

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(83) 254 final

Brussels, 10 May 1983

Amendment to the proposal for a
COUNCIL REGULATION (ECSC, EEC, Euratom)
amending Regulation (EEC, Euratom, ECSC) No 2891/77 implementing the
Decision of 21 April 1970 on the replacement of financial
contributions from Member States by the
Communities' own resources

(submitted to the Council by the Commission pursuant to the
second paragraph of Article 149 of the EEC Treaty and the
second paragraph of Article 119 of the EURATOM Treaty)

COM(83) 254 final

EXPLANATORY MEMORANDUM

On 23 July 1982 the Commission sent to the Council a report on the implementation of 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 and proposed amendments to that regulation¹.

The Council consulted Parliament and the Court of Auditors on the proposed amendments. The Court of Auditors adopted its opinion on 16 November² and Parliament adopted its opinion on 17 December³.

In the light of Parliament's opinion, the Commission is making the following amendments to its original proposal:

1. Parliament supports the Commission's proposals that the amounts entered in the Community's accounts should bear interest but considers that the accounts should be held and the interest credited by a financial institution rather than the national treasury. The institutions concerned would be appointed in agreement with the relevant Member State and the interest rates would be negotiated between the Commission and the institution. In the Commission's view, the institution appointed would normally be the central bank of the Member State. The Commission therefore proposes that the text of the third subparagraph of Article 9(1) be amended in accordance with Parliament's recommendation. This also necessitates a technical amendment to the fifth recital.

¹ OJ C 231, 4.9.1982.

² OJ

³ OJ C 13, 17.1.1983.

2. Parliament proposes that in the event of a budget not being adopted before the beginning of the financial year, the monthly twelfths of VAT own resources and financial contributions should be calculated on the basis of the last budget finally adopted. The appropriate adjustments would be made on the first due date following adoption of the budget.

There are good practical reasons for accepting this proposal, since the Commission recognizes that it is simpler than its original proposal and that it would not pose any cash-flow problems. It would point out, however, that the consistency between the provisions governing revenue and those governing expenditure in the proposed amendments to the Financial Regulation¹ would be lost. The provisions governing expenditure are that the appropriations entered in the budget for the previous financial year constitute a ceiling provided they do not exceed those in the draft budget (or preliminary draft budget as appropriate), while on the revenue side the figures in the last budget, both for estimated bases and the VAT rate, would apply without restriction. This would mean in particular that VAT payments would be based on the estimates for the previous year and not on the estimated base for the current year.

The Commission has reworded the text without changing the substance of Parliament's proposal.

3. The Commission is proposing a technical amendment to Article 10(6) in line with an amendment to the proposal for a regulation amending and 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 resources².

¹OJ C 119, 21.5.1981.

²COM(83)101.

4. The Commission can accept Parliament's amendment to Article 11 designed to calculate interest on late payments by reference to the rate applied for short-term public financing operations rather than the discount rate. In order to make quite clear which rates are to be used, the Commission is proposing a technical change to the amendment and the entry of a statement in the Council minutes recording the adoption of amendments to Regulation 2891/77 to the effect that, as regards the application of Article 11, "the interest rate applicable on the Member State's money market for short-term public financing operations" will be taken to mean the following:

Belgium	}	yield at issue of "Fonds des Rentes" certificates
Luxembourg		
Denmark		yield of short-term treasury bonds on the secondary market
Germany		3-months inter-bank deposit rate
Greece		3-months inter-bank deposit rate
France		3-months treasury bills, yield at tender
Ireland		Exchequer bills, yield at tender
Italy		3-months treasury bills, yield at tender
Netherlands		3-months inter-bank deposit rate
United Kingdom		Treasury bills, yield at tender.

On the first working day of each month, each Member State will inform the Commission of the last rate applied during the previous month and this rate, to two decimal places, will be applied to the current month.

This procedure would enable the Commission to make rapid adjustments if market conditions required and the fixing of a rate each month would remove the problem of day-to-day variations in interest rates.

5. The Commission can accept the principle of Parliament's amendment requiring the Commission to report on the implementation of this regulation and, where appropriate, to propose amendments to it. Nevertheless, it must point out that a report and proposals for amendments presented on 31 December 1984 could only cover the

consequences of the amendments to the proposal for a Regulation amending and extending the term of validity of Regulation (EEC, Euratom, ECSC) No 2892/77¹, which also provides for the Commission to present proposals for amendment by 31 December 1984. A full report will not be possible because the amended Regulation No 2891/77 will have been in force for only a few months. The Commission is therefore proposing that a full report and any proposals for amendments should be presented at the end of the third year following the entry into force of the amended regulation. In this way, the Commission's conclusions will be based on the application of the regulation for two complete years, the minimum required for it to be able to draw worthwhile conclusions.

6. The Commission also proposes the correction of two references to other articles in Article 18(2)(b) and Article 21(a).

¹COM(83)101.

Amendment to the proposal for a Council Regulation (ECSC, EEC, Euratom) amending Regulation (EEC, Euratom, ECSC) No 2891/77 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

1. The fifth recital is amended as follows:

Whereas, in view of the Community nature of own resources, the Community's financial autonomy should be enhanced by a provision that the balances in the Community's accounts to which the Member States credit own resources should bear interest; whereas own resources should therefore be credited to accounts with financial institutions, and no longer to the Treasuries of the Member States."

2. Article 9(1) is amended as follows:

- (a) the first subparagraph is replaced by the following:

"the amount of own resources established shall be credited by each Member State to the account opened in the name of the Commission with a financial institution appointed for this purpose by agreement between the Commission and the Member State concerned."

- (b) The third subparagraph is replaced by the following:

"This account shall bear interest."

3. Article 10(3) is amended as follows:

- (a) The fourth subparagraph is replaced by the following:

"Calculation of the twelfth for the month of January of each financial year shall be based on the amounts provided for in the draft budget referred to in Article 78(3) of the ECSC Treaty, Article 203(3) of the EEC Treaty and Article 177(3) of the Euratom Treaty; the adjustment shall be made together with the entry for the following month."

(b) The following fifth subparagraph is added:

"If the budget has not been finally adopted before the beginning of the financial year, the Member States shall enter on the first working day of each month, including January, one twelfth of the amount of VAT own resources or, if appropriate, of the GNP-based financial contributions entered in the last budget finally adopted; the adjustment shall be made on the first due date following final adoption of the budget if it is adopted before the 16th of the month. Otherwise, the adjustment shall be made on the second due date following final adoption of the budget."

4. Article 10(6) is amended as follows:

The text:

"Any corrections to the VAT resources basis under Article 10b(1) of Regulation (EEC, Euratom, ECSC) No 2892/77 shall give rise for each Member State concerned to the following adjustments to the balance referred to in paragraph 4 of this Article:

- the corrections under the first subparagraph of Article 10b(1) shall give rise to a general adjustment to be entered in the account referred to in Article 9(1) of this Regulation on the first working day of August of the same year;
- the corrections under the second subparagraph of Article 10b(1) shall give rise to an adjustment to be entered in the account referred to in Article 9(1) of this Regulation one month after the expiry of the period allowed by the Commission in its reasoned decision for making the correction."

is replaced by:

Any corrections to the VAT resources basis under Article 10b(1) of Regulation (EEC, Euratom, ECSC) No 2892/77 shall give rise for each Member State concerned to the following adjustments to the balance referred to in paragraph 4 of this Article:

- corrections under the first subparagraph of Article 10b(1) made up to 30 June shall give rise to a general adjustment to be entered in the account referred to in Article 9(1) of this Regulation on the first working day of August of the same year. However, if a Member State or the Commission so requests, a special adjustment may be made before that date.

 - corrections under the second subparagraph of Article 10b(1) shall give rise to an adjustment to be entered in the account referred to in Article 9(1) of this Regulation on the first working day of the month following the expiry of the period allowed by the Commission in its measures for the correction of the basis.
5. Article 11 is replaced by the following:
- "Any delay in making the entry in the account referred to in Article 9(1) shall give rise to the payment of interest by the Member State concerned at the interest rate applicable on the Member State's money market on the due date for short-term public financing operations, increased by 5 points. This rate shall be increased by 0.25 of a percentage point for each month of delay. The increased rate shall be applied to the entire period of delay."
6. In Article 18(2)(b), "in Article 7(3)" is replaced by "in Article 6(3)".
7. In Article 21(a), "in Article 5" is replaced by "in Article 8".
8. Article 22 is replaced by the following:
- "The Commission shall, by the end of the third year of application of this Regulation, present a report together with any proposals for amendments thereto."

