

# European Communities

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EUROPEAN PARLIAMENT

## Working Documents

1973-1974

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DOCUMENT 175/73

### Report

drawn up on behalf of the Committee on Budgets

on the Communication from the Commission of the European Communities to the Council (doc. 124/73) on the strengthening of the budgetary powers of the European Parliament

Rapporteur : Mr G. SPÉNALE  
Chairman of the Committee

PE 33.890/fin.



On 8 June 1973 the Commission submitted to the Council its proposals on the strengthening of the budgetary powers of the European Parliament.

The Council consulted Parliament on these proposals on 27 June 1973.

The Committee on Budgets appointed Mr Spénale rapporteur on 21 June 1973. It submitted its first interim report to the Parliament (Doc. 131/73) at the part-session of July 1973.

By its resolution on Mr Spénale's interim report in July Parliament set up a working party which met on 30/31 July and 19 September 1973.

The Committee on Budgets continued discussing these proposals at its meetings of 17 July, 13 and 27 September 1973. At this last meeting it unanimously adopted the motion for a resolution submitted by the rapporteur, Mr Spénale.

The following were present: Mr Aigner, deputy chairman and acting chairman; Mr Rossi, deputy chairman; Mr Spénale, rapporteur; Mr Artzinger, Mr Durand, Mr Kollwelter, Mr Nolan, Mr Notenboom, Mr Pêtre, Mr Pounder.

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The Committee on Budgets hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the communication from the Commission of the European Communities to the Council on the strengthening of the budgetary powers of the European Parliament

The European Parliament,

- having regard to Declaration No.4 of the Council annexed to the Treaty of 22 April 1970;
- having regard to the ratification of that Treaty by the Parliaments of the Member States and to the debates which took place in connection therewith;
- having regard to the proposals from the Commission to the Council (COM (73)1000),
- having regard to its resolution of 5 July 1973,<sup>1</sup>
- having been consulted by the Council on 27 June 1973 (Doc. 124/73)
- having regard to the report of the Committee on Budgets and to the opinion of the Political Affairs Committee (Doc. 175/73);

I. UNDERTAKINGS

1. Points out

- that the budgetary powers which will be conferred upon it from 1 January 1975, the date from which 'the budget of the Communities shall ..... be financed entirely from the Communities' own resources', are insufficient;
- that in April 1970 the Commission undertook to submit new proposals for an increase in these budgetary powers, and the Council agreed to consider them 'pursuant to the procedure of Article 236 of the Treaty';
- that in its resolution of 13 May 1970<sup>2</sup> Parliament noted these undertakings, on the sole basis of which it recommended that the national parliaments should ratify the Treaty of 22 April 1970;
- that the debates in these Parliaments revealed an almost unanimous determination to see the powers of the European Parliament strengthened, particularly in the budgetary field, and that this determination should be taken into account;

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<sup>1</sup> OJ No. C 62, 31 July 1973, p. 29

<sup>2</sup> OJ No. C 65, 5 June 1970, p. 32

- that the new Member States of the Community were aware of Declaration No. 4 of the Council aiming to increase budgetary powers 'according to the procedure provided in Article 236', and did not contest it ;
2. Maintains that the budgetary powers which must be conferred upon the Parliament under the own resources system as from the 1975 budget cannot be fully effective until legislative powers have also been granted ;
  3. Reminds the Commission that it has undertaken to submit proposals on this matter in September 1974 ;

## II. PROPOSALS ON BUDGETARY POWERS

4. Affirms that budgetary power comprises essentially the right to:
    - create revenue ;
    - approve expenditure ;
    - discuss and adopt the budget ;
    - supervise its implementation ;
- A. CREATION OF REVENUE
5. Recalls that Article 4 of the Decision of 21 April 1970 ratified by the Member States endorsed the principle of financial autonomy : 'from 1 January 1975, the budget of the Communities shall....be financed entirely from the Communities' own resources' ;
  6. Reaffirms that financial autonomy cannot be guaranteed in the future, unless the common resources can be adapted to the needs of common policies by common procedures ;
  7. States that these procedures must be such as to allow the governments of Member States to refer the matter to their national parliaments as and when required to do so by their constitutions ;
  8. Proposes, therefore, that decisions should not be adopted by Parliament on a proposal from the Commission without the prior unanimous consent of the Council;
  9. Suggests that, as the cost of Community policies has to in any case be met in the medium term, from 1 January 1975 the annual percentage of VAT assigned to the Community could, if necessary, be fixed by Parliament at between 1 and 2%, on a proposal from the Commission and with the unanimous agreement of the Council;

## B APPROVAL OF EXPENDITURE

10. Recalls that, in all parliamentary democracies, Parliament alone can approve new expenditure, even when the constitution restricts the right to propose such expenditure to the Executive ;
11. Considers therefore that the Commission's proposals on this matter, stipulating only a second reading for any decision of principle with major financial implications extending over several years are :
  - restrictive in scope ;
  - not sufficiently effective.
12. Notes, however, that the agreement of Parliament and the Council is highly desirable in this case, and should be sought wherever possible ;
13. Proposes therefore that a coordination council should be set up, consisting of members of Parliament, the Council and Commission, to seek an acceptable solution in the event of failure to reach an agreement ;
14. Requests that, if agreement still cannot be reached, the decision should rest with Parliament :
  - (a) acting by a majority of half its members plus one, unless the Council acts by a qualified majority ;
  - (b) if the Commission agrees with its opinion or if it acts by a majority of half its members plus one and two thirds of the votes cast, unless the Council acts unanimously ;
  - (c) definitively, if it acts by a majority of half its members plus one and three quarters of the votes cast ;

## C DISCUSSION AND ADOPTION OF BUDGET

15. Maintains that the present distinction between other expenditure and expenditure arising from the Treaties or from acts adopted in pursuance thereof is artificial and should be abolished ;
16. Endorses, in the meantime, the Commission's proposal that the category of expenditure on which Parliament has the final decision, pursuant to Article 203, should be progressively extended to all expenditure not arising automatically from previous decisions with long-term implications.
17. Asserts that the distinction between the two types of expenditure should be drawn in agreement with Parliament ;

18. Insists on formal acknowledgement of the fact that Parliament's right to adopt the budget includes the right to refuse to adopt it and to reject the draft budget in whole or in part ;
19. Requests, furthermore, that Articles 203, 204, 206, 209 of the EEC Treaty and the corresponding articles in the ECSC and EAEC Treaties should be amended in accordance with the principles of this resolution ;

D SUPERVISION OF IMPLEMENTATION

20. Points out that it has frequently deplored the inadequate auditing methods in the Communities and called for the establishment of an effective and independent external auditing body in the form of a European Court of Auditors ;
21. Welcomes the Commission's proposals to this effect ;
22. Asserts, however,
  - (a) that the members of the Court of Auditors, who must be completely independent, must be appointed in agreement with Parliament.
  - (b) that the Court must report to Parliament and be ready at all times to assist and advise it in the exercise of its auditing rights ;
23. Welcomes the proposal to the effect that Parliament alone, on a recommendation of the Council, should in future give a discharge in respect of the budget ;

CONCLUSION

24. Reaffirms that it cannot, under the own resources system, endorse any proposal which does not confer real budgetary power on the representatives of the people of the Member States of the Community ;
25. Requests therefore :
  - (a) that the Commission should review its proposals in the light of this resolution ;
  - (b) that the Council should not take any decisions without first consulting Parliament ;
26. Instructs its President to forward this resolution and the report of its committee to the Council and Commission of the European Communities.



## B. EXPLANATORY STATEMENT

### Introduction

A) On 12 June 1973 the Commission submitted its proposals for the 'strengthening of the budgetary powers of the Parliament' (Doc. COM(73) 1000 of 6 June 1973). In the preamble it stated:

'In 1970 the Commission undertook to submit proposals to strengthen the budgetary powers of Parliament, and the Council has undertaken to examine them. The corresponding two texts are concerned explicitly with the procedure for revision of the Treaty. The time is particularly well-chosen, for 1975 will be the year of the first real budget of the Communities and the Commission's proposals would have to apply from 1975'. (Doc. 1000 (73) COM).

B) On 5 July 1973 Parliament discussed these proposals and adopted a resolution (OJ No. C 62, 31 July 1973, pp. 29 and 30).

C) This resolution was the culmination of a general policy debate; the Commission's proposals were considered satisfactory in many respects but definitely unsatisfactory on certain points.

D) Satisfactory proposals:

1. Financial independence of the Communities:

'(paragraph 5) (Parliament) welcomes the fact that the Commission has proposed, in conformity with the Opinion of Parliament, that additional own resources may be introduced by Community procedures requiring unanimity in the Council and a decision of Parliament taken by an absolute majority of its Members and three-fifths of the votes cast;'

2. Powers and means of Control:

'(paragraph 13) welcomes the Proposal to the effect that Parliament, acting on a recommendation of the Council, will in future give a sole discharge in respect of the budget;'

'(paragraph 14) welcomes, subject to certain provisions of detail, the principle of the establishment of a Court of Auditors for the European Communities .....'

E) The main point which was unsatisfactory was the question of the procedure for deciding on new expenditure.

Parliament stated that:

'(paragraph 10) where major rule-making decisions with significant budgetary implications are concerned, the second reading procedure proposed by the Commission is inadequate;'

and that:

'(paragraph 11) the European Parliament should have the final say as regards the financial implications of any new measures';

and concluded that:

'(paragraph 15) it cannot endorse any proposal which, all in all, does not give real budgetary power to the representatives of the peoples of the Community;'

F) With regard to the implementation of these conclusions Parliament proposed:

'(paragraph 12) the establishment of a joint working party of its Political Affairs and Budget Committees to examine in detail, together with the Commission, the latter's proposals .....;'

This working party was set up with Mr GIRAUDO, chairman of the Political Affairs Committee, as chairman.

The other members were: Members of the bureaux of the Political Affairs Committee and the Committee on Budgets (Lord GLADWYN, Mr RADOUX; Mr AIGNER, Mr ROSSI); the rapporteurs of these two committees (Mr KIRK, draftsman for an opinion; Mr SPÉNALE, rapporteur); a member of the Group of European Progressive Democrats chosen from the Political Affairs Committee (Mr de la MELÈNE); a non-attached member chosen from the Committee on Budgets (Mr FABBRINI); Mr SCHUIJT, chairman of the study group on structural problems of the European Parliament.

G) In spite of the difficulties of working during the holiday period, your rapporteur is of the opinion that the group had worked very efficiently in instigating the exchange of ideas and drawing together a number of points of view which had initially been fairly divergent.

Your rapporteur feels justified in saying that the group made a great effort of imagination, realism and common determination to arrive at practical solutions. Mr KIRK's contribution was particularly useful.

The rapporteur has tried to bear in mind the points contained in the resolution of 5 July 1973 which were clearly of binding force for both the working party and the committees concerned. He has therefore attempted to propose solutions, not only from personal conviction but also in deference to Parliament's unchanging position (repeated once again in the policy resolution of 5 July 1973), in order that Parliament may have the final say on the financial implications of any new measures.

H) Some may find these proposals too limited, and your rapporteur has to admit that he was hoping for more extensive reforms. Others may consider that the proposals go too far; this is perhaps because they are basically

an attempt at a compromise.

I) We were, in any case, walking a tightrope; some of our colleagues thought that the budgetary powers we were claiming were too wide, in that they deprive national parliaments of the power to take decisions which, by their very nature, should be taken by those parliaments. Others thought - at least at the beginning - that budgetary power is insignificant in itself, and that our proposals should extend to a claim for legislative power.

J) We had to prove to the first group that in the system that has been operating since the Treaty of Rome, Community institutions already have - without any legal or other limitations - the power to take decisions on expenditure and consequently on Community revenue. This revenue is made up of financial contributions from Member States, and national parliaments may not refuse them.

The right to take these decisions could not be conferred upon national parliaments without jeopardizing common policies in the event of disagreement between them, and therefore endangering the existence of the Community or what goes under that name. The strong democratic convictions of our colleagues should certainly lead them to agree with us that the European Parliament, as the only representative of the peoples of the Community at this level, must at this stage be endowed with the normal powers of an elected parliament in a modern democracy.

The only question which remains is, therefore, on what institutional rules these Community decisions - hitherto the exclusive responsibility of the Council - should be based.

K) The second group were reminded that we must comply with the deadline of 1 January 1975 in respect of the budgetary powers, and that all the Community institutions gave an undertaking to this effect in April 1970 which was noted by the national parliaments of the original six Member States and has therefore acquired an additional binding force.

The three new Member States were also aware of this undertaking and its implications when they signed the Treaties of Accession, and they had no reservations about it. If its effects are to be implemented in time (in other words before the 1975 budget is drawn up) the decisions to be submitted to the national parliaments must be taken immediately. As for the legislative powers, the Commission has undertaken to submit proposals on this matter in September 1974, which will be too late for the budgetary powers.

It could be added that, if Parliament is given real powers in respect of the financial implications of legislative acts, a system of co-decision

between the Council and the Parliament will result as long as the Council retains its legislative power, since budgetary resources cannot be allocated without the consent of Parliament. This should encourage cooperation and compromise between the two institutions, which is what the majority of members of our Parliament hope for.

L) The first fundamental change since the Treaty of Rome will take place on 1 January 1975. As the President of the Council, Mr HARMEL said, when the own resources system is established the Communities will have attained their political majority.

In any parliamentary or modern democracy 'political majority' presupposes a balance between the institutions, in which the Parliament has real powers. This is therefore one of the most important of the current debates.

The proposals drawn up as a result of the discussions of the working party and the Committee on Budgets are based on the premise that budgetary power comprises the right to:

- create revenue
- approve expenditure
- discuss and adopt the budget
- supervise its implementation

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I. FINANCIAL AUTONOMY AND THE CREATION OF NEW RESOURCES FOR THE COMMUNITIES

1. Article 4 of the Council Decision of 21 April (ratified by the Parliaments of the Member States and agreed to by the acceding countries) sets forth the principle of financial autonomy, which presupposes the possibility of adapting resources to the known and accepted needs of the Communities.

Moreover, although Article 50 (2) of the ECSC Treaty makes it possible for the European Coal and Steel Community to grant itself the resources necessary to meet its needs, Article 201 of the EEC Treaty, which at all events is out-dated and should therefore be rewritten, does not allow the European Economic Community to confer upon itself, on the sole authority of its own Institutions, any additional resources, even when purely mechanical effects of common policies already initiated seem likely to show that these resources are inadequate.

A) THE SITUATION BEFORE THE TREATY OF 22.4.1970 AND SINCE THE SIGNATURE OF THIS TREATY

Before 1970

2. The Communities already had one independent source of revenue: the ECSC levy. Other revenue had been decided upon by the Community Institutions but was collected by the States for their own benefit: agricultural levies, duties in the common external tariff.
3. The final implementation of the Common Customs Tariff, which abolished all customs duties at internal frontiers, gave full effect to the Customs Union but, at the same time, caused certain revenue distortions between the Member States, notably to the benefit of the Netherlands, thanks to its major ports on the Rhine, and to the detriment of the Federal Republic of Germany, this situation has given rise to vigorous complaints.
4. The imposition of agricultural levies for the benefit of importing States also had the effect of reducing Community preference.
5. Thus, there were serious disadvantages in collecting, for the benefit of Member States, resources decided upon by the Communities without linking such action to the determination of the scales of national contributions to the Community budget. A revision of the Treaties was called for, converting this revenue, which came from common policies and was decided upon by the Community Institutions, into own resources for the Communities.

6. In its principles, the 1970 reform was designed to achieve financial autonomy for the Communities. Article 4(1) of the Council Decision of 21 April 1970 states that 'from 1 January 1975 the budget of the Communities shall, irrespective of other revenue<sup>1</sup>, be financed entirely from the Communities' own resources'.

7. Hence, the 1970 reform consisted in:

- a) converting revenue decided upon by the Community Institutions as a result of common policies into own resources for the Communities, i.e. agricultural levies, tax on sugar and, gradually, duties in the common external tariff,
- b) creating a new source of own revenue in the form of VAT, fixed each year within the framework of the budgetary procedure at a rate not exceeding 1%, in order to ensure the adequacy of Community revenue and hence the financial autonomy of the Communities.

8. It should be noted that there is an analogy between this VAT levy, which is fixed annually at a rate not exceeding 1%, and the ECSC levy, collected each year, with the same maximum limit of 1%, on coal and steel activities for actions appropriate to the ECSC.

9. The ECSC levy is specifically earmarked, but it also differs from the VAT levy in another important aspect. Under Article 50 (2) of the ECSC Treaty, the rate of the ECSC levy may not exceed 1% 'unless previously authorized by the Council, acting by a two-thirds majority'.

No such provision is made for VAT.

As a result the ECSC may, if the need arises, increase its own resources by pure Community procedures in order to meet the needs of the policies pursued by European Coal and Steel Community, whereas the EEC cannot since Article 201 lays down that provisions for the modification of own resources shall be recommended 'to the Member States for adoption in accordance with their respective constitutional requirements'.

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<sup>1</sup>This mainly involves financial contributions from Member States for supplementary Euratom programmes (Art. 4, (6), para. 1).

10. Thus, if financial autonomy is defined as the ability to meet the needs of common policies with the aid of common revenue decided upon by common procedures, then the ECSC enjoys such autonomy while the EEC does not, even if existing own resources are sufficient in 1975 to cover the needs of the Community budget.

Regrettable though the principles may be, the facts of the situation give even more cause for concern since there is a danger that the development of common policies which seem essential and which would be generally desirable may become impossible.

11. Indeed, certain own resources tend not to grow at the same rate as the needs of the common policies, which for the most part are still in an embryonic stage and will require considerable funds if they are to be effectively implemented at Community level.

It seems likely that agricultural levies may even decrease as the self-sufficiency resulting from Community preference tends to improve.

Similarly, the duties in the common external tariff also show a tendency to decrease as a result of the growing liberalization of trade, international negotiations in GATT, trade agreements, and the implementation of 'generalized preferences', etc.

In the same way, the enlargement of the Communities will result in the imposition of charges on the three new Member States proportional to the economic strength of these countries, but the revenue will be less than proportional since the Community will not receive the duties accruing under the Common Customs Tariff on all the trading activities of the three new countries (these duties would be proportional to their economy).

- it will gain the duties corresponding to their trade with third countries, which is considerably less, and
- lose the duties which were collected under the CCT on trade between the six founder members and the three acceding countries.

12. Conversely, the needs of the common policies are bound to increase if the Community is to become something more than a mere customs union built around the common agricultural policy.

If Europe is to achieve a worthy image it will have to adopt an attentive and positive approach to

- workers, through a true social policy,
- geographical handicaps, through a true regional policy,

- the Third World, through a generous policy of development aid.

All this, without taking into account the problems of economic and monetary union, research and energy, suggests that a considerable increase will be needed in the financial resources of the Communities.



B. THE COMMISSION'S NEW PROPOSALS OF 12 JUNE 1973

13. In its proposals of 12 June 1973, the Commission therefore restated, with a few variations, the proposals it had already made in 1969.

Article 201 would be replaced by the following provisions:

'The Commission shall examine in what manner the Community's own resources could be raised either from the fiscal revenue of the Member States, particularly revenue accruing from harmonized taxes, or from direct or indirect taxes introduced for the benefit of the Community.

In every fifth year the Council, after receiving a report from the Commission and consulting the Assembly, shall examine whether and in what manner new resources should be introduced for the Community.

The Council, acting on a proposal from the Commission and by agreement with the Assembly, may make provision for new resources for the Community or amend the assessment basis for the Community's existing resources. The Council shall act unanimously and the Assembly by a majority of its members and of three-fifths of the votes cast.'

14. These proposals have given rise to several observations:

a) The idea of periodically and systematically reviewing the introduction of new resources for the Community (para 2) should be made more flexible in order to avoid the necessity to wait for the end of a five year period in cases of urgent and indisputable need and, conversely, to avoid the temptation of granting, after such a period, more funds than are absolutely necessary with a view to counteracting the above danger.

It is therefore suggested that the expression 'every five years' should be replaced by 'at least every five years'.

b) Two main objections have been raised in connection with the third paragraph.

The first concerns the idea of amending 'the assessment basis for the Community's existing resources' in order to procure new budgetary funds.

The Community's own resources have until now related either to international trade (levies and customs duties) or to economic and consumer activities (value added tax).

Your rapporteur at first thought that it would be difficult to modify the assessment basis in such areas without affecting trade relations within the Community or the economic networks of the Member States.

It therefore seemed preferable to introduce ways of modifying 'the level' of resources for the Communities.

However, more careful consideration of the situation showed that the fixing of the level of resources for the Community was already regulated in various ways which, in many cases, did not lie within the power of the Community authorities.

The rate of customs duties is fixed by general negotiations on international trade. Levies are a function of both domestic prices and world prices. The annual rate of VAT is 'fixed within the framework of the budgetary procedure' (Council Decision of 21 April 1970, Article 4, paragraph 1, sub-paragraph 2). To a certain extent, the same is true of the ECSC levy.

The final conclusion was that the best factor on which to act in order to increase the financial resources of the Community as and when the need arose, was the 'maximum level' of own resources that may be raised from previously harmonized fiscal systems.

(c) The other objection related to the Institution which will be ultimately responsible for decisions on new resources for the Communities.

The Commission proposed that this should be the Council.

Your rapporteur believes that it should be the Assembly.

Since the majorities required would remain the same (unanimity in the Council, one half plus one of the members of Parliament and three-fifths of the votes cast), the difference here had no bearing on the problem of institutional balance, which remains unchanged.

The idea that the Assembly should have the last word has both a symbolic and a practical value.

Symbolically, it is preferable that here, as in all parliamentary democracies, elected representatives should decide on taxes.

At the practical level, it is preferable for the Assembly to deliver its opinion only after the Council has acted unanimously.

This gives the national Governments represented in the Council the time to seek from their national institutions the advice and constitutional safeguards they may need before taking a decision.

In this way there is no danger that a vote requiring a very difficult special majority in Parliament could again be called into question by the Council, whose members above all need political safeguards from their national institutions.

Finally, as far as the Parliaments of the Member States are concerned it is easier and more satisfying to accept that new Community taxes have been imposed by the common Parliamentary institution (where they are represented).

(d) In view of the above remarks, the proposed wording for paragraph 3 is as follows:

'The Assembly, on a proposal from the Commission and in agreement with the Council acting unanimously, may, acting by a majority of its members and of three-fifths of the votes cast, modify the existing maximum level of own resources or establish new resources.'

#### C. REMARKS ON THE 1973 PROPOSALS

15. These proposals have aroused some misgivings in the working group and the appropriate committees.

The most important of these concerns the fact that the national Parliaments would be excluded from the procedure for establishing new own resources.

This is an important point.

The reply must be given in the light of current procedures. Inasmuch as the Communities' resources are made up, even at supplementary level, of financial contributions from the Member States, it is the Council which, in deciding the expenditure, also decides the revenue, i.e. the contribution of each State on the basis of the scales of contribution applicable to the category of expenditure concerned.

We do not know of any Government in any Member State that has taken the precaution of consulting its national Parliament in advance in order to find out whether it consented to the financial contribution, which is presented as a European decision and as something which must be paid by virtue of the Treaty of Rome.

Admittedly, when the national Parliament votes on, or to be more exact 'ratifies' these financial contributions, it may open a debate, criticize its government - to the extent to which it knows its true position - or even pass a motion of censure.

In fact, very few debates of this kind have ever taken place and, in any case, the national Parliament cannot refuse to 'ratify' the national contribution, which is entirely comparable to a debt resulting from an international agreement. Hence, the proposed procedure cannot, as far as the determination of Community revenue is concerned, deprive the national Parliaments of a power they have never had since national financial contributions were introduced.

On the other hand, by giving the European Parliament a power of co-decision in the determination of the Communities' own resources, a power which it could obviously never lay claim to where national contributions are concerned, we should be taking a step in the direction of a better democratic balance in the Communities.

It should be added that the system proposed by your rapporteur, in which the Council, acting unanimously, would have to deliver its opinion first, makes it much more likely that the Governments would be encouraged, before adopting a position in the Council, to consult their parliaments and thus to explain to them in advance common policies which they intend to pursue and the funds which they intend to allocate to them (cf. above 13 d).

16. (a) One final objection was made to the above arguments. One member of the Committee on Budgets put forward the view that although the national Parliaments could not evade the obligation to supply financial contributions, which constitute an item of national expenditure, at least in this system they retained their power over fiscal revenue raised in their own countries.

This point is also valid and an explanation is called for.

(b) The existing resources of the Communities were fixed without the participation of the national parliaments. The agricultural levies and the duties in the common external tariff are decided upon without the consultation of any parliament. The maximum rate of the ECSC levy can be modified in agreement with the Council acting by two-thirds majority. It is only the maximum rate of Community VAT that cannot exceed one percent without the approval of the national authorities.

(c) On the other hand, the Decision of 21 April 1970 lays down the following as own resources:

- levies, premiums, additional or compensatory amounts, additional amounts or factors and other duties established or to be established by the institutions of the Communities in respect of trade with non-member countries within the framework of the common agricultural policy, and also contributions and other duties provided for within the framework of the organization of the markets in sugar;
- common customs tariff duties and other duties established or to be established by the institutions of the Communities in respect of trade with non-member countries.

(d) Moreover, the heaviest taxes in the economy - VAT, taxes on energy, transport, revenue from transferable securities, and the main excise duties have to be harmonized in order to abolish refunds and levies within the Community and to arrive at Economic and Monetary Union, which has to be achieved in seven years time.

(e) These observations show that although power over fiscal revenue on the national territory remains a valid notion, it is no longer absolute and, in the medium term, will become even less so.

Nevertheless, in your rapporteur's opinion, this point deserves consideration and could justify the formulation of a second working assumption concerning the establishment of new resources for the Communities.

17. The second proposed solution is to amend Article 4 (1) of the Council decision of 21 April 1970 'on the replacement of financial contributions from Member States by the Communities' own resources'.

It would be sufficient to add, after sub-paragraph 2, which states that the annual rate of VAT accruing to the Communities and 'fixed within the framework of the budgetary procedure' may not exceed one per cent, a further sub-paragraph worded as follows:

'However, on a proposal from the Commission, and in agreement with the Council acting unanimously, the Assembly may, acting by a majority of its members, adopt a rate higher than one percent but not exceeding two percent.'

18. This would give a three-fold system:

- up to a VAT rate of one percent, the decision would be taken within the normal framework of the budgetary procedure (unchanged),
- above 1% but below 2%, the decision would require unanimity in the Council and a majority of one half plus one of the members of the Assembly,

- above 2% the procedure laid down in article 201 would remain the same 'after consulting the Assembly the Council may, acting unanimously, lay down the appropriate provisions, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements'.

19. It should be noted that Article 201 will in any case have to be modified:

- subparagraph 1 is now outdated inasmuch as it treats a measure which has already been formally achieved as a future possibility:

'which the financial contributions of Member States provided for in Article 200 could be replaced by the Communities own resources, in particular by revenue accruing from the common customs tariff when it has finally been introduced.'

- sub-paragraph 3 should also be modified, the formula 'after receiving the assent of the Assembly' replacing the expression 'after consulting the Assembly'.

While it was sufficient merely to obtain the opinion of the Assembly before the system of own resources was introduced, the creation of new common resources within this system, requires the agreement of the Assembly.

In the second assumption, therefore, Article 201 should be worded as follows:

'The Commission shall examine the conditions under which new own resources may be allocated to the Communities and to this end shall submit proposals to the Council and Assembly.

The Council shall examine, at least every five years, whether and in what manner the Communities' own resources should be increased.

The Council, acting unanimously and after receiving the assent of the Assembly, may lay down the provisions which it shall recommend to the Member States for adoption'.

20. Admittedly, this second solution does not go as far as the first and is intellectually less satisfying in as far as it does not settle the principles of the problem of financial autonomy' as we have defined it (cf. 9 above). However, it may be more realistic at the present stage of European construction, and it does make it possible to maintain in a flexible and pragmatic manner, the de-facto financial autonomy of the Communities in the short and medium-term, and, probably, until 1980, i.e. until the achievement of Economic and Monetary Union, which will necessitate much further revision.

Conclusion  
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21. Intellectually and politically, the first solution must be given our preference and we must continue to bear it in mind.

However, since at present this solution seems premature, bearing in mind the state of Parliamentary opinion in certain Member States, the second formula should be adopted and would constitute an appreciable step forward.

In the light of the Commission's proposals concerning the principle of five-yearly revision, this formula would, as a result of the 1970 decisions, lead to a first adjustment in 1975, which would probably remain valid until 1980.

## II. CREATION OF NEW EXPENDITURE

### A - Preliminary remarks

22. In the first place it should be noted that hitherto the Council has decided on the Community's expenditure, without paying too much attention to revenue consisting of the financial contributions which Member States had to pay under the Treaty of Rome. This is undoubtedly the reason why sometimes in the past decisions affecting expenditure were taken in a cavalier fashion, forecasts were inaccurate management haphazard, supervision inadequate, and fraud only too frequent.

It is not difficult to find the culprits - we must all share the responsibility:

- the Council, for its frequent abuse of its absolute and monarchic power;
- the Commission, for its frequent mistakes, submissiveness and slackness;
- Parliament, for its acceptance of defeat, whilst going through the motions of protest.

23. A change in method is necessary owing to the introduction of the Community's own resources, because from 1975 onwards the acceptable level of expenditure should be governed by the estimates of revenue.

It is quite true that borrowing can provide supplementary resources as the occasion demands; however, such resources should only be used for equipment and, possibly, research expenditure. Moreover, it is necessary to make sure that the medium-term financial prospects are such as to provide reasonable cover for the interest on borrowing without the need to create new own resources, at any rate until the Communities acquire the legal authority to increase their own resources.

24. These inevitable - and probably salutary - constraints will force the Communities in the future, as they did the individual Member States in the past, to take greater care in drawing up budgetary estimates, implementing common policies and, above all, creating new expenditure.



B - The concept of new expenditure

25. The concept of 'new expenditure' merits explanation.

It would appear that new expenditure is not created where existing regulations adopted in the normal course of events necessarily entail recourse to new appropriations. This applies, for example, to the export refunds provided for under the common agricultural policy, which may be affected by domestic price fixing and fluctuations in world market quotations. In such instances the Community has no option but to accept the budgetary consequences of the regulations it adopts, so that the budgetary entries must be regarded as estimates rather than as binding figures.

The same is true of the effects of currency fluctuations on the amounts of compensatory payments.

Another illustration is provided by the effects of salary and wage increases tied to rises in the cost of living and to career structures.

All cases of the abovementioned type involve automatic increases in existing expenditure rather than the creation of new expenditure.

26. Conversely, new expenditure is obviously created when it is decided to pursue a new common policy, resulting in charges upon the Communities.

This is again the case when a decision is taken to recruit additional staff.

New expenditure is also incurred in the case of actions subject to appropriation ceilings where it is decided to raise the ceiling (e.g. in connection with the Social Fund or food aid).

27. It is more difficult to classify cases where expenditure is caused by derogations from common policy rules.

Even where such measures are desirable from the standpoint of sound financial management, it would be unjustifiable to represent them as the unavoidable consequence of Community rules, since they in fact constitute a case of non-application of these rules.

It appears, therefore, that such expenditure should be considered as new when it exceeds the level of normal management needs, at any rate when it entails a supplementary budget (e.g. sale of butter to the USSR), since such situations involve specific decisions, responsibility for which ought to be shared between the institutions.

C - Constitutional practice in relation to new expenditure

28. In most Member States the recurring effects of existing regulations are not regarded as new expenditure and do not, as a rule, give rise to lengthy debate, except where the regulations themselves are considered to require amendment.

On the other hand, new expenditure is always scrutinized with great care, indeed with distrust.

In some countries, for example France, only the government may propose new expenditure. Elsewhere parliaments may take the initiative, but even in Germany the government may reject such measures, referring them back to the Assembly for a second reading (Art. 113 of the Basic Law).

This is a well established and frequently encountered principle in parliamentary democracy.

Broadly speaking, constitutions tend to stipulate agreement between parliament and the executive in the matter of expenditure.

However, to the best of our knowledge parliament always has the last word on this subject, even where, as in France, the power of initiative is vested exclusively in the government.

29. One cannot therefore be convinced, in the future era of financing from the Communities' own resources, by attempts to justify the continued omnipotence of the Council on the grounds of the special character of Community institutional law, since these powers could be justified solely and exceptionally by the system of national financial contributions.

If we were to accept such a justification, the parliamentary oases of our Member States would stand in sharp contrast to the parliamentary vacuum at Community level.

Such acceptance would, moreover, imply the application of an institutional principle totally opposed to that adopted by all the Member States, and hence unjustifiable.

30. We ought, therefore, to admit the principle that the European Parliament, representing the people of the Community, should from 1 January 1975 have the last word on the creation of new expenditure, subject of course to conditions and procedures defined with due regard for the specific structures of the Community.

## D - Solutions proposed

31. The Commission's proposals in this respect are inadequate, since they provide no assurance that, even under certain difficult conditions, Parliament will have the final say on new expenditure.

On the one hand the Commission suggests a second-reading procedure to be applied 'in the case of all decisions of principle having considerable financial effects over a period covered by several budgets', and concludes that 'without any modification of the general pattern of European construction, Parliament would thus be sure of being associated with the preparation of decisions determining the major annual budget items, and, above all, those reflecting Community policies. Parliament will thus be sure of being in a position to express its opinion publicly on all those policies'.

Unfortunately, it must be pointed out that:

- (1) these proposals do not change the purely consultative nature of parliament's powers in this field;
- (2) parliament's existing consultative powers already allow it to express its opinion publicly on Community policy;
- (3) these proposals constitute scarcely any advance on those contained in various exchanges of correspondence dated 11 November 1969, 20 March 1970, 22 July 1970 and 31 October 1972 on collaboration between Parliament and the Council on 'acts having financial implications';
- (4) the proposals in fact appreciably restrict the scope covered by this correspondence, for 'acts having financial implications' consist not only of multi-year decisions, but also of temporary and ad hoc measures.

32. It is true that on page 5, paragraph (c), referring to the budgetary procedure and in particular to Article 203, the Commission, expressing its satisfaction at the fact that Parliament has the last word with regard to the approval of certain expenditure, 'recommends that this category of expenditure should gradually be extended to include all expenditure which does not result automatically from previous long term decisions'. We shall consider these constructive and dynamic proposals in that part of the report which deals with budgetary procedure.

33. The proposals concerning the creation of new procedures are set out in the working document annexed to this report.

According to these proposals, the financial element of acts having budgetary implications would be decided by the Assembly and the Council, and the procedure could consist of three stages:

(a) In the first stage, the Commission forwards its proposals, together with a financial statement, to Parliament and the Council. Parliament expresses its opinion and forwards its resolution to the Council and the Commission. If the Council makes no modifications, the procedure is completed.

In the event of disagreement, the second and third stages become obligatory.

(b) The second stage consists of a conciliation procedure. The Council, Parliament, and the Commission as political institutions concerned with the preparation of the budget, appoint a number of persons to a Conciliation Committee which is convened within two weeks and must try to reach a solution by conciliation.

(c) If the conciliation procedure is unsuccessful, either because the Conciliation Committee does not reach agreement or because the Assembly or the Council do not accept the Conciliation Committee's proposals, the Assembly and the Council have 30 days in which to define their final positions.

The final word rests with:

- the Assembly acting by a majority of one-half plus one of its members, unless the Council acts by a qualified majority;
- the Assembly, unless the Council acts unanimously, if the Commission and the Assembly are in agreement or if the Assembly acts by a majority of one-half plus one of its members and of two-thirds of the votes cast;
- ultimately, the Assembly, if it acts by a majority of one-half plus one of its members and of three-quarters of the votes cast.

34. The importance of the provisions adopted for the creation of new expenditure is clear from the following: depending on the extent of the real power granted to Parliament, in one form or another, in connection with the creation of new expenditure, Parliament's powers will have to be greater or smaller and involve a varying degree of compulsion in the budgetary procedure.

It is reasonable to consider budgetary power as a whole and as a single entity.

If Parliament is given satisfactory power in the formation of Community decisions producing recurrent expenditure, there will be no need for it to be able to call these decisions into question again through the budgetary procedure; if, on the other hand, it is not given real power in the formation of these decisions - on the pretext, for example, that they are essentially of a legislative nature - it will be normal for it to be able to contest them in budgetary debates, provided that the rights already acquired by third parties and the rules precluding retrospective effect are respected.

Faced with this choice, real power at the moment of decision taking is definitely preferable to stronger powers within the budgetary procedure.

35. If the Council and Parliament are to take joint decisions in this matter from 1975, it will be preferable for such decisions to be reached at the earliest possible stage in the procedure.

Until legislative powers are granted to the Assembly, this would avoid alternating and conflicting stages in which the final say would first rest with the Council - in establishing the basic regulations - and then with the Parliament in the budgetary debates.

This would also prevent the budgetary debates becoming an opportunity for periodically calling into question the common policies through the annual vote of the corresponding expenditure.

The balance between the institutions would become clearer and the common policies would gain in stability as a result.

### III. DISCUSSION AND ADOPTION OF THE BUDGET

#### A. CATEGORIES OF EXPENDITURE

##### (a) Preliminary note

36. As indicated in paragraphs 13 and 14, the following proposals concerning the budgetary procedure are bound up with those governing the creation of new expenditure.

The proposals in this section are therefore to be considered together with those in the previous section (not, of course, in detail but in regard to the basic principle which consists in granting the European Parliament real power over new expenditure, as is normal in any parliamentary democracy).

37. The provisions set out in paragraphs 39, 40 and 41 below could not apply if Parliament had no real power in the legislative stage where the basic decisions determining the bulk of the Community budget are taken.

38. In this case, Parliament would have to demand the abolition of the arbitrary distinction between expenditure necessarily resulting from the treaties and from acts adopted in accordance therewith and other expenditure, since all the expenditure of the Communities results from the treaties or acts adopted in accordance therewith, including the administrative expenditure which is just as essential as the other, and request a power of amendment over all expenditure, as defined in the new EEC Article 203 and in the corresponding articles of the ECSC and EAEC treaties.

In any event, this distinction must be removed at the latest when Parliament is given legislative power.

(b) Proposals

39. Subject to the above remarks, the budgetary procedure must not provide a pretext for calling into question every year the operational policies which require stability and which can only be annulled or modified by following the same procedures by which they were established.

Community regulations also produce subjective rights for the benefit of legal or natural persons and the Communities cannot escape the budgetary consequences of these as long as their question regulations have not been properly amended.

40. Annual appropriations resulting from the automatic and recurrent effects of established regulations must therefore be considered as obligatory and any reduction can only be symbolic and indicative.

Otherwise, there would have to be a modification to the established regulation for the coming year; the effect of this would be compulsory in the legislative field. At the present stage, only an indicative reduction suggesting this modification without imposing it seems to be acceptable.

41. For the future, and to the extent that its powers develop, the European Parliament must treat as established regulations all those properly adopted at the time, even if they might require more democratic procedures later.

42. Entries of supplementary expenditure (from one financial year to another) are of a different nature when they are not the automatic result of established regulations, but reflect a deliberate wish to extend the common policies in question by raising the annual ceiling of the corresponding appropriations.

Here the executive retains the right to make a limited choice, on the basis of certain criteria, and within the set ceiling, of the operations or projects which are to benefit from the appropriations entered.

The annual adjustment of these appropriations does not involve a modification of the current regulations, and therefore has no legislative implications.

Nor do the regulations concerned automatically produce subjective rights for third parties; such rights arise solely from the decision to apply the regulations for the benefit of one project or another.

There is accordingly no problem here of the amount of the appropriations (i.e. a specifically budgetary problem): the corresponding expenditure cannot be considered as 'resulting necessarily from the treaties or from acts adopted in accordance therewith' and must therefore be subject to amendment by the Assembly.

43. This conclusion ties in with the Commission's proposal referred to above recommending that the category of expenditure over which Parliament has the final say within the budgetary procedure should be progressively extended to all expenditure which does not result automatically from earlier long-term decisions.

In this proposal the Commission adds that it will be guided by this principle in distinguishing between the two types of expenditure in submitting proposals and during budgetary debates.

44. While thanking the Commission for this proposal, it seems desirable to call for a more immediate and more definite attitude on the basis of the above considerations in regard to the concept of new expenditure.

The right of amendment is to be extended from 1 January 1975 to expenditure not automatically resulting from current regulations and the Council should be asked to approve this principle, since the fact that the Commission wishes to be guided by it in connection with proposals and budgetary debates does not provide any guarantee that it will in fact be followed.

It should be noted that the Commission's proposals - like those of Parliament - require a modification to Article 203(8) to limit its application to administrative expenditure or expenditure arising from the functioning of the institutions as opposed to operational expenditure.

45. In future, the Commission, Parliament and Council should also ensure that the system of appropriation ceilings is applied as far as possible to operational expenditure necessitated by the new policies.

46. The main argument in this respect is not the - temporary - fact that Parliament has a greater budgetary power over such expenditure, since it seems clear that Parliament will in the near future be given legislative power and the distinction between 'amendments' and 'proposed modifications' will in practice be abolished.

47. The main reason to be borne in mind is the need to avoid the establishment of 'automatic' systems which, once in operation, are not subject to the Commission's administrative responsibility and tend to proliferate by themselves, so that, whoever the budgetary authorities are, all that remains for them to do is to take note of the results.

The lack of any control over the budgetary development of an operational policy is always a serious shortcoming; above all it is incompatible with the system of own resources.

48. New expenditure requested during the budgetary procedure is subject to the amendment procedure, since it is not yet the result of 'the treaties or acts adopted in accordance therewith'.

49. This is normally the case for all expenditure arising from the functioning of the institutions.

For new expenditure relating to operational policies which, at the same time, falls within the sphere of applications of legislative power, the Commission and Council will therefore have a choice between the procedure proposed above for the legislative stage, and the amendment procedure which Parliament enjoys under Article 203 of the EEC Treaty.

50. It should be noted that in distinguishing between the two categories of expenditure - expenditure arising out of Parliament's right of amendment and expenditure in respect of which it only has the right to propose modifications - the criteria listed in the preceding paragraph must be taken into account and Parliament's agreement obtained.

#### B. REJECTION OF THE DRAFT BUDGET

51. Finally, the Parliament must reiterate its view and that of the Commission on the possibility of the Assembly rejecting the draft budget to elicit new proposals from the Council.

Discussion of this question in the working party and Committee on Budgets has revealed that it would be desirable for Parliament to be able to reject certain titles of the draft budget without rejecting the budget as a whole, so that it would not be necessary to employ a cumbersome procedure when its disagreement with the Council, although significant, ultimately refers only to certain titles in the draft budget.



52. As to the legal procedure for implementing this possibility, it is proposed in the working document annexed to this report that it should be embodied in additional sub-paragraph 7a to Article 203 of the EEC Treaty.

Clearly, however, Parliament would be satisfied if, without the Treaty being amended on this point, the Council, after discussing this matter, could reach an agreement with the two other institutions and endorse this by an exchange of letters or by any other appropriate procedure.

### C. BUDGETARY PROCEDURE

53. The proposals from the Commission of the Communities on budgetary procedure accord with Parliament's wishes.

54. This holds good e.g. for the provisions on the vote of appropriations in respect of proposals for modifications by the Assembly which do not increase the 'total expenditure' of an Institution: the Commission proposes that the provision applicable during the interim period should be maintained, namely that the Council must have a qualified majority to reject these proposals, while Article 203(5) of the Treaty provides that the Council must have a qualified majority to accept proposals for modifications. After all, Parliament's power in this area cannot be less after 1 January 1975 than it was before.

55. On the other hand, in sub-paragraph 2 of paragraph 5a, the Commission suggests that if a proposal for a modification increases the total expenditure of an Institution, the Council should act by a qualified majority to accept this proposal.

The ad hoc working party agreed with your rapporteur that :

(1) a minority of the Council could not at the same time block a simple majority of both the Council and the Assembly;

(2) the mere fact that a proposal was not accepted (possibly because it had not been considered) did not, in itself, constitute non-acceptance : a rejection must be the result of a decision, even a decision by the lowest possible majority.

It is therefore proposed that the Council should be able to reject these proposals for modifications entailing an increase in expenditure by a simple majority.

56. As to revenue, it is essential that each Institution which examines the preliminary draft or draft budget should achieve a balance between expenditure and revenue.

The percentage of revenue other than VAT cannot be changed in the course of the budgetary procedure for the reasons already explained above. The

balance of the budget must therefore be achieved by a specific proposal at each stage in the budgetary procedure in respect of the percentage proposed for the Community VAT levy below the maximum rate.

The working document therefore proposes amendments designed to impose this obligation on each Institution and at each stage of the procedure.

57. It will therefore be noted that Article 203(8) of the EEC Treaty concerning the replacement of financial contributions from the Member States by the Communities' own resources should be amended so that from 1 January 1975 new categories of operational expenditure will be subject to the Parliament's right of amendment.

In fact, this paragraph sets out a list of statistical coefficients designed to limit increases in 'Community expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith ....'. Clearly this definition was intended to limit administrative expenditure and, in more general terms, the expenditure arising from the functioning of the Community Institutions: it could not be applied as such to operational expenditure for which the maximum is fixed annually, such as food aid, the Social Fund etc.

The phrase:

'for all expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith, a maximum rate ....'

should therefore be replaced by:

'for all expenditure entailed by the functioning of the Community institutions, a maximum rate ....'.

#### IV. SUPERVISION OF IMPLEMENTATION

58. Budgetary power is basically a power of decision and Parliament cannot be confined to mere supervisory powers.

Without the power to say how appropriations are to be spent an institution would have much less interest in knowing how they are being spent.

59. The value of supervision is reduced if the institution which undertakes it has no real budgetary power, since the main purpose of supervision is not punitive but constructive : it must assist the budgetary authority - as well as the authority under supervision - to correct the errors which may sometimes arise from budgetary decisions.

60. One might also wonder what the use would be of an institution giving a discharge on a budget which basically reflects the decisions of other institutions; it is up to those who have made the decisions to say whether their instructions have been understood and acted upon, and their decisions correctly implemented.

The right of supervision is, logically speaking, only a derived right.

61. Thus the increase in the Parliament's supervisory powers and the evolution of measures to promote such powers do not really compensate the Parliament for the inadequacy of its rights in other respects.

62. On the contrary, if it is granted real powers of decision it must attach even more importance to its powers and means of supervision, since its budgetary powers themselves would be less effective, if its intentions could, with impunity, be ignored in the implementation of the budget.

63. With this in mind, Parliament has often called for means of supervision in the Communities to be strengthened, and the Committee on Budgets has had consultations with the Presidents of the Member States' audit offices; these have led to the formation of a joint working party to formulate ideas on a possible European Court of Auditors.

The Parliament therefore welcomes the Commission's proposals for the establishment of such an institution.

It seems, however, that certain improvements could be made, in particular:

- the members of the Court of Auditors should be completely independent and should be appointed in agreement with Parliament;

- the Court should report to Parliament and be available to assist and advise it in its supervisory duties.

64. Lastly, the Parliament welcomes the fact that the Commission concludes

its proposals on this matter by stating that Parliament alone, on a recommendation from the Council, should have the right to give a discharge on the budget.

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NOTES .....

65. A working document, annexed to this report, which was discussed but not voted on by the working party and the committees responsible, was drawn up at the responsibility of your rapporteur to set out clearly the main suggestions contained in this report.

Your rapporteur hopes that it will help to clarify a subject which is complex but has a vital bearing on the effective functioning of the Community institutions.

66. It should also be stressed that the various proposals contained in this report form a whole; it was, however, felt advisable for separate proposals to be made on the different chapters although they are all inter-related.

The connection between the creation of new expenditure and the rules of budgetary procedure should be particularly emphasized, as should the fact that the right of supervision is insignificant in itself, but assumes great importance as a complement to actual budgetary powers.

..... AND CONCLUSIONS

67. In asking the Commission to take full account of the resolution which is to be adopted and in urging the Council not to adopt its proposals without first consulting Parliament, Parliament must emphasize once again that it cannot endorse any proposal which, when the own resources system is introduced, fails to grant real budgetary power to the only institution which represents the peoples of the Community at this level.



WORKING DOCUMENT

drawn up by the rapporteur

on

- I - The establishment of new own resources for the Communities;
- II - The strengthening of the budgetary powers of the European Parliament;
- III - The setting-up of a Court of Auditors of the European Communities

I. - THE ESTABLISHMENT OF NEW OWN RESOURCES FOR THE COMMUNITIES

Sole Article

From 1 January 1974, the following provisions are substituted for Article 201 of the EEC Treaty:

'The Commission shall examine the conditions under which resources could be assigned to the Communities from the fiscal revenue of Member States, particularly revenue accruing from harmonized taxes, or be raised from direct or indirect taxes introduced for the benefit of the Community.

The Assembly, acting on a proposal from the Commission, and after receiving the assent of the Council acting unanimously, may make provision for new resources for the Community or amend the assessment basis for the Community's existing resources, acting by a majority of its members and of two-thirds of the votes cast'.

Article 201 of the Treaty<sup>1</sup>

The Commission shall examine the conditions under which the financial contributions of the Member States provided for in Article 200 could be replaced by the Community's own resources, in particular by revenue accruing from the Common Customs Tariff when it has finally been introduced.

To this end, the Commission shall submit proposals to the Council.

After consulting the Assembly on these proposals the Council may, acting unanimously, lay down the appropriate provisions, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

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<sup>1</sup> See also decision of 21 April 1970 establishing own resources for the Communities. This decision was ratified by Member States at the same time as the Treaty of 22 April 1970.



1973 Proposals from the Commission

Article 1

The following provisions are substituted for Article 201 of the Treaty establishing the European Economic Community:

The Commission shall examine in what manner the Community's own resources could be raised either from the fiscal revenue of the Member States, particularly revenue accruing from harmonized taxes, or from direct or indirect taxes introduced for the benefit of the Community.

In every fifth year the Council, after receiving a report from the Commission and consulting the Assembly, shall examine whether and in what manner new resources should be introduced for the Community.

The Council, acting on a proposal from the Commission and by agreement with the Assembly, may make provision for new resources for the Community or amend the assessment basis for the Community's existing resources. The Council shall act unanimously and the Assembly by a majority of its members and of three-fifths of the votes cast.

Working assumptions

Article 1

unchanged

The Commission shall examine the conditions under which new own resources may be assigned to the Communities, and to this end shall submit proposals to the Council and the Parliament.

In at least every fifth year the Council, after receiving a report from the Commission and consulting the Assembly, shall examine whether and in what manner new resources should be introduced for the Community.

From 1 January 1975, the cost of common policies will in any case have to be met for the medium term. If necessary, therefore, the annual percentage of VAT assigned to the Community must be fixed by the Parliament at between 1 and 2%, on a proposal from the Commission and with the unanimous agreement of the Council.

The Assembly, on a proposal from the Commission and in agreement with the Council acting unanimously, will be able, acting by a majority of its members and of three-fifths of the votes cast, to modify the existing level of own resources or establish new resources.

Decision of the Council of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources.

Article 4 (1), sub paras. 1, 2 and 3

1. From 1 January 1975 the budget of the Communities shall, irrespective of other revenue, be financed entirely from the Communities' own resources.

Such resources shall include those referred to in Article 2 and also those accruing from the value added tax and obtained by applying a rate not exceeding 1% to an assessment basis which is determined in a uniform manner for Member States according to Community Rules. The rate shall be fixed within the framework of the budgetary procedure. If at the beginning of a financial year the budget has not yet been adopted, the rate previously fixed shall remain applicable until the entry into force of a new rate.

However, during the period between 1 January 1975 and 31 December 1977 .....

Article 4 (1)

Paras. 1 and 2 unchanged

After para. 2, add a further para.  
worded as follows:

However, the Assembly may, acting on a proposal from the Commission and with the unanimous assent of the Council, and by a majority of its members<sup>1</sup> adopt a rate of between 1% and 2%.

During the period 1 January 1975 to 31 December 1977, the variation from year to year in the share of each Member State in relation to the preceding year may not, in any circumstances, exceed 2%. Should this percentage be exceeded, the necessary adjustment shall be made, within that variation limit, by financial compensation between the Member States concerned in proportion to the share borne by each of them in respect of the revenue accruing from value added tax or from the financial contribution referred to in paragraphs 2 and 3.

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<sup>1</sup> 'Majority of its members' shall be understood to denote duly appointed Members who have not tendered their resignation.

II. THE STRENGTHENING OF THE BUDGETARY POWERS OF THE EUROPEAN PARLIAMENT

Acts having financial implications

None

Resolution No. 2 annexed to the Treaty of 22 April 1970.

In order to provide the European Parliament with such information as will enable it to give its opinion on Community acts having financial implications, the Council shall invite the Commission to append to the proposals which it forwards to the European Parliament estimates of the financial implications of those acts.

This resolution was followed by implementing measures established by joint agreement between Parliament and the Council (15 November 1972).

This agreement provides for 3 stages:

- cooperation before the Assembly gives its opinion;
- cooperation after the Assembly has given its opinion and before the Council takes its decision;
- procedure to be followed after the Council has taken its decision, if it has departed from the opinion of the Assembly.

The Commission of the Communities makes no formal proposals but, in the introduction to its proposals on budgetary powers, it states:

(a) The major part of budgetary expenditure is incurred pursuant to decisions of principle and other multi-year commitments adopted by the Council. In accordance with the spirit of cooperation desired between the institutions it is essential that Parliament should be associated with the thinking and discussion leading up to the final adoption of such decisions and commitments by the Council.

Under the procedures laid down by the Treaties, the Parliament has to be consulted in a large number of cases. Furthermore the Commission has suggested a 'second reading' procedure for important rule-making decisions of general application. The latter procedure should therefore be applied in the case of all decisions of principle having considerable financial effects over a period covered by several budgets. If, for example, new, permanent machinery for financial intervention were to be set up tomorrow, a second reading would have to be arranged each time the Council wished to depart markedly from the opinion given by the Parliament upon the first reading. Naturally the Commission undertakes to re-examine its own position each time the second reading procedure is applied.

Without modification of the general pattern of European construction, Parliament would thus be sure of being associated with the preparation of decisions determining the major annual budget items and, above all, those reflecting Community policies. Parliament will thus be sure of being in a position to express its opinion publicly on all those policies.

The financial element of acts having budgetary implications shall be decided by the Assembly and the Council. Depending on the case, the procedure shall consist of one, two or three stages:

- one stage if there is agreement between the institutions;
- two stages if there is disagreement and this disagreement can be settled by the coordination procedure;
- three stages if coordination fails.

First stage (agreement between the institutions)

- (a) The Commission shall forward its proposals, together with a financial statement, to Parliament and the Council.
- (b) Parliament shall express its opinion and forward its resolution to the Council and the Commission.
- (c) If Parliament has made any modifications to the initial proposal, the Commission must inform Parliament and the Council whether it will modify its proposals or not.
- (d) The Council shall deliberate and, if it makes no modifications to the text approved by Parliament, the procedure is completed.
- (e) If the Council modifies the text approved by Parliament, the Commission must say, at the Council sitting, whether these modifications are of a substantial nature.

If they are not, the text may be promulgated immediately and the Commission shall inform Parliament.

If the reverse is the case, the coordination stage comes into operation.

1969 Proposals from the Commission

Texts in force

Second stage (coordination procedure)

After fixing the date in agreement with the President of the Council and the President of the Parliament the Commission shall within two weeks convene the Coordination Council.

This Council shall consist of the Presidents of the Parliament, the Council, the Commission and the Court of Justice, who may be accompanied or represented by members of their respective institutions.

The conclusions of the Council shall immediately be submitted to the Parliament and the Council (and the Commission), who may approve them within 15 days.

If the Council reaches a unanimous agreement, the Parliament may accept its conclusions by a majority of its members and the Council by a qualified majority.

Third stage

If the Council does not reach a unanimous agreement or if its unanimous conclusions are not accepted by the Parliament, the Council (and the Commission), the Parliament and the Council have 30 days in which to define their final positions. Three possibilities then arise:

- in the end the final word will rest with the Parliament if it acts by a majority of one half plus one of its members, unless the Council acts by a qualified majority.
- the final word will also rest with the Parliament if the Commission and the Parliament are in agreement of it the Parliament acts by a majority of one half plus one of its members and of two-thirds of the votes cast, unless the Council acts unanimously.
- the final decision will be vested in the Parliament if it acts by a majority of one half plus one of its members and of three-quarters of the votes cast.

1969 Proposals from the Commission

Text in force

Budgetary procedure

Article 203

1. The financial year shall run from 1 January to 31 December.
2. Each institution of the Community shall draw up estimates of its expenditure. On the basis of these estimates the Commission shall draw up the draft budget after consulting the other institutions or organs concerned whenever it intends to depart from their estimates. The draft budget shall be accompanied by an explanatory memorandum.
3. The Assembly, acting by a majority of its members, shall have the right to modify the draft budget, subject to the proviso that the total amount of expenditure may be increased only with the Commission's agreement.

The draft budget shall be placed before the Assembly and the Council not later than 31 August of the year preceding that in which the budget is to be implemented.

Article 203

1. The financial year shall run from 1 January to 31 December.
2. Each institution of the Community shall, before 1 July, draw up estimates of its expenditure. The Commission shall consolidate these estimates in a preliminary draft budget. It shall attach thereto an opinion which may contain different estimates.

The preliminary draft budget shall contain an estimate of revenue and an estimate of expenditure.

3. The Commission shall place the preliminary draft budget before the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

The Council shall consult the Commission, and, where appropriate, the other institutions concerned whenever it intends to depart from the preliminary draft budget.

The Council shall, acting by a qualified majority, establish the draft budget and forward it to the Assembly.

4. The draft budget shall be placed before the Assembly not later than 5 October of the year preceding that in which the budget is to be implemented.

The Assembly shall have the right to amend the draft budget, acting by a majority of its members, and to propose to the Council, acting by an absolute majority of the votes cast, modifications to the draft budget relating to expenditure necessarily resulting from this Treaty or from acts adopted in accordance therewith.



1973 Proposals from the Commission

Article 203

1. Unchanged.
2. Unchanged.

3. Unchanged.

4. Unchanged.

Unchanged.

Working assumption

Article 203

1. Unchanged.
2. Each of the institutions shall, before 1 July, draw up estimates of its expenditure. The Commission shall consolidate these estimates in a preliminary draft budget. It shall attach thereto an opinion which may contain different estimates. The budgetary consequences of decisions concerning Community measures shall be shown in an annex.

This preliminary draft budget shall contain an estimate of revenue and particularly a preliminary proposal concerning the percentage of VAT, together with an estimate of expenditure.

The Commission shall submit its preliminary proposal on the percentage of VAT to the Governments and Parliaments of the Member States.

3. Unchanged (sub-paragraphs 1 & 2)

The Council shall, acting by a qualified majority, establish the draft budget, which shall contain a draft decision fixing the percentage of VAT, and forward it to the Assembly.

4. The draft budget shall be placed before the Assembly not later than 5 October of the year preceding that in which the budget is to be implemented.

The Assembly shall have the right to amend the draft budget<sup>1</sup>, acting by a majority of its members, and to propose to the Council, acting by an absolute majority of the votes cast, modifications to the draft budget relating to expenditure necessarily resulting from the Treaty or from acts adopted in accordance therewith. The Assembly shall accordingly adopt a draft decision fixing the percentage of VAT.

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<sup>1</sup> The rapporteur welcomes the Commission's undertaking to include in the category of expenditure subject to amendment all expenditure not arising automatically from previous decisions with long-term implications.

1969 Proposal

- 4(a) If, within one month of the draft budget being placed before it, the Assembly has made no modifications, the draft budget shall be deemed to be finally adopted by the Assembly and shall be forwarded to the Council and Commission.

If, within the period referred to in the preceding paragraph, the Assembly has made modifications to the draft budget, the draft budget so modified shall be forwarded to the Council and Commission.

The draft budget forwarded by the Assembly shall be deemed to be finally adopted unless within one month of receipt the Council, acting by a qualified majority, proposes amendments.

Text in force

If, within 45 days of the draft budget being placed before it, the Assembly has given its approval, the budget shall stand as finally adopted. If within this period the Assembly has not amended the draft budget nor proposed any modifications thereto, the budget shall be deemed to be finally adopted.

If within this period the Assembly has adopted amendments or proposed modifications, the draft budget together with the amendments or proposed modifications shall be forwarded to the Council.

5. After discussing the draft budget with the Commission and, where appropriate, with the other institutions concerned, the Council may, acting by a qualified majority modify any of the amendments adopted by the Assembly and shall pronounce, also by a qualified majority, on the modifications proposed by the latter. The draft budget shall be modified on the basis of the proposed modifications accepted by the Council.

Unchanged

If, within 45 days of the draft budget being placed before it, the Assembly has given its approval, the budget shall stand as finally adopted. If within this period the Assembly has not amended the draft budget nor proposed any modifications thereto, the budget shall be deemed to be finally adopted.

The Assembly shall accordingly adopt the decision concerning the percentage of VAT.

Unchanged

Unchanged

5. After discussing the draft budget with the Commission and, where appropriate, with the other institutions concerned, the Council may, acting by a qualified majority modify any of the amendments adopted by the Assembly and shall pronounce on the modifications proposed by the latter in accordance with the provisions of paragraph 5 (a).

Unchanged

5(a)<sup>1</sup> Where a proposal for a modification presented by the Assembly does not have the effect of increasing the total amount of the expenditure of an institution, owing in particular to the fact that the increase in expenditure which it would involve would be expressly compensated by one or more proposed modifications correspondingly reducing expenditure, the Council may, acting by a qualified majority, reject the proposed modification. In the absence of a decision to reject it, the proposed modification shall stand as accepted.

5(a) Where a proposal for a modification presented by the Assembly does not have the effect of increasing the total amount of the expenditure of an institution, owing in particular to the fact that the increase in expenditure which it would involve would be expressly compensated by one or more proposed modifications correspondingly reducing expenditure, the Council may, acting by a qualified majority, reject the proposed modification. In the absence of a decision to reject it, the proposed modification shall be deemed to be accepted.

Where a proposal for a modification presented by the Assembly has the effect of increasing the total amount of the expenditure of an institution the Council must act by a qualified majority in accepting the proposed modification.

Where a proposal for a modification presented by the Assembly has the effect of increasing the total amount of the expenditure of an institution, the Council may, acting by a majority, reject the proposed modification. In the absence of a decision to reject it, the proposal shall be deemed to be accepted.

<sup>1</sup> The provisions of paragraph 5b are taken from Article 203 a, applicable during the period 1971-1974.

If, within 15 days of the draft budget being placed before it, the Council has not modified any of the amendments adopted by the Assembly and has accepted the modifications proposed by the latter, the budget shall be deemed to be finally adopted. The Council shall inform the Assembly that it has not modified any of the amendments and has accepted the proposed modifications.

If the Council proposes modifications, the President of the Assembly shall immediately convene a Conciliation Committee consisting of the presidents of the Assembly, Council, Commission and Court of Justice, who may be accompanied or represented by members of their respective institutions.

The Conciliation Committee shall give its opinion within 15 days of being convened, after hearing, where appropriate, the representatives of the Economic and Social Committee.

(b) If the Conciliation Committee reaches unanimous agreement on the amendments to be made to the draft budget, its conclusions shall be immediately submitted to the Assembly, Council and Commission, which may adopt them within 15 days. The Assembly shall act by a majority of its members and the Council by a qualified majority.

The draft budget so amended shall be deemed to be finally adopted.

1973 Proposals from the Commission

Where, in pursuance of the first or second sub-paragraphs of this paragraph, the Council has rejected or has not accepted a proposed modification, it may, acting by a qualified majority, either retain the amount shown in the draft budget or fix another amount.

5(b) If within 15 days of the draft budget being placed before it, the Council has not modified any of the amendments adopted by the Assembly or if the modifications proposed by the latter have been accepted, the budget shall be deemed to be finally accepted. The Council shall inform the Assembly that it has not modified any of the amendments and has accepted the proposed modifications.

Working assumptions

Where, in pursuance of the first or second sub-paragraphs of this paragraph, a proposed modification has been rejected, the Council may, acting by a qualified majority, either retain the amount shown in the draft budget or fix another amount.

5(b) If within 15 days of the draft budget being placed before it, the Council has not modified any of the amendments adopted by the Assembly or if the modifications proposed by the latter have not been rejected, the budget shall be deemed to be finally accepted. The Council shall inform the Assembly that it has not modified any of the amendments and that the proposed modifications have been accepted.

(c) If the Conciliation Committee does not reach unanimous agreement or if its unanimous conclusions are not approved by the Assembly, Council and Commission, each amendment proposed by the Council shall be deemed to be finally adopted unless within 20 days of receipt of the Conciliation Committee's opinion or of expiry of the period referred to in (b) above, it is rejected by the Assembly, acting by a majority of two-thirds of the votes cast and a majority of its members.

If within this period the Council has modified one or more of the amendments adopted by the Assembly or has not accepted the modifications proposed by the latter, the draft budget shall again be forwarded to the Assembly. The Council shall inform the Assembly of the results of its deliberations.

6. Within 15 days of the budget being placed before it, the Assembly, which shall have been notified of the action taken on its proposed modifications, shall act, by a majority of its members and of three-fifths of the votes cast, on the modifications to its amendments made by the Council, and shall adopt the budget accordingly. If within this period the Assembly has not acted, the budget shall be deemed to be finally adopted.
7. When the procedure provided for in this article has been completed the President of the Assembly shall declare that the budget has been finally adopted.

The draft budget shall be deemed to be finally adopted when modifications made to it have been adopted in accordance with the provisions of the preceding paragraph.

1973 Proposal from the Commission

Working assumptions

If, within this period, the Council has modified one or more of the amendments adopted by the Assembly or if the modifications proposed by the latter have not been accepted, the draft budget shall again be forwarded to the Assembly.

The Council shall inform the Assembly of the results of its deliberations.

If, within this period, the Council has modified one or more of the amendments adopted by the Assembly or if the modifications proposed by the latter have been rejected, the draft budget shall again be forwarded to the Assembly. The Council shall inform the Assembly of the results of its deliberations.

6. Unchanged

6. Within 15 days of the budget being placed before it, the Assembly, which shall have been notified of the action taken on its proposed modifications, shall act, by a majority of its members and of three-fifths of the votes cast on the modifications made by the Council to its amendments and shall adopt the budget and the decision on the the percentage of VAT accordingly. If within this period the Assembly has not acted, the budget containing the decision on the rate of VAT shall be deemed to be finally adopted.

7. Unchanged

7. Unchanged

7(a) However, the Assembly may, for important reasons, by a majority of one half plus one of its members and of two-thirds of the votes cast, reject the draft budget or certain titles of the draft budget, in order to permit the Council to formulate new proposals.

8. A maximum rate of increase in relation to the expenditure of the same type to be incurred during the current year shall be fixed annually for the total expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith.

The Commission shall, after consulting the Conjunctural Policy Committee and the Budgetary Policy Committee, declare what this maximum rate is as it results from:

- the trend, in terms of volume, of the gross national product within the Community;
- the average variation in the budgets of the Member States; and
- the trend of the cost of living in the preceding financial year.

The maximum rate shall be communicated, before 1 May, to all the institutions of the Community. The latter shall be required to conform to this during the budgetary procedure, subject to the provisions of the fourth and fifth sub-paragraphs of this paragraph. If, in respect of expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith, the actual rate of increase in the draft budget established by the Council is over half the maximum rate, the Assembly may, exercising its right of amendment, further increase the total amount of that expenditure to a limit not exceeding half the maximum rate.

Where, in exceptional cases, the Assembly, the Council or the Commission considers that the activities of the Community require that the rate determined according to the procedure laid down in this paragraph should be exceeded, another rate may be fixed by agreement between the Council, acting by a qualified majority, and the Assembly, acting by a majority of its members and of three-fifths of the votes cast.

9. Each institution shall exercise the powers conferred upon it by this Article, with due regard for the provisions of this Treaty and for the acts adopted in accordance therewith, in particular those relating to the Communities' own resources and to the balance between revenue and expenditure.



1973 Proposals from the Commission

Working assumptions

Unchanged

8. For expenditure entailed by the functioning of the Institutions, a maximum rate of increase in relation to expenditure of the same nature incurred in the current financial year shall be fixed annually.

Sub-paragraphs 1 and 2 unchanged.

Where the Assembly, the Council or the Commission considers that the activities of the Communities require that the rate determined according to the procedure laid down in this paragraph should be exceeded, another rate may be fixed by agreement between the Council, acting by a qualified majority, and the Assembly, acting by a majority of its members and of three-fifths of the votes cast.

Unchanged

9. Unchanged

9. Unchanged

None

None

Article 204

None

If, at the beginning of a financial year, the budget has not yet been voted, a sum equivalent to not more than one-twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter or sub-division of the budget in accordance with the provisions of the regulations made pursuant to Article 209; this arrangement shall not, however, have the effect of placing at the disposal of the Commission appropriations in excess of one-twelfth of those provided for in the draft budget in course of preparation.

The Council may, acting by a qualified majority, provided that the other conditions laid down in the first paragraph are observed, authorize expenditure in excess of one-twelfth.

Member States shall pay every month, on a provisional basis and in accordance with the scales laid down for the preceding financial year, the amounts necessary to ensure application of this Article.

1973 Proposals from the Commission

Article 3(203 b)

The following provisions are added to the Treaty establishing the European Economic Community:

'Article 203 b

Any decision to have recourse to the raising of loans shall be decided during the budgetary procedure by the Council acting by a qualified majority and by agreement with the Assembly'.

(Article 204, paragraph 1)

Unchanged

Article 4 (204, paragraph 2)

The following is added to Article 204, paragraph 2 of the Treaty establishing the European Economic Communities:

'If the decision relates to expenditure which does not necessarily result from the Treaty or from acts adopted in accordance therewith, the Council shall forward it immediately to the Assembly; within 15 days the Assembly, acting by a majority of its members and of three-fifths of the votes cast, may adopt a different decision. The decision of the Council shall be suspended pending a decision by the Assembly or the expiry of the said period of 15 days.'

(Unchanged)

Working assumptions

Article 3 (203 b)

Any decision to have recourse to the raising of loans shall be taken on a proposal from the Commission by the Council, acting by a qualified majority and in agreement with the Assembly, acting by half the number plus one of its members and by a majority of the votes cast.

(Article 204, paragraph 1)

If, at the beginning of a financial year, the budget or certain titles of the budget have not been...

The remainder unchanged

Article 4 (204, paragraph 2)

Unchanged

If the decision relates to expenditure which does not necessarily result from the Treaty or from acts adopted in accordance therewith, the Council shall forward it immediately to the Assembly; within 30 days the Assembly, acting by a majority of its members and of three-fifths of the votes cast, may adopt a different decision. The decision of the Council shall be suspended pending a decision by the Assembly or the expiry of the said period of 30 days.

Article 4 a (204, paragraph 3)

The text of paragraph 3 of Article 204, is as follows:

The Member States shall pay every month, on a provisional basis and in accordance with the relevant rules laid down in the Financial Regulations, the amount necessary to ensure application of this article.

Article 206

Article 206

The accounts of all revenue and expenditure shown in the budget shall be examined by an Audit Board consisting of auditors whose independence is beyond doubt, one of whom shall be chairman. The Council shall, acting unanimously, determine the number of auditors. The auditors and the chairman of the Audit Board shall be appointed by the Council, acting unanimously, for a period of 5 years. Their remuneration shall be determined by the Council, acting by a qualified majority.

Unchanged

The purpose of the audit, which shall be based on records and, if necessary, performed on the spot, shall be to establish that all revenue has been received and all expenditure incurred in a lawful and regular manner and that the financial management has been sound. After the close of each financial year, the Audit Board shall draw up a report, which shall be adopted by a majority of its members.

Unchanged

The Commission shall submit annually to the Council and to the Assembly the accounts of the preceding financial year relating to the implementation of the budget, together with the report of the Audit Board. The Commission shall also forward to them a financial statement of the assets and liabilities of the Community.

Unchanged

The Council, acting by a qualified majority, and the Assembly shall give a discharge to the Commission in respect of the implementation of the budget.

The Council and the Assembly shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the report of the Audit Board shall be examined in turn by the Council which shall act by a qualified majority, and by the Assembly. The Commission shall stand discharged only after the Council and the Assembly have acted.

1973 Proposals from the Commission

Article 5 (206)

The following provisions are substituted for Article 206 of the Treaty establishing the European Economic Community:

'The Commission shall submit annually to the Council and to the Assembly the accounts of the preceding financial year relating to the implementation of the budget. The Commission shall also forward to them a financial statement of the assets and liabilities of the Community.

The Assembly, acting upon a recommendation from the Council, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the report of the Court of Auditors of the European Communities, together with the observations of the institutions, shall be examined in turn by the Council, which shall act by a qualified majority, and by the Assembly.

The time limits for the submission of the accounts, the financial statements and the report of the Court of Auditors shall be laid down in the financial regulations.'

Working assumptions

Article 5 (206)

Unchanged

Unchanged

Unchanged

Article 209

None

The Council shall, acting unanimously on a proposal from the Commission:

- (a) make financial regulations specifying in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;
- (b) determine the methods and procedure whereby the contributions of Member States shall be made available to the Commission;
- (c) lay down rules concerning the responsibility of authorizing officers and accounting officers and concerning appropriate arrangements for inspection.

Article 50(2) ECSC

None

The levies shall be assessed annually on the various products according to their average value; the rate thereof shall not, however, exceed one percent unless previously authorized by the Council, acting by a two-thirds majority. The mode of assessment and collection shall be determined by a general decision of the High Authority taken after consulting the Council; cumulative imposition shall be avoided as far as possible.

1973 Proposals from the Commission

Working assumptions

Article 6 (209)

Article 6 (209)

The Council shall, acting unanimously on a proposal from the Commission and by agreement with the Assembly:

The Council shall, acting unanimously on a proposal from the Commission and after receiving the assent of the Assembly:

(a) unchanged

(b) unchanged

(b) determine the methods and procedure whereby the contributions of Member States shall be made available to the Commission; it shall also determine the methods and procedure whereby, in case of emergency, financial contributions of Member States may, in exceptional and duly justified circumstances, be made available to the Commission in the form of advances from funds.

(c) unchanged

(c) unchanged

Articles 7 to 19 (Doc. 124/73) concerning the provisions relating to the setting up of a Court of Auditors are dealt with in Part III of this document. Articles 8 to 13 and 15 to 18 of the Commission's proposal (Doc. 124/73) are not quoted since they are simply a repetition of Articles 1 to 6 except that they are inserted in the EAEC and ECSC Treaties.

The word 'unchanged' in the third column (1973 proposals from the Commission) always relates to the texts in force (column 2).

Article 14

Article 14

The following provisions are substituted for Article 50 (2) of the Treaty establishing the European Coal and Steel Community:

It is hoped that the Commission and Parliament will reach a 'gentleman's agreement' on these provisions.

'The levies shall be fixed by the High Authority with the assent of the Assembly. They shall be assessed annually on the various products according to their average value; the rate thereof shall not, however, exceed one percent unless previously authorized by the Council acting by a two-thirds majority. The mode of assessment and collection shall be determined after a general decision by the High Authority, taken after consulting the Council and with the assent of the Assembly; cumulative imposition shall be avoided as far as possible'.

III. THE SETTING UP OF A COURT OF AUDITORS OF THE EUROPEAN COMMUNITIES

None

(Treaty establishing a single Council and a single Commission of the European Communities)

Article 22

An Audit Board of the European Communities is hereby established. The Board shall take the place of the Audit Boards of the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community. It shall exercise, under the conditions laid down in the Treaties establishing the three Communities, the powers and jurisdiction conferred on those bodies by these Treaties.



1973 Proposals from the Commission

Article 7

The following Articles are substituted for Article 22 of the Treaty establishing a single Council and a single Commission of the European Communities:

'Article 22

A Court of Auditors of the European Communities is hereby established

Article 22 a

1. The Court of Auditors shall consist of nine members.

The number of members of the Court of Auditors may be altered by the Council, acting unanimously and by agreement with the Assembly.

2. The members of the Court of Auditors shall be chosen from amongst persons who act or have acted in a similar capacity and whose independence is beyond doubt.

Only nationals of Member States may be members of the Court of Auditors.

3. The members of the Court of Auditors shall be appointed by common accord of the Member States for a term of six years. The term of office of members of the Court of Auditors may be renewed.

The members shall elect the President of the Court of Auditors from among their number for a term of three years. He may be re-elected.

4. The members of the Court of Auditors shall, in the general interests of the Communities, be completely independent in the performance of their duties.

In the performance of these duties, they shall neither seek nor take instructions, from any Government nor from any other body. They shall refrain from any action incompatible with their duties.

Working assumptions

Article 7

unchanged

Article 22

unchanged

Article 22 a

unchanged

unchanged

3. The members of the Court of Auditors shall be appointed by the Council in agreement with Parliament, for a period of six years. Their term of office may be renewed.

unchanged

1969 Proposals from the Commission

Texts in force

5. The members of the Court of Auditors may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

unchanged

6. Apart from normal replacements, or death, the duties of a member of the Court of Auditors shall end when he resigns or is compulsorily relieved by a finding of the Court of Justice pursuant to paragraph 7.

unchanged

The vacancy thus caused shall be filled for the remainder of the member's term of office. The Council may, acting unanimously and by agreement with the Assembly, decide that such a vacancy need not be filled.

Save in the case of compulsory retirement under the provisions of paragraph 7, the members of the Court of Auditors shall remain in office until they have been replaced.

7. A member of the Court of Auditors may be deprived of his office or of his right to a pension or other benefits in its stead only if the Court of Justice, on application by the Assembly, the Council or the Commission, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.

unchanged

8. Article 6 of this Treaty and the provisions of the Protocol on the Privileges and Immunities of the European Communities applicable to the Judges of the Court of Justice shall apply also to the members of the Court of Auditors.

unchanged

Article 22 b

Article 22 b

The Court of Auditors shall act by a majority of the number of members provided for in Article 22 a.

unchanged



1973 Proposals from the Commission

Working assumptions

Article 22 c

The Court of Auditors shall examine the accounts of all the revenue and expenditure of the institutions of the Communities entered in the budget. It shall also examine the accounts of all bodies set up by the Communities in accordance with the relevant constitutive instrument.

Article 22 c

unchanged

The purpose of the audit, which shall be based on records and, if necessary, performed on the spot at the premises of the institutions of the Communities and in the Member States shall be to establish that all revenue has been received and all expenditure incurred in a lawful and regular manner and that the financial management has been sound.

unchanged

Without prejudice to its other duties laid down in its Statute or in the financial regulations, the Court of Auditors, after the close of each financial year, shall draw up a report. The report shall be sent to the institutions of the Communities and published.

unchanged

The Court of Auditors shall report to Parliament. It shall be at Parliament's disposal at all times to assist and advise it in the exercise of its powers of control.

Article 22 d

The Court of Auditors shall prepare a draft of its Statute. The Statute shall be adopted by the Council, acting unanimously and by agreement with the Assembly after having obtained the opinion of the Commission. The Statute shall determine in particular the relation between the Court of Auditors and national bodies with equivalent functions, and its relations with the Assembly.

Article 22 d

A provisional Statute shall be adopted by the Council, acting unanimously and in agreement with the Assembly, on a proposal from the Commission of the Communities and after having obtained the opinion of the Audit Board.

Within one year of its setting up, the Court of Auditors shall propose, by a majority of two-thirds of its members that its Statute be revised. This Statute shall be adopted by the Council, acting unanimously and in agreement with the Assembly after having obtained the opinion of the Commission. The Statute shall determine in particular the relations between the Court of Auditors and national bodies with equivalent functions, and its relations with the Assembly.

1969 Proposals from the Commission

Texts in force

1973 Proposals from the Commission

Working assumptions

Article 19

The terms of office of the members of the Audit Board of the European Communities shall expire upon the date of appointment of the members of the Court of Auditors of the European Communities. The members of the Court of Auditors shall be appointed on the entry into force of the present Treaty.

Article 19

unchanged

The Council, acting unanimously, shall settle the financial arrangements for those members of the Audit Board who, their terms of office having expired pursuant to the preceding sub-paragraph, are not appointed members of the Court of Auditors.

unchanged

1969 Proposals from the Commission

Text in force



1973 Proposals from the Commission

Working assumptions

Article 20

This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

Article 20

unchanged

Article 21

This Treaty shall enter into force on the first day of the month following the deposit of the instrument of ratification by the last signatory state to take this step.

Article 21

unchanged

If this Treaty enters into force during the budgetary procedure, the Council shall, after consulting the Commission, lay down the measures required in order to facilitate the application of this Treaty to the remainder of the budgetary procedure.

If this Treaty enters into force during the budgetary procedure, the Council shall, in agreement with Parliament and after consulting the Commission, lay down the measures required in order to facilitate the application of this Treaty to the remainder of the budgetary procedure.

Opinion of the Political Affairs Committee

Draftsman: Mr P. KIRK

On 4 June 1973 the enlarged Bureau decided to instruct the Political Affairs Committee - as the committee responsible for all questions relating to changes in the institutional structures of the Community - to make whatever comments it considered necessary on the independent report of the Committee on Budgets on the increase in the auditing and budgetary powers of the European Parliament.

At its meeting of 17 May 1973 the Political Affairs Committee appointed Mr KIRK draftsman for an opinion for the Committee on Budgets.

On 4 July 1973 the European Parliament decided, in a resolution on the strengthening of its budgetary powers,<sup>1</sup> to set up an ad-hoc working party on 'budgetary powers' consisting of the bureaux of the Political Affairs Committee and the Committee on Budgets, together with Mr Fabbrini, Mr Kirk, Mr de la Malène and Mr Schuijt.

The working party held three meetings: on 13 July in London, 30/31 July in Brussels, and 19 September in Luxembourg.

The Political Affairs Committee discussed the draft opinion at its meeting of 14 September 1973 and adopted it at its meeting of 28 September 1973 by 11 votes to 4 with 2 abstentions.

The following were present for the vote: Mr Giraudo, chairman; Lord Gladwyn, deputy chairman; Mr Radoux, deputy chairman; Mr Kirk, draftsman; Sir Tufton Beamish, Mr Berthoin, Mr Bertrand, Mr Blumenfeld, Mr Dalsager, Mr Jahn, Mr Ligios, Mr Patijn, Mr Scelba, Mr Schwabe (deputizing for Mr Behrendt), Mr Spenale (deputizing for Mr Faure), Mr Thomsen and Mr Van der Sanden.

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<sup>1</sup> OJ No. C 62, 31 July 1973, p.29

1. On 24 May 1973 the Bureau authorised the Political Affairs Committee to report to the Parliament on the strengthening of its powers. In view of the urgency of expressing the Parliament's views concerning the new budgetary procedure which is due to be introduced by the Community as from 1 January 1975, early enough for the Council to have adequate time to consider the Parliament's views before deciding on the form of the new budgetary procedure by the end of this year, the Political Committee has expressed the view that the budgetary aspects of the powers of the Parliament should be examined and debated by the Parliament as a matter of priority. The Political Committee has therefore authorised your Rapporteur to devote the present report exclusively to the budgetary question. A further report will examine the other more general aspects of the Parliament's powers. Since budgetary powers are crucial to the further development of the role of the Parliament it is recognised by members of the Political Affairs Committee that it is important to increase the Parliament's budgetary powers in such a way that other new powers can be fitted into place without difficulty.

2. In order to co-ordinate the viewpoints of the Political Affairs and Budget Committees, and, also, so as to benefit from the advice of the Commission, a Joint Working Party composed of members of the two relevant committees - and whose meetings have been attended by representatives of the Commission - was created by the Parliament during its July Session in Strasbourg.

3. The Joint Working Party has subsequently met in London on 12 July, in Brussels on 30 and 31 July, and in Luxembourg on 19 September.

4. At the meeting of the Joint Working Party held on 12 July and at the meeting of the Political Affairs Committee held in London at that time, the majority of members considered that the new budget procedure to be adopted as from 1 January 1975 offers the Parliament an opportunity to increase its powers vis-à-vis the Council and thus to change the present institutional imbalance in which the Council has the substance of power leaving the Parliament and the Commission with the shadow.

5. The discussions concerning the budgetary powers held in London and

Brussels were based on three documents setting out different proposals of the Commission : that concerning the second stage of the Economic and Monetary Union (European Parliament document 68/73); that concerning the reinforcement of budgetary powers (document Com. (73) 1000); and that concerning practical measures in view of reinforcing the powers of control of the Parliament and improving relations between the Parliament and the Commission (European Parliament document 103/73 which is Com. (73) 999).

6. These three documents make proposals concerning (a) Acts having financial implications; (b) the establishment of the Community budget; and (c) a number of other related issues such as the establishment of a European Court of Auditors. In the present report, your Rapporteur concentrates mostly on (a) and (b), though he does have some comments to make concerning certain other points. At the meeting of the Joint Working Party held in Brussels on 30 and 31 July, those who were present benefited greatly from the preparatory work done by Mr Spenale in drawing up, for that meeting, a working paper on the budgetary powers of the European Parliament (document 124/73) which enabled those taking part in the meeting to compare not only the different proposals made by the Commission concerning the points at issue, but also, working hypotheses advanced by Mr. Spenale himself. This document was the basis of an exhaustive examination of the main budgetary questions which permitted members of the Political Affairs and Budget Committees and representatives of the Commission, including the responsible Commissioner, Mr. Cheysson, to confront their different views and to narrow some of the differences between their positions.

7. Whereas at the earlier meetings in London, members discussed three separate approaches : (a) the possibility of the Parliament having the last word ; (b) a second reading procedure ; and, (c) co-decision, at the meeting of the Joint Working Party held in Brussels at the end of July the distinction between these three approaches became blurred in some respects. In the present report, your Rapporteur makes proposals which incorporate, to a certain extent, all three approaches.

8. Mr. Spenale, Chairman and Rapporteur of the Budget Committee, will be making very detailed proposals concerning the budgetary procedures he wishes to see introduced as from 1 January 1975. The present document differs in emphasis since it concentrates primarily on the political and institutional aspects of the budgetary question. Your Rapporteur hopes that his approach will, in many ways, be similar to that adopted by Mr. Spenale, and where the two reports differ in emphasis, this represents your

Rapporteur's wish to give the Parliament alternative choices concerning one or two of the more controversial points at stake.

9. It is not difficult to think of ideas which could be applied to the new budgetary procedure. A large number of ideas have been put forward by politicians and scholars, and there is no problem of there being a shortage of suggestions. What your Rapporteur attempts to do in this paper is to set out proposals which extend, substantially, the real powers of the Parliament concerning both acts with financial implications and which are realistic in terms of acceptability to the Council. The Parliament must move some distance towards obtaining the power of the purse at the beginning of 1975, but it is naive to imagine that it will be able to obtain everything it would ideally desire in this respect, and it would be dangerously disappointing, on the other hand, if it were to accept a new budgetary procedure that gave it only the illusion of increased power without the reality.

#### Some General Remarks

10. Before making substantive proposals, your Rapporteur wishes to set out some general considerations.

11. First, it should be noted that the Commission's proposals are essentially short-term, and appear to be only the first part of a process of extending Parliamentary power by stages. It is easy to see why this should be so and indeed to have some sympathy for the Commission on this point. It is faced with the immediate need of securing a system of effective Parliamentary scrutiny and control for the 1975 budget, and clearly the less radical the proposals, the more chance there is of their acceptance by the Council. Furthermore, it is an open secret that some of the governments of member states are averse to any proposals which would entail amendments to the Treaties being put forward before the Summit Conference planned for 1975. Your Rapporteur does not believe that effective Parliamentary control can be established without Treaty amendments, and therefore hopes that the Council will not adopt a negative view on this point, although he indicates below ways in which some of the most important changes could be effective, at least partially, without Treaty amendment. He feels very strongly however that, just as any proposals made in the budgetary and financial field must not prejudice any eventual settlement of the question of Parliament's legislative powers generally, so, if we perforce accept the Commission's step-by-step approach,

we must always have in mind our final goal for Parliament, and must therefore make sure that any provisional arrangements made this year are compatible with what we ultimately desire.

12. A second general remark concerns the reinforcement of the powers of the Parliament concerning proposals made by the Commission. Here it is a question of considering whether the Parliament should not try to increase its activity and influence concerning the proposals of the Commission before these are transmitted to the Council. Thus, as your Rapporteur proposes in detail later in this report, the Parliament could intervene at the very beginning of the Community decision-making process at the time when the Commission first formulates its ideas.

13. A third remark concerns the very vague expressions used by the Commission concerning the second-reading procedure that it has proposed in the three documents under consideration.<sup>1</sup> As far as members of the Political Committee and the Joint Working Party have been prepared to accept the second-reading idea, they have considered that it would only make sense if three conditions were to apply :

- (a) it should be for the Parliament to decide whether or not a second-reading procedure should be used ;
- (b) decisions of the Council concerning questions with financial implications (and, also, the establishment of the budget) should not be taken in secrecy ;
- (c) procedures such as the establishment of a conciliation committee or decisions taken by a weighted majority vote should be applied in cases of conflict between the Parliament and the Council.

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<sup>1</sup> The Vedel Report (Chapter IV, Paragraph 4) was also insufficiently precise concerning the conditions under which the second-reading procedure should be applied.

14. A final general remark concerns the significance of the Parliament's decisions concerning the Community's budget. The predominant part of Community expenditure is not subject to alteration by the Parliament as it results from binding decisions previously taken by the Council. This process is not very different in nature from a national situation apart from the essential point that whereas the national Parliaments have themselves decided on binding expenditure, on the Community level the decisions are taken by the Council with only minimal prior consultation of the Parliament. The real significance of parliamentary powers today thus no longer lies in the right to adopt the budget, but in the right to play a full part in decisions on measures with financial implications. Emphasis should thus be placed not only on obtaining more powers for the Parliament in budgetary matters but, equally, concerning decisions with financial consequences. <sup>1</sup>

#### Acts with financial implications

15. At present, the Commission transmits, for information, its proposals to the Parliament at the same time that it sends them to the Council. However, under the treaties, the Parliament is not formally seized of these proposals until the Council requests the Parliament for its opinion. Your Rapporteur wishes to propose a new system, as follows, governing all proposals that would lead to acts with financial implications. This new system could be achieved either by a gentlemen's agreement or by amendments to the Treaty in changing the present decision-making procedure.

16. When the Commission has established its proposal, it would seize the Parliament of this text. The Parliament would then hold a debate on the Commission's proposal. This would have the great advantage of allowing the Parliament to formulate and express its views concerning proposals by the Commission having financial implications before the Council was seized and before the Governments start to entrench their positions. The Commission would then send its proposal (which might or might not take into account the amendments voted by the Parliament) together with the amendments adopted by the Parliament - set out as parallel texts - to the Council. The Council would then reach its decision concerning both the Commission's proposal and the amendments proposed by

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<sup>1</sup> See the Vedel Report, Chapter IV Paragraph 2.

the Parliament. It would take this decision not in secret but in public. When the Council differs AT ALL from the opinion expressed by the Parliament, a second reading should be held by the Parliament. If, within a specified time limit, the Council should not change its decision so as to agree with the Parliament, an automatic conciliation procedure should be adopted.<sup>1</sup>

17. This procedure would be automatic and obligatory. If the changes made by the Council were minimal or merely semantic in nature, the second-reading by the Parliament could be a mere formality. If, however, the Parliament considered the changes to be significant ones, it would proceed to a full debate. This would avoid the problem of who would define, and how, whether the Council wished to 'depart markedly' from the opinion given by the Parliament on the first consideration.

18. It has been suggested that a Conciliation committee might be composed of the Chairman in Office of the Council and the President of the Parliament. But if this were the case, the manoeuvring margin of the representatives of both institutions would be too restricted. It is almost impossible to imagine how either the Chairman of the Council or the President of the Parliament could move away from the positions established by their respective institutions. A conciliation procedure might, however, work if there were ten representatives of the Council in the Conciliation Committee: the Chairman of the Council of the European Communities and one representative of Ministerial rank of each of the Member States of the Community.

The Parliament should be represented also by ten members: its President and the Chairman of the political groups of the European Parliament and of the Committees of Parliament principally concerned with the subject matter of the dispute.

The Commission of the European Communities would of course participate in view of its right of initiative and in an advisory capacity. This

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When the Legal Affairs Committee was consulted by the Bureau concerning the procedure of consultation of the Parliament, in 1970, it concluded, in a Note drafted by Mr JOZEAU-MARIGNE, that the present system of consultation as established by the EEC Treaty would be the best one to maintain unless a new procedure could be introduced under which the Parliament would establish, jointly with the Commission of the Communities, the texts of the proposals before they were transmitted to the Council. The Political Affairs Committee which also studied this problem at that time concluded that no judgement should be made until the enlargement of the Communities.



wider spectrum of membership might allow both sides a greater degree of flexibility within the conciliation procedure. An advantage of having a comparatively wide membership of the Conciliation Committee would be that its proceedings - though not public themselves would doubtless provide, specifically when the Parliament subsequently debated any compromise solution that might be suggested, an opportunity for the public to form an opinion of the reasons for the budgetary dispute in question and to be informed of the attitudes of the different institutions and Governments.

19. Any compromise formula that might be agreed between the representatives of the two institutions within the framework of the Conciliation Committee would under this present proposal be binding on the Council and the Parliament after formal ratification by the two institutions, i.e. it would, therefore, have to be submitted to both the Council and the Parliament so that each institution - the Parliament in open debate - would be able to judge whether or not the suggested compromise was acceptable. A time limit of 30 days is suggested to allow each institution to reach its decision. If both institutions agreed with the compromise formula proposed by the Conciliation Committee, this compromise solution would enter into effect immediately following the conclusion of the second of the decisions to be taken respectively by the Council and the Parliament.

20. As far as the third and final phase is concerned, your Rapporteur submits two different ideas for consideration. First there is Mr. Spenale's proposal that the institution taking its decision by the highest majority could be applied, leaving the last word in resolving the crisis to whichever institution adopted the proposal by the higher majority. As Mr. Spenale has suggested : "Three possibilities ... arise :

- in the end the final word will rest with the Assembly if it acts by a majority of one-half plus one of its members unless the Council acts by the qualified majority.
- the final word will also rest with the Assembly if the Commission and the Assembly are in agreement or if the Assembly acts by a majority of one-half plus one of its members and of two-thirds of the votes cast unless the Council acts unanimously.
- the final decision will be vested in the Assembly if it acts by the majority of one-half plus one of its members and of three-quarters of the votes cast". (Doc. PE 33.823/rev).

For this system to work effectively it would be necessary for the Parliament to insist that decisions of the Council on matters with financial implications should be taken in public - a departure from the traditional system. The second idea is that the Conciliation Committee should quite simply be obliged to continue its deliberations until a mutually acceptable compromise was found. Its mandate would, therefore, be to sit continuously until it had fulfilled its obligatory task of proposing a solution. Such a solution would, at this stage ( and in the context of this proposal ), be binding both on the Council and on the Parliament."

21. Since your Rapporteur is essentially in agreement with Mr. Spenale concerning the way in which the Commission's different proposals might be modified so as to provide a new way of establishing the budget as from 1 January 1975, he has little to say on this point. Nevertheless, there is one matter on which he wishes to comment.

22. Mr. Spenale suggests that a sub-paragraph 5 (d) might be inserted into Article 203 of the EEC Treaty: "The Assembly may, for important reasons, by a majority of one-half plus one of its members and two-thirds of the votes cast, reject outright the draft budget or some titles of the draft budget in order to permit the Council to formulate new proposals". Your Rapporteur considers that the global rejection of the budget, if used as a weapon on its own, is too far-reaching. To reject the whole draft budget because there are differences between the Parliament and the Council over a number of headings in the budget seems to your Rapporteur to be an extravagant and unjustified reprisal by the Parliament. Your Rapporteur considers that it could often be more effective and more appropriate for the Parliament merely to reject those parts of the budget over which it was in disagreement with the Council rather than to create a major Community crisis merely because it disagrees with some of the decisions of the Council concerning the contents of the budget. He considers, therefore, in common with Mr. Spenale, that the Assembly should possess the more nuanced right to reject individual headings of the budget, as well as the more general right - to be used if necessary - of rejecting the whole budget. If this proposal were adopted an amendment to Article 204 of the EEC Treaty would be necessary. In the first line of the first paragraph, replace the words "the budget has not yet been voted" by "the budget or parts of the budget have not yet been voted". Your Rapporteur notes that in the event of a major budgetary crisis in which the Parliament refused to agree to the draft budget the equivalent of one-twelfth of the previous year's budget would be disbursed each month so as to permit the essential working of the Community to proceed.

#### Court of Auditors

23. Your Rapporteur is convinced that it is essential to establish a Court of Auditors (backed up by a Board of Auditors) as suggested in the 1973 proposals from the Commission. One of the major priorities of the Community at the present time should be to ensure that adequate mechanisms be created to detect and uncover financial frauds, whether these arise from working of the agricultural guarantee funds or elsewhere. At present, one of the main sources of discontent with the Common Market amongst the peoples of the member countries is the fraudulent way in which money paid by the taxpayer to support the Common Agricultural Policy only too often finds its way into the pockets of crooks.

24. At present, a number of points still remain to be cleared up concerning the Court of Auditors. After close examination of the different proposals (of 1969 and 1973) from the Commission and the remarks made by Mr. Spenale in the working paper submitted to the Joint Working Party at the end of July, it is not clear who will be able to request the Court to

make specific financial investigations and to whom the Court will be responsible. As the different proposals stress, the Court will be "independent", but the fact that the members of the Court are to be appointed by agreement between the Member States (and that they can be reappointed), as proposed in the 1973 suggestions from the Commission, might seriously impair the "independence" of the Court. Your Rapporteur prefers the alternative method of appointment proposed by Mr. Spenale by which members of the Court be appointed by the Council in agreement with the Parliament.

25. The role of the Parliament in the appointment of members of the Court could take the form of prospective members of the Court being interviewed, in the form of "hearings" by the Parliament's Budget Committee which would then report its views to the Parliament on the suitability of the nominees, it being for the Parliament as a whole to confirm their appointment or reappointment. Although the Court should be "independent", it should not exist in a political vacuum but should be responsible for its operations to at least one of the institutions of the Community. This institution should, in your Rapporteur's view, be the Parliament, which should exercise parliamentary supervision over the work of the Court. As Mr. Pounder stressed in his amendment (adopted by the Parliament during its July session) to the motion for a resolution accompanying Mr. Spenale's report on the budgetary powers of the Parliament (doc. 131/73), the auditors "should report to and be at all times available to assist and advise the Parliament in the exercise of its rights of control." Your Rapporteur considers that the Parliament should have the right to request the Court to check or examine expenditure wherever the Parliament considers this to be necessary. Your Rapporteur also proposes that the Court of Auditors should submit an annual report on its activities for debate by the Parliament. This report should not merely be a record of the Court's work during the previous year, but should set out a programme indicating at least some of the financial investigations it planned to carry out during the forthcoming year. In planning its work and investigations, it should take fully into account the views expressed by the Parliament, quite apart from its being seized of specific investigations by the Parliament.

#### Resources Propres

26. Finally, your Rapporteur wishes to make one or two general remarks concerning "own resources". Whereas it is true that the Community already possesses, of right, certain own resources in the form of agricultural levies, customs duties and 1 % VAT, together with the ECSC levies and that the Community is fully autonomous in determining how these own resources may be spent, it is essential to note that it is only with the agreement of national governments (and thus, implicitly with the prior agreement of national parliaments - and in certain member states the constitution requires the prior agreement of the

Parliament) that new Community taxes pass under Community control. The concept of budgetary autonomy of the Community is therefore in the case of new Community taxes a relative rather than an absolute one.

#### CONCLUSIONS

27. Your Rapporteur submits this report as a contribution towards the budgetary debate that will be held during the Parliament's session of 4 and 5 October. As has been underlined earlier, the aim of this document is to complement, from the political and institutional angles, the more detailed and technical proposals that Mr. Spenale will make on behalf of the Budget Committee. The present report is also the first of two reports that your Rapporteur is due to submit on behalf of the Political Committee covering the whole field of the powers of the Parliament. A second report dealing with non-budgetary aspects of the Parliament's powers will be submitted to the Parliament at a later stage. In the second report, your Rapporteur may well wish to propose the extension of the decision-making procedure he has outlined in the present paper (regarding acts with financial implications) to other matters including, possibly, proposals made under Article 235.

