, the breakdown of private consumption (as it appears in the Final Uses section of the input-output tables) does not pose any major problems. The Estimates and Forecasts department (Direction de la Prévision) makes a breakdown by rate of the 90 branches in the input-output tables prepared by INSEE, which do not include VAT. The model calculates the amounts of non-deductible VAT, which are then incorporated by INSEE in the published input-output tables, which include VAT (40 branches).

Fiscal analysis is simplified by the fact that only three rates exist; INSEE is also able to call on data concerning uses and resources in respect of 600 products, which are used for making further breakdowns. The fact that these data make no distinction between intermediate and final uses is not always

significant. In a breakdown between the upper and the intermediate rate it frequently turns out that goods taxed at the upper rate form part of private consumption by their very nature (e.g. breakdown of photographic equipment).

In exceptional cases use is made of statistics concerning VAT returns or statistics supplied by trade associations.

26. In Italy considerable use is made of the findings of the regular survey on household spending, which takes the place of ESA data for a part of private consumption. The six subitems of the ESA group "Furniture, furnishings, and household equipment and operation" are not included in the Italian calculation but are replaced by equivalent, though more detailed items from the household spending survey.

The same applies for a large part of the groups "Recreation, entertainment, education and cultural services" and "Miscellaneous goods and services". An example of the difficulties posed by the use of two different classifications is the major heading of the household spending survey which covers "Children's pocket money", to which no specific VAT rate can be assigned. It is therefore divided proportionally between the survey headings which replace the two ESA categories of private consumption referred to.

The complexity of the legislation requires a large number of additional breakdowns for which statistics based on VAT returns are used.

27. In the Netherlands the weighted average rate is calculated by the CBS on the basis of the data used for the detailed table of private consumption by purpose published in the national accounts (Nationale Rekeningen). Although there were some shortcomings at first owing to the lack of coordination between the CBS, whose knowledge of VAT legislation was inadequate, and the Ministry, these initial problems have been overcome.

From the control point of view the situation is less satisfactory, since the CBS refuses to provide anything other than qualitative information: officials carrying out controls have been given lists of the transactions taxed at the lower and the upper rates, but have received only little quantitative information concerning the calculations. This is because the CBS is required by law to make publicly known all information revealed to any person not employed by the CBS.

There are two small categories of transactions which are taxed but which are not included in the Netherlands private consumption statistics: gold transactions and transactions in antiques other than imports. These items are added separately to the calculation and are not based on CBS data.

28. In the United Kingdom the situation is more straightforward since there are only two VAT rates, including a zero rate used on a significant scale. Figures on consumer spending are available quarterly and are presented in greater detail than in the annual blue book. For example, all the items relating to food which are taxed at the standard rate rather than at the zero

rate can be found direct in the listings giving the quarterly data.

As noted earlier, traditional percentages are used in some cases; these are sometimes backed up by data from other sources. The breakdown between clothing for adults (85%) and clothing for children (15%) is supported by the findings of the household spending survey; the half-and-half breakdown between residential caravans and holiday caravans tallies by and large with the findings of a survey published in Business Monitor.

A special calculation is carried out for international rail travel: where the ticket is purchased abroad, the part of the journey travelled within the United Kingdom is added, since it is not included under the consumption of households on the economic territory. The same applies to certain premiums for housing maintenance. The net figures appear under consumer spending in the blue book, but the amount of the premiums is added for the purpose of calculating the weighted average rate.

PROPOSAL FOR A
COUNCIL REGULATION (ECSC, EEC, EURATOM) No

extending the term of validity of Regulation No 2892/77 implementing, in respect of own resources accruing from value added tax, the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources, as last amended by Council Regulation (EEC, Euratom, ECSC) No 3625/83 of 19 December 1983

EXPLANATORY MEMORANDUM

Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing, in respect of own resources accruing from value added tax, the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources was originally intended to apply for a transitional period of five years ending on 31 December 1982.

Because of delays in implementing the common system of value added tax, and hence VAT own resources, in December 1982 the Council adopted Regulation (EEC, Euratom, ECSC) No 3550/82 extending the transitional period to 31 December 1985; in December 1983 it then adopted Regulation No 3625/83, which made a number of amendments to Regulation No 2892/77 itself. One of these amendments was that the Commission should present a report on implementation of the amended Regulation by the end of 1984.

This report is included with the present proposal to extend the term of validity of the amended Regulation No 2892/77 and contains a detailed analysis of the current situation as regards implementation. The conclusions may be summed up as follows:

The Commission considers that it is still too early at this stage to propose a definitive method for establishing the VAT own resources base - for three main reasons:

- (i) The amended Regulation No 2892/77 will be applied for the first time to the calculation of the 1983 VAT base, for which the statements were sent to the Commission on 30 June 1984; the controls are still in progress in several Member States. The Commission therefore has only very limited experience of implementation of the new version of this Regulation.
- (ii) The regulations and other legal instruments governing the calculation of the VAT own resources base on which Regulation No 2892/77 is based are themselves being amended. This is the case with the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (Commission proposal for a new decision on the Community system of own resources sent on 21 July 1984), Regulation No 2891/77 implementing the Decision of 21 April 1970 (revision in progress on the basis of proposals presented by the Commission since July 1982), the Financial Regulation

applicable to the general budget of the Communities and the Sixth VAT Directive, on which harmonization work is continuing and has still to be completed. Furthermore, one Member State has still not started to pay VAT own resources and, from 1986, two new Member States should also start to participate in the Community own resources system.

- (iii) Eight Member States paying VAT own resources have now chosen to calculate the VAT base by the revenue method (method B); the method which the Commission and Parliament wished to have used - the returns method (method A) - is now only used by one of them. This state of affairs considerably changes the conditions in which the Commission is called upon to propose a definitive method for calculating the base.

The results of the first years' application of Regulation No 2892/77 show that, despite difficulties of implementation which should not be minimized but which for the most part have been solved, this Regulation has enabled the Community to receive the VAT own resources due to it. The current system can and must be perfected. However, in its current state, it achieves its objective of making possible the establishment of a harmonized base for the collection of VAT resources.

The Commission therefore proposes that the end of the transitional period now scheduled for 31 December 1985 should once again be deferred by three years.

Proposal for a Council Regulation (ECSC, EEC, Euratom) extending the term of validity of Regulation (EEC, Euratom, ECSC) No 2892/77 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

COM(85) 170 final

(Submitted by the Commission to the Council on 25 April 1985)

(85/C 125/10)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 209 thereof,

Having regard to the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources ⁽¹⁾, and in particular Article 6 (2) 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,

Whereas under Article 14 of Regulation (EEC, Euratom, ECSC) No 2892/77 ⁽²⁾, as last amended by Regulation (EEC, Euratom, ECSC) No 3625/83 ⁽³⁾, that Regulation shall apply from 1 January 1983 for a transitional period expiring on 31 December 1985;

Whereas Regulation No 3625/83 was first applied to the preparation of the statement indicating the total definitive amount of the VAT base for 1983; whereas under Article 10 (1) of Regulation No 2892/77, this statement was not sent by the Member States until 1 July 1984; that the experience of several financial years is necessary before a definitive uniform system can be produced for collecting own resources from value added tax;

Whereas the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment ⁽⁴⁾ — has still not been completely harmonized; whereas, in particular, Annexes E and F still remain;

Whereas, in order to continue collection of own resources and prepare the definitive system, this transitional period should be extended to 31 December 1988 and the provisions of Regulation (EEC, Euratom, ECSC) No 2892/77 should remain in force for the time being;

HAS ADOPTED THIS REGULATION:

Article 1

Article 14 of Regulation (EEC, Euratom, ECSC) No 2892/77 shall be amended as follows:

- (a) In the second subparagraph, '1985' shall be replaced by '1988';
- (b) In the third subparagraph, '1984' shall be replaced by '1987';
- (c) In the fourth paragraph, '1985' shall be replaced by '1988'.

Article 2

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

It shall apply from 1 January 1986.

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

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 19.

⁽²⁾ OJ No L 336, 27. 12. 1977, p. 8.

⁽³⁾ OJ No 360, 23. 12. 1983, p. 1.

⁽⁴⁾ OJ No L 145, 13. 6. 1977, p. 1.

