

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 706 final

Brussels, 04.02.1994

Amended proposal for a  
COUNCIL DECISION

concerning budgetary discipline

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(presented by the Commission pursuant to Article 189A(2) of the EC Treaty)

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Amended proposal for a  
COUNCIL REGULATION (ECSC, EC, Euratom)

establishing a Guarantee Fund for external operations

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Amended proposal for a  
COUNCIL REGULATION (ECSC, EC, Euratom)

amending the Financial Regulation of 21 December 1977  
applicable to the general budget of the European Communities

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Amended proposal for a  
COUNCIL REGULATION (EC, Euratom)

amending Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989  
implementing Decision 88/376/EEC, Euratom  
on the system of the Communities' own resources

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(presented by the Commission pursuant to Article 189A(2) of the EC Treaty  
and the second paragraph of Article 119 of the Euratom Treaty)

**Amended proposal for a  
COUNCIL DECISION**

**concerning budgetary discipline**

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**EXPLANATORY MEMORANDUM**

On 26 January 1993<sup>1</sup> the Commission presented its proposal for a Council decision concerning budgetary discipline.

The Council consulted the relevant bodies in accordance with Article 209 of the EEC Treaty. The Court of Auditors delivered its opinion on 22 April 1993<sup>2</sup>, and Parliament did so on 17 November 1993.

Acting in accordance with Article 189a(2) of the Treaty establishing the European Community, the Commission has drawn up this amended proposal in the light of these opinions.

The amendments which the Commission has accepted may be summarized as follows:

- to extend the legal base of the proposal to include Article 203;
- to amend the third recital by stating that the institutions have agreed to maintain the base and the rate of increase of the agricultural guideline and to extend it to all expenditure under the reformed common agricultural policy and to some expenditure;
- to apply the same wording to the fourteenth, sixteenth and seventeenth recitals concerning the Guarantee Fund, humanitarian operations and loan guarantees;
- to amend and extend Article 4(2) by stating that any member of the Council, and not any Member State, may ask the Commission to evaluate the financial consequences of any amendment which may be made to a proposal and that Parliament be informed of such evaluations;
- to make provision, in paragraph 3 of the same Article, for a fresh consultation of Parliament on amendments to the Commission's original proposal where the Commission considers them to constitute a substantial modification in budgetary terms;
- where, pursuant to Article 5(6), the Commission is forced to make proposals for strengthening stabilizer measures, Parliament's opinion must be sought and delivered within a maximum of six weeks;
- to delete Article 5(9), given that under the Financial Regulation a transfer of appropriations can be proposed to the budgetary authority at any time, as the Court of Auditors stressed in its opinion.

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1 COM(93)20 final

2 OJ No C 170, 21.6.93, p.20

- for the sake of simplification, Articles 13 and 15 have been merged to form a single article, with reference being made to the amount laid down in the financial perspective as regards allocations for the planned reserve;
- Article 14 is also to be deleted as, according to the opinion of the Court of Auditors, it is superfluous because it contains the same mechanism as provided for in the Regulation establishing the Guarantee Fund and the Financial Regulation.

Subject to the abovementioned amendments, the Commission therefore confirms its initial proposals, the grounds for which are contained in the Explanatory Memorandum to document COM(93)20 final of 26 January 1993.

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Initial proposal of 28 January 1983  
COM(83)20 final

Amended proposal

Proposal for a  
COUNCIL DECISION  
on budgetary discipline

Following delivery of the opinions of Parliament and the Court of Auditors, the European Commission hereby presents its proposal as amended hereafter:

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 43, 209 and 235 thereof,

Having regard to the proposal from the Commission,<sup>1</sup>

Having regard to the opinion of the European Parliament,<sup>2</sup>

Having regard to the opinion of the Court of Auditors,<sup>3</sup>

Whereas, at its meeting in Edinburgh on 11 and 12 December 1982, the European Council decided to retain and strengthen the budgetary discipline introduced by the Council Decision of 24 June 1988;<sup>4</sup>

Whereas a new Interinstitutional Agreement<sup>5</sup> containing the financial perspective for 1983-89 was concluded on ... between the European Parliament, the Council and the Commission for the purposes of implementing budgetary discipline and of improving the annual budgetary procedure;

The third recital is amended by replacing the words "European Council" by the words "the institutions".

Whereas the European Council also agreed to maintain the base and the rate of increase of the agricultural guideline and to extend it to all expenditure under the reformed common agricultural policy and to some other expenditure;

'Whereas the institutions also agreed to maintain the base and the rate of increase of the agricultural guideline and to extend it to all expenditure under the reformed common agricultural policy and to some other expenditure;

1 .....

2 .....

3 .....

4 OJ L 185, 15.7.1988, p.29.

5 OJ No. ....

Whereas there have been differing interpretations of the mechanisms set up by Article 6 of the Council Decision of 24 June 1988 to ensure compliance with the agricultural guideline; whereas their scope must therefore be clarified;

Whereas the mechanisms for the depreciation of stocks formed during the budget year should be retained;

Whereas the annual agricultural price proposals and any proposals for regulations involving expenditure under the EAGGF Guarantee Section must comply with the limit laid down by the agricultural guideline;

Whereas expenditure arising from application of the environmental measures in the agricultural sector, the Community aid scheme for forestry measures and the aid scheme for early retirement from farming is multiannual in nature; whereas special monitoring and control procedures should be introduced adapted to the nature of this expenditure;

Whereas, if there is a risk of the appropriations in a given chapter being overspent as a result of an unforeseen change in internal supply or demand, corrective measures should be taken to remedy the situation;

Whereas the corrective measures do not necessarily have an effect on the budget during the budget year concerned and whereas it may be necessary in these circumstances to take the safeguard measure of increasing the corresponding appropriations by means of transfers;

Whereas evaluation of the impact of the corrective measures on the development of the market situation will help to ensure continuity in the control of agricultural expenditure from one year to the next;

Whereas, the level of EAGGF Guarantee Section expenditure may be influenced by movements in the dollar/ecu market rate and by currency realignments between the Member States; whereas a monetary reserve should therefore be entered in the form of provisional appropriations to be drawn on should the need arise;

Whereas with the gradual implementation of the reform of the common agricultural policy, expenditure is likely to be less sensitive to changes in the dollar/ecu rate; whereas the monetary reserve can therefore be reduced from ECU 1 billion to ECU 500 million from 1995;

Whereas the quality and reliability of the particulars communicated by the Member States in connection with agricultural expenditure are essential for the proper operation of the early warning system and the effectiveness of budgetary discipline; whereas provision should therefore be made, when these requirements are not satisfied, for the possibility of reducing or provisionally suspending the monthly advances, without prejudice to the possibility of reducing or suspending these advances where Member States fail to comply with the rules;

The fourteenth, sixteenth and seventeenth recitals are amended in the same way as the third recital:

Whereas, to provide appropriations for the Guarantee Fund established by the Council Regulation of .....,<sup>1</sup> a reserve for guarantees on loans to non-member countries must be entered in the budget in the form of provisional appropriations;

"Whereas the institutions are agreed that, to provide appropriations for the Guarantee Fund established by the Council Regulation (EEC, Euratom) No ..... of .....,<sup>6</sup> a reserve for guarantees on loans to non-member countries must be entered in the budget in the form of provisional appropriations;

Whereas this reserve is also used to cover activated guarantees, up to the limit of its appropriations, when the Guarantee Fund does not have sufficient resources;

Whereas a financial margin must be left to permit a rapid response to specific emergency aid requirements in non-member countries resulting from unforeseeable events, with priority being given to humanitarian operations; whereas a reserve should be entered in the budget for this purpose in the form of provisional appropriations;

"Whereas the institutions are agreed that a financial margin must be left to permit a rapid response to specific emergency aid requirements in non-member countries resulting from unforeseeable events, with priority being given to humanitarian operations; whereas a reserve should be entered in the budget for this purpose in the form of provisional appropriations;

Whereas the conditions for calling in and mobilizing funds should be the same for the monetary reserve, the reserve for loan guarantees and the reserve for emergency aid;

"Whereas the institutions are agreed that the conditions for calling in and mobilizing funds should be the same for the monetary reserve, the reserve for loan guarantees and the reserve for emergency aid;

Whereas, for reasons of clarity, the relevant provisions should be consolidated in one instrument and Decision 88/377/EEC of 24 June 1988 should accordingly be repealed;

Whereas it is necessary that compulsory expenditure other than EAGGF Guarantee expenditure be subject to budgetary rigour and planning.

HAS ADOPTED THIS DECISION:

I. EAGGF GUARANTEE EXPENDITURE

Article 1

The agricultural guideline, which represents a ceiling on agricultural expenditure as defined in Article 3 for each budget year, must be respected each year. For each budget year, the Commission shall make an initial estimate of the agricultural guideline when fixing the agricultural prices and shall determine its final level when establishing the preliminary draft budget.

Unchanged

Article 2

1. The reference base from which the agricultural guideline is to be calculated shall be equal to ECU 27 500 million entered for 1988 in Titles 1 and 2 of Part B of Section III of the budget less the amounts for that year relating to the disposal of ACP sugar, food aid refunds and payments by producers in respect of the levies provided for by the common organization of the sugar market.

Unchanged

2. The agricultural guideline for a given year shall be equal to the reference base laid down in paragraph 1 plus amounts corresponding to:

Unchanged

- the base multiplied by 74% of the rate of increase in GNP between 1988 (base year) and the year in question,
- the base multiplied by the GNP deflator estimated by the Commission for the same period,
- forecasts of expenditure in the year in question on disposal of ACP sugar, food aid refunds, payments by producers in respect of levies provided for by the common organization of the sugar market and any other revenue raised from the agricultural sector in the future.

Article 3

1. The agricultural guideline shall cover expenditure chargeable to Titles 1 to 5 of Subsection B1 of Section III of the budget in the nomenclature adopted for the 1993 budget.

Unchanged

2. Each year the budget shall contain the appropriations necessary for financing all costs relating to the depreciation of stocks formed during the budget year.

Unchanged



Article 4

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|---|---|
| <p>1. The Commission's agricultural price proposals and any other proposals for regulations involving expenditure referred to in Article 3 shall be consistent with the limit laid down by the guideline.</p>   | <p>Unchanged</p>  |
| <p>2. Any Member State may ask the Commission to evaluate the financial consequences of any amendment which may be made to a proposal referred to in paragraph 1 during the Council's discussions. The Council shall then be obliged to postpone its decision until it is informed of the impact.</p> | <p><u>Any member of the Council may ask the Commission to evaluate the financial consequences of any amendment which may be made to a proposal referred to in paragraph 1 during the Council's discussions. The Council shall then be obliged to postpone its decision until it is informed of the impact. Parliament shall be informed of the evaluations carried out by the Commission.</u></p>                                   |
| <p>3. If the Commission considers that the outcome of the Council's discussions on these proposals may be such that the costs specified in its initial proposals will be significantly exceeded, the final decision shall be taken at a special Council meeting.</p>                                  | <p><u>If the Commission considers that the outcome of the Council's discussions on these proposals may be such that the costs specified in its initial proposals will be significantly exceeded, it shall inform the Council that this will constitute a substantial amendment to the Commission proposal necessitating a fresh consultation of Parliament. The final decision shall be taken at a special Council meeting.</u></p> |

Article 5

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| <p>1. To ensure that the agricultural guideline is respected, the Commission shall establish a monthly early warning and monitoring system for each chapter involving expenditure of the type referred to in Article 3.</p>   | <p>Unchanged</p> |
| <p>2. Before the beginning of each budget year, the Commission shall define indicative profiles of monthly expenditure for each budget chapter based, where possible, on the average monthly expenditure of the three preceding years.</p>  | <p>Unchanged</p> |
| <p>3. In view of its multiannual nature, implementation of expenditure arising from application of environmental measures in the agricultural sector, the Community aid scheme for forestry measures and the Community aid scheme for early retirement from farming shall be subject to special monitoring based on:</p> <ul style="list-style-type: none"><li>- applications made by potential beneficiaries to Member States, which shall send this information to the Commission each month;</li><li>- individual commitments entered into in response to the applications referred to in the first indent, which the Member States shall send to the Commission every six months.</li></ul> | <p>Unchanged</p> |

4. The statements of expenditure presented by the Member States in accordance with Article 3(3) of Regulation No 2776/88 shall be sent to the European Parliament and to the Council for information.

Unchanged

The Commission shall submit monthly reports thereafter to the European Parliament and the Council on the development of actual expenditure in relation to the indicative profiles.

5. When expenditure under a given chapter significantly exceeds the profile laid down, the Commission shall analyse the discrepancy:

Unchanged

If the overrun on the profile is not likely to lead to an overrun on the appropriations for the chapter, no corrective measures need be taken. The Commission shall explain to the budgetary authority its reasons for not expecting an overrun on the appropriations.

If it concludes that there is a risk of the appropriations for the chapter being exceeded at the end of the year, the Commission shall determine the causes and evaluate the foreseeable effect on the budget.

6. Where the appropriations entered in the budget are in danger of being exceeded as a result of unforeseen changes in internal supply or demand, the Commission shall take action on the chapter concerned, using the management powers at its disposal, including those it has under the stabilizing measures, to remedy the situation. If these measures are insufficient, the Commission shall present proposals to the Council for appropriate action to control expenditure, which may include proposals for strengthening the stabilizers in the relevant sector. The Council shall act within two months of receiving the Commission's proposal in order to remedy the situation. Should it fail to take a decision within this time limit, the Council shall inform the European Parliament of the reasons.

Where the appropriations entered in the budget are in danger of being exceeded as a result of unforeseen changes in internal supply or demand, the Commission shall take action on the chapter concerned, using the management powers at its disposal, including those it has under the stabilizing measures, to remedy the situation. If these measures are insufficient, the Commission shall present proposals to the Council for appropriate action to control expenditure, which may include proposals for strengthening the stabilizers in the relevant sector. Parliament shall deliver its opinion within six weeks and the Council shall act within two months of receiving the Commission's proposal in order to remedy the situation. Should it fail to take a decision within this time limit, the Council shall inform the European Parliament of the reasons.

7. The Commission shall evaluate the impact of the proposed measures with respect to both the savings which they are likely to produce and the time required for them to have their first economic and budgetary effects. The budgetary authority shall be informed of this evaluation.

Unchanged

8. If it proves impossible to remedy the situation before the end of the budget year, the budgetary authority, acting on a proposal from the Commission, shall make a transfer as a safeguard measure. The Commission shall inform the budgetary authority of developments in the market situation in the light of the corrective measures adopted, the foreseeable financial consequences of which shall be taken into account in the budget for the following year. If these measures prove insufficient for restoring the balance of the market or markets concerned, the Commission shall present proposals to the Council designed to strengthen their action.

Unchanged

9. In circumstances other than those referred to in paragraph 6, and without prejudice to the special measures which may be taken for the operations referred to in paragraph 3, the Commission shall propose measures to increase the appropriation of a chapter whenever it is insufficient.

Deleted

**Article 6**

The dollar/ecu rate used to draw up the annual budget estimates of the expenditure referred to in Article 3 for any given year shall be the average market rate over the first three months of the preceding year.

Unchanged

**Article 7**

ECU 1 000 million shall be entered in a reserve in the general budget of the European Communities, as a provision to cover:

Unchanged

- developments caused by movements in the dollar/ecu market rate in relation to the rate used in the budget;
- and, where applicable, the costs arising from monetary realignments between Member States.

From 1995, the reserve shall be reduced to ECU 500 million. These appropriations shall not be included in the agricultural guideline.

**Article 8**

By no later than the end of October each year, the Commission shall report to the budgetary authority on the impact on expenditure referred to in Article 3 of movements in the average dollar/ecu market rate for the period from 1 August of the preceding year to 31 July of the current year in relation to the rate used in the budget, as defined in Article 6.

Unchanged

Article 9

- 1. Savings or additional costs resulting from movements in the rate shall be treated in symmetrical fashion. Where the dollar strengthens against the ecu in relation to the rate used in the budget, savings in the Guarantee Section of up to ECU 1 000 million (ECU 500 million from 1995) shall be transferred to the monetary reserve. Where additional budgetary costs are engendered by a fall in the dollar against the ecu compared with the budget rate, the monetary reserve shall be drawn on and transfers shall be made from the monetary reserve to the EAGGF Guarantee Section headings affected by the fall in the dollar. Where necessary, these transfers shall be proposed at the same time as the report referred to in Article 8. Unchanged
  
- 2. There shall be a franchise of ECU 400 million. Savings or additional costs below this amount arising from the movements referred to in paragraph 1 will not necessitate transfers to or from the monetary reserve. Savings or additional costs above this amount shall be paid into, or met from, the monetary reserve. The amount shall be reduced to ECU 200 million from 1995. Unchanged

Article 10

- 1. If it should become apparent when the budget is being implemented that the agricultural guideline cannot cover the budget cost arising directly from monetary realignments within the European Monetary System, the monetary reserve shall be used and appropriate transfers shall be proposed without, however, comprising full application of Article 9(1). Unchanged
  
- 2. If, in the circumstances referred to in paragraph 1, the appropriations available in the monetary reserve prove inadequate, the Council shall take the necessary measures. Unchanged

Article 11

- 1. Funds shall be taken from the reserve only if the additional costs cannot be met from the budget appropriations to cover the expenditure referred to in Article 3(1) for the year in question. Unchanged

2. The necessary own resources shall be called up, in accordance with Decision 88/376/EEC<sup>1</sup> and the provisions adopted pursuant thereto, to finance the corresponding expenditure. Unchanged
  
3. Any savings made in the EAGGF Guarantee Section which have been transferred to the monetary reserve in accordance with Article 9(1) and which remain in the monetary reserve at the end of the financial year shall be cancelled and thus contribute to a budgetary surplus which shall be counted as a revenue item in the budget for the coming year by means of a letter of amendment to that budget. Unchanged

#### Article 12

1. Payment of the monthly EAGGF Guarantee advances by the Commission shall be effected on the basis of the information supplied by the Member States in regard to expenditure in each chapter. Unchanged
  
2. In the event of unsatisfactory explanations, incorrect or late notification, serious suspicions that the rules are not being complied with and any other situation indicating evident misuse of Community funds, the Commission may reduce or provisionally suspend the monthly advances after notifying the Member State in question at least five days before the decision and after consulting the EAGGF Committee. This reduction or suspension shall be without prejudice to the decisions which will be taken as part of the clearance of accounts. Unchanged
  
3. If the profile defined in Article 2(5) is significantly exceeded, the Member States shall, at the Commission's request, provide any information which may explain the abnormal rate of expenditure, including particulars about the quantities subsidized. Unchanged

<sup>1</sup> OJ No L 189, 15.7.1988, p.24.

## II. RESERVES FOR EXTERNAL OPERATIONS

### I. Reserve to guarantee Community loans and loan guarantees to non-member countries

#### Article 13

Each year, the current-price equivalent of ECU 300 million at 1992 prices shall be entered as a provision in a reserve in the general budget of the European Communities.

This amount shall be adjusted to the corresponding allocation in the financial perspective contained in the Interinstitutional Agreement of ... if the financial perspective is revised.

This reserve is intended to cover:

- (a) the requirements of the Guarantee Fund set up by Regulation ..... of ...
- (b) where necessary, activated guarantees exceeding the amount available in the Fund so that these amounts may be charged to the budget.

#### Article 14

If, at the end of the financial year, the Fund exceeds the target amount provided for in Article 3 of Regulation ... of ....., the surplus shall be repaid to a specific heading in the statement of revenue of the budget and shall contribute to a budgetary surplus.

### 2. Reserve for emergency aid

#### Article 15

A reserve for emergency aid to non-member countries shall be entered each year in the general budget of the European Communities as a provision. The purpose of this reserve shall be to permit a rapid response to specific emergency aid requirements in non-member countries resulting from unforeseeable events, with priority being given to humanitarian operations.

The amounts of this reserve shall be the equivalent, in current prices for each financial year, of the following amounts expressed in 1992 prices: ECU 200 million in 1993 and 1994 and ECU 300 million for each of the financial years between 1995 and 1999.

These amounts shall be adjusted to the corresponding allocations in the financial perspective contained in the Interinstitutional Agreement of ... if the financial perspective is revised.

Articles 13 and 15 are merged to form a single Article 13:

#### Article 13

The following shall be entered in the budget each year:

- a reserve to guarantee the lending operations covered by Regulation (EEC, Euratom) No ... establishing a Guarantee Fund,
- a reserve for emergency aid for non-member countries.

The amounts of these reserves shall be fixed in line with the amounts laid down in the financial perspective annexed to the Interinstitutional Agreement.

Article 14 is deleted

Article 15 is deleted

3. Common provisions

The numbering of the following Articles is altered.

Article 16

The reserves shall be used by means of transfers to the budget headings concerned in accordance with the provisions of the Financial Regulation.

Article 14

Article 17

The own resources necessary for financing these reserves shall not be called in from the Member States until the reserves are used in accordance with Article 16.

Article 15

The own resources necessary shall be made available as provided in Council Regulation (EEC, Euratom) No 1552/89.<sup>1</sup>

III. OTHER PROVISIONS

Article 18

Budgetary discipline in respect of all other expenditure shall be applied on the basis of the arrangements contained in the Interinstitutional Agreement.

Article 16

Article 19

The financial implementation of any Council Decision or any decision by the European Parliament and the Council exceeding the budget appropriations available in the general budget or the appropriations provided for in the financial perspective contained in the Interinstitutional Agreement may not take place until the budget has been amended and, where necessary, the financial perspective revised according to the procedure laid down for each of these cases.

Article 17

IV. FINAL PROVISIONS

Article 20

Decision 88/377/EEC is hereby repealed.

Article 18

Done at Brussels,

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For the Council  
The President

<sup>1</sup> OJ L 155, 7.6.1989.

**AMENDED PROPOSAL FOR A  
COUNCIL REGULATION (ECSC, EC, Euratom)  
establishing a Guarantee Fund for external operations**

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## EXPLANATORY MEMORANDUM

On 26 January 1993 the Commission presented a proposal for a Regulation establishing a Guarantee Fund for loans to non-member countries.<sup>1</sup>

Parliament gave its opinion on 28 October 1993 passing a number of amendments, some of which the Commission can accept.

These were the amendments referring to the links between this proposal and the budget and, in particular, Article 203 of the Treaty, the Interinstitutional Agreement and the entry of certain Guarantee Fund operations in the budget.

However, the Commission rejected most of the amendments which undermined the automatic and simple nature of the proposed mechanism.

Amendments which would have changed the rate of payment, the target amount and the type of payment were thus rejected.

In accordance with Article 189a(2) of the EC Treaty and the second paragraph of Article 119 of the Euratom Treaty, the Commission has therefore produced this amended proposal so that the procedure may be continued within the Council.

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<sup>1</sup> COM(93)20 final.

**AMENDED PROPOSAL FOR A COUNCIL REGULATION (ECSC, EC, Euratom)  
establishing a Guarantee Fund for external operations**

In the light of the opinions of Parliament and the Court of Auditors, the Commission is presenting the following proposal:

**INITIAL PROPOSAL**

**AMENDED PROPOSAL**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European  
Community, and in particular Article 235  
thereof,

Having regard to the Treaty establishing the European  
Atomic Energy Community, and in particular Article 203  
thereof,

Having regard to the proposal from the Commission,(1)

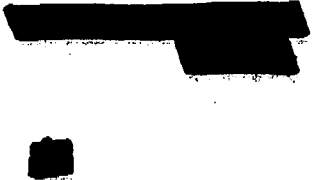
Having regard to the opinion of the European  
Parliament,(2)

Having regard to the opinion of the Court of Auditors, (3)

(1) OJ No ... of ...

(2) OJ No ... of ...

(3) OJ No ... of ...



Whereas the European Council, meeting in Edinburgh on 11 and 12 December, agreed that a Guarantee Fund should be established to cover loan guarantees to non-member countries;

Whereas the general budget is exposed to increased financial risk as a result of the guarantees covering loans to non-member countries;

Whereas mechanisms currently exist for honouring guarantees when they are activated, in particular by drawing provisionally on cash resources, as provided for in Article 12 of Council Regulation No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Community's own resources (4), as last amended by Regulation (EEC, Euratom) No ... (5);

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(4) OJ No L 155 of 7.6.1989, p. 1.

(5) OJ No ... of ...

Whereas the institutions have agreed, in the Interinstitutional Agreement of 29 October 1993, to enter in the general budget a reserve for loans and loan guarantees;

Whereas it is necessary for these mechanisms to be reinforced by making provisions for the risk of default;

Whereas it is possible to meet this need by the establishment of a Guarantee Fund which may be drawn on to pay the Community's creditors direct;

Whereas the Guarantee Fund should be constituted by the gradual payment of resources; whereas the Fund will subsequently also receive interest on its invested resources and late repayments by defaulting debtors after the Fund has paid creditors;

Whereas, by reference to the practice of international financial institutions, a ratio of 10 % between the Guarantee Fund's resources and guaranteed liabilities in principal would seem adequate;

Whereas initial payments to the Guarantee Fund equal to 14 % of the amount of each operation would seem appropriate to attain this target amount;

Whereas, once this amount is attained, payments to the Guarantee Fund could then be limited to 10 % of the amount of new operations; whereas if the Guarantee Fund exceeds this amount the surplus will be paid back to the budget;

Whereas management of the Guarantee Fund by the Commission will ensure effective and rapid implementation;

Whereas, to ensure maximum transparency for operations relating to the Fund, payments from the Fund and late repayments received from defaulting debtors should be recorded in the general budget to enable the Court of Auditors to conduct its controls;

Whereas the Treaties do not provide any powers other than those under Article 235 and Article 203, respectively, for the adoption of this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

A Guarantee Fund, hereinafter referred to as 'the Fund', shall be established, the purpose of which shall be to repay the Community's creditors direct in the event of default by the beneficiary of a lending operation guaranteed by the general budget.

The operations referred to in the first subparagraph shall be covered by the Fund only if the beneficiaries are non-member countries or a person not resident in the Community.

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*Article 2*

The Fund shall be endowed by:

- payments from the general budget corresponding to a set percentage of each operation for a non-member country, decided on and committed by the Community and guaranteed by the budget,
  
- interest on Fund resources invested,
- amounts recovered from defaulting debtors where the Fund has already honoured the guarantee.

*Article 3*

The Fund shall rise to an appropriate level, known as 'the target amount', determined by reference to guaranteed liabilities.

The target amount shall be 10 % of the Community's outstanding liabilities in principal arising from loans and loan guarantees granted by the Community.

If, at the end of a year, the Fund exceeds this amount, the surplus shall be paid back to a special heading in the statement of revenue in the budget.

payments from the general budget corresponding to a set percentage of each operation for a non-member country, decided on and committed by the Community and guaranteed by the Communities;

*Article 4*

The payments provided for under the first indent of Article 2:

- shall be equivalent to 14 % of the value of the operation until the Fund reaches its target amount,
- shall be reduced to 10 % when the target amount is reached.

*Article 5*

If, as a result of the activation of guarantees, resources in the Fund fall below 75 % of the target amount, the rate of provisioning on new operations shall be raised to 15 % until the target amount has been reached.

If a guarantee is activated before the Fund reaches its target amount and the resources in the Fund fall below 75 % of the target amount as a result, the rate of provisioning shall be raised to 15 % until the amount drawn has been fully restored.

If, as a result of the activation of guarantees, the resources in the Fund fall below 50 % of the target amount, the budgetary authority, acting on a proposal from the Commission, shall decide on measures to replenish the Fund.

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*Article 6*

The Fund shall be managed by the Commission, which shall adopt rules satisfying the principles of prudence and sound financial management.

*Article 7*

The Commission shall, by no later than the following 31 March, send to the European Parliament, the Council and the Court of Auditors an annual report on the situation of the Guarantee Fund and the management thereof in the previous year.

*Article 8*

The revenue and expenditure account and the balance sheet relating to the Fund shall be attached to the Communities' revenue and expenditure account and balance sheet.

*Article 9*

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

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

For the Council

The President

Done at

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**AMENDED PROPOSAL FOR A  
COUNCIL REGULATION (ECSC, EC, Euratom)  
amending the Financial Regulation of 21 December 1977  
applicable to the general budget of the European Communities**

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## EXPLANATORY MEMORANDUM

Acting on the conclusions of the Edinburgh European Council, on 26 January 1993 the Commission presented a proposal for amending the Financial Regulation<sup>1</sup> to provide for the creation of two new reserves (Reserve for emergency aid and Reserve to guarantee lending operations) and to insert arrangements to make the appropriate links between the Guarantee Fund and the budget.

Parliament gave its opinion on this proposal at its 15-19 November part-session, passing a number of amendments, most of which the Commission can accept.

Apart from the changes which are essentially to wording and which the Commission accepts, the only amendment of real substance is Parliament's demand that the budget should record all Guarantee Fund operations by means of appropriate accounting arrangements: the Commission agrees with this, except where interest is concerned, this being purely internal to the Guarantee Fund.

In accordance with Article 189a(2) of the EC Treaty and the second paragraph of Article 119 of the Euratom Treaty, the Commission has therefore produced this amended proposal.

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<sup>1</sup> COM(93)20 final.

**AMENDED PROPOSAL FOR A COUNCIL REGULATION (ECSC, EC, Euratom)  
amending the Financial Regulation of 21 December 1977  
applicable to the general budget of the European Communities**

In the light of the opinions of Parliament and the Court of Auditors, the Commission is presenting the following proposal:

| INITIAL PROPOSAL<br>(COM(93) 20 of 26.1.1993)  | AMENDED PROPOSAL  |
|--|---|
| <b>THE COUNCIL OF THE EUROPEAN COMMUNITIES,</b>  | <b>THE COUNCIL OF THE EUROPEAN UNION;</b>   |
| Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 78h thereof,   |   |
| Having regard to the Treaty establishing the European Economic Community, and in particular Article 209 thereof,   | Having regard to the Treaty establishing the European Community, and in particular Article 209 thereof,   |
| Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof,  |   |
| Having regard to the proposal from the Commission, <sup>1</sup>  |   |
| Having regard to the opinion of the European Parliament, <sup>2</sup>  |   |
| Having regard to the opinion of the Court of Auditors, <sup>3</sup>  |   |
|  | The following recital is added before the 1st recital:  |
|  | <u>"Whereas the institutions have agreed, in the Interinstitutional Agreement of 29 October 1993, to enter in the general budget a reserve to guarantee loans to non-member countries and a reserve for emergency aid;"</u> |
| Whereas conciliation took place in a conciliation committee, as provided for in the Joint Declaration of the European Parliament, the Council and the Commission of 4 March 1975; <sup>4</sup> |   |

1 .....

2 .....

3 .....

<sup>4</sup> OJ No C 89, 22.4.1975, p.1.

INITIAL PROPOSAL

AMENDED PROPOSAL

Whereas under Council Decision ... of ... on budgetary discipline<sup>5</sup> the general budget is to include a reserve for emergency aid and a reserve to guarantee Community loans and loan guarantees to non member countries; whereas those reserves should be given recognition in the relevant provisions of the Financial Regulation; whereas provision needs to be made for the necessary budget structure in the presentation of the budget nomenclature;

Whereas the creation of the Guarantee Fund under Council Regulation (EEC, Euratom) ..... of .....<sup>6</sup> requires provisions to be included so that repayments made direct by the Guarantee Fund to lenders are recorded in the budget,

HAS ADOPTED THIS REGULATION:

The last recital is replaced by the following:

"Whereas the creation of the Guarantee Fund under Council Regulation (EEC, Euratom) ..... of .....<sup>\*</sup> requires provisions to be included so that all operations relating in whatever way to the Guarantee Fund are recorded in the budget,"

5 .....  
6 .....

(\*)

## INITIAL PROPOSAL

## AMENDED PROPOSAL

Article 1

The Financial Regulation is amended as follows:

1. The following paragraph 7<sup>7</sup> is added to Article 19:

"7. The subsection concerning "Cooperation with developing countries and other third countries" shall include the following two reserves, the conditions for the entry, utilization and financing of which are laid down in Council Decision ... of ... on budgetary discipline<sup>\*</sup> and in Council Regulation (EEC, Euratom) No 1552/89:

- (a) a reserve for emergency aid for non-member countries;
- (b) a reserve to guarantee Community loans and loan guarantees to non member countries."

Article 1

## Article 19(7)

"7. The subsection concerning "Cooperation with developing countries and other third countries" shall include the following two reserves, the conditions for the entry, utilization and financing of which are laid down in the Interinstitutional Agreement, Council Decision ... of ... on budgetary discipline<sup>\*</sup> and Council Regulation (EEC, Euratom) No 1552/89:

- (a) unchanged
- (b) unchanged

<sup>7</sup> The current paragraph 7 is deleted by the proposal in COM(92) 358 of 2 September 1992.  
OJ No L .....

INITIAL PROPOSAL

AMENDED PROPOSAL

2. The following point 6 is added to Article 20:

"6. As regards the budgetary impact of the reserve to guarantee Community loans and loan guarantees to non-member countries and in those countries and of implementing the Guarantee Fund set up by Council Regulation (EEC, Euratom) No .....

Article 20, point 6

unchanged

(a) in the general statement of revenue:

(a) in the general statement of revenue:

- a heading to cover the financing of the reserve to guarantee Community loans and loan guarantees to non member countries as and when it is mobilized in accordance with Article 13 of Decision ..... concerning budgetary discipline,

unchanged

- a heading to record in the budget payments made by the Guarantee Fund,

unchanged

- a heading to allow late repayments by defaulting recipients to be booked to the budget if they are not made direct to the Guarantee Fund in accordance with the third indent of Article 2 of Regulation (EEC, Euratom) No ..... establishing the Fund,

- a heading to allow late repayments by defaulting recipients to be booked to the budget even if they are made direct to the Guarantee Fund in accordance with the third indent of Article 2 of Regulation (EEC, Euratom) No ..... establishing the Fund,

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OJ No L .....



## INITIAL PROPOSAL

## AMENDED PROPOSAL

- a heading to accommodate the repayment to the budget of any Guarantee Fund surplus in accordance with Article 14 of Decision ..... concerning budgetary discipline;

(b) in the Commission section of the statement of expenditure:

- the heading for the endowment of the Guarantee Fund in accordance with the provisions contained in Articles 2 and 4 of Regulation (EEC, Euratom) No ..... establishing the Guarantee Fund."

3. The following paragraph 11 is added to Article 26:

"11. Decisions on transfers to allow the utilization of the reserve to guarantee Community loans and loan guarantees to non member countries and the reserve for emergency aid shall be taken by the budgetary authority in accordance with paragraph 5."

- unchanged

(b) in the Commission section of the statement of expenditure:

- the heading for the endowment of the Guarantee Fund in accordance with the provisions contained in Articles 2 and 4 of Regulation (EEC, Euratom) No ..... establishing the Guarantee Fund.  
The remarks against this heading shall include a summary table of all operations concerning the Fund. This table shall be updated periodically."

unchanged

4. The following Title Xa is inserted:

"Title Xa

Special provisions applicable to the recording in the general budget of repayments made direct by the Guarantee Fund

unchanged

Article 123a

In accordance with Article 1 of Regulation (EEC, Euratom) No ..... setting up the Guarantee Fund, the Guarantee Fund shall make payments direct to lenders in the event that loan recipients default.

In order to record these operations in the general budget, which provides the guarantee of their performance, the following procedure shall apply:

- the amount paid by the Guarantee Fund shall be recorded by the issue of a recovery order within 7 working days for the heading specifically entered for this purpose in the statement of revenue in accordance with Article 20(6);
- at the same time as this entry in the statement of revenue, an appropriation of the same amount shall be entered under the corresponding heading in the statement of expenditure - carrying a token entry in accordance with Article 20(5)(b) - to record the expenditure effected, in accordance with the relevant provisions in Part I of Section III of Title III."

unchanged

Article 2

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

It shall apply from ....

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

Done at Brussels,

For the Council  
The President

Article 2

unchanged

**AMENDED PROPOSAL FOR A COUNCIL REGULATION (E C, EURATOM)  
AMENDING COUNCIL REGULATION (EEC, EURATOM)  
No 1552/89 OF 29 MAY 1989  
IMPLEMENTING DECISION 88/376/EEC, EURATOM  
ON THE SYSTEM OF THE COMMUNITIES' OWN RESOURCES**

**EXPLANATORY MEMORANDUM**

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On 17 February 1993 the Commission presented a proposal for amending Council Regulation No 1552/89 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources as regards the entry of own resources in respect of reserves.

Parliament delivered its opinion on 17 November 1993.

The Commission has now amended its proposal in accordance with Article 189a(2) of the EC Treaty and the second paragraph of Article 119 of the Euratom Treaty.

**AMENDED PROPOSAL FOR A COUNCIL REGULATION ( EC, EURATOM)  
AMENDING REGULATION (EEC, EURATOM) No 1552/89 OF 29 MAY 1989  
IMPLEMENTING DECISION 88/376/EEC, EURATOM  
ON THE SYSTEM OF THE COMMUNITIES' OWN RESOURCES**

In response to the opinions delivered by Parliament and the Court of Auditors, the Commission has amended its proposal as follows:

**ORIGINAL PROPOSAL**

Article 10(3), second subparagraph

The entry in respect of the EAGGF monetary reserve referred to in Article 6 of Decision 88/376/EEC, Euratom shall be made on the first working day of the month following the charging to the budget of the expenditure concerned and shall be limited to the said expenditure if charging is effected before the 16th day of the month. If such is not the case, the entry shall be made on the first working day of the second month after charging.

The entry in respect of the reserve to guarantee Community loans and loan guarantees to non-member countries and in those countries and the reserve for emergency aid established by Council Decision ... [concerning budgetary discipline]<sup>1</sup> shall be made on the first working day of the second month following the charging to the budget of the expenditure concerned and shall be limited to the said expenditure.

By way of derogation from Article 5 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities<sup>2</sup>, as last amended by Council Regulation (ECSC, EEC, Euratom) No 2049/88<sup>3</sup> and referred to hereinafter as "the Financial Regulation", these entries shall be taken into account in the financial year to which they relate.

<sup>1</sup> OJ No L ...

<sup>2</sup> OJ No L 356, 31.12.1977, p. 1.

<sup>3</sup> OJ No L 185, 15.7.1988, p. 3.

**AMENDED PROPOSAL**

Article 10(3), second subparagraph

The entry in respect of the EAGGF monetary reserve referred to in Article 6 of Decision 88/376/EEC, Euratom, the reserve to guarantee Community loans to non-member countries and in those countries and the reserve for emergency aid established by Council Decision ... [concerning budgetary discipline] shall be made on the first working day of the month following the charging to the budget of the expenditure concerned and shall be limited to the said expenditure if charging is effected before the 16th day of the month. If such is not the case, the entry shall be made on the first working day of the second month following the charging to the budget of the expenditure concerned and shall be limited to the said expenditure.

However, if the situation as regards the implementation of the budget for the year is such that the entries relating to the EAGGF monetary reserve and the reserve for emergency aid are not necessary to achieve a balance between revenue and expenditure for the year, the Commission may decide to dispense with these entries or part of these entries.

Deleted

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