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REPORT

on behalf of the Committee on Budgets

on the proposal from the Commission of the European Communities to the Council (Doc. C2-33/85-COM(85) 170 final) for a regulation extending the term of validity of Regulation (EEC, Euratom, ECSC) No. 2892/77 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources COM(85) 170 final - Doc. C 2-33/85

and

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

Rapporteur: Mr P.A.M. CORNELISSEN



By letter of 15 May 1985 the President of the Council of the European Communities requested the European Parliament for an opinion on the proposal for a Council regulation (ECSC, EEC, EURATOM) extending Regulation (EEC, EURATOM, ECSC) No. 2892/77 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources.

On 10 June 1985 the President of the European Parliament referred this proposal to the Committee on Budgets as the committee responsible and to the Committee on Economic and Monetary Affairs and Industrial Policy for their opinions.

On 20 June 1985 the Committee on Budgets appointed Mr PAM CORNELISSEN rapporteur.

It considered the proposal and the draft report at its meetings of 18 September and 16 October 1985.

At the latter meeting the committee decided, with 13 votes in favour, to recommend to Parliament that it approve the Commission's proposal, subject to the following amendment.

The motion for a resolution as a whole was adopted with 11 votes in favour and three abstentions.

Present: Mr COT, chairman, Mr RYAN, vice-chairman, Mr CORNELISSEN, rapporteur, Mr ABENS, Mr BARDONG, Mrs FUILLET, Mr FICH, Mrs HOFF, Mr MERTENS (deputizing for Mr PFENNIG), Mr LANGES, Mr LOUWES, Mr PRICE (deputizing for Mr NORMANTON), Mr SCHREIBER (deputizing for Mr ARNDT), Mr VON DER VRING, Mr VAN DER WAAL (deputizing for Mr CICCIOMESSERE),

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The Committee on Economic and Monetary Affairs and Industrial Policy has decided not to deliver an opinion.

The opinion of the Committee on Budgetary Control is attached.

The report was tabled on 18 October 1985.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

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

Proposal for a Council Regulation (ECSC, EEC, EURATOM) extending the term of validity of Regulation (EEC, EURATOM, ECSC) No. 2892/77 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (COM(85) 170 final - Doc. C 2-33/85)

Text proposed by the Commission
of the European Communities

Amendments tabled by the Committee
on Budgets

Preamble and recitals unchanged

Amendment No. 1

Insert the following new article
before Article 1

In Article 13(2) and (3), after:

no later than 30 days following the
approval of this report, the Commission
shall adopt a decision which it shall
communicate to the Member States

delete the text that follows, viz:

and which shall apply after a period of
30 days if during this period no Member
State has referred the matter to the
Council.

The Council may, at the request of a
Member State and acting by a qualified
majority, revise the Commission's
decision.

Articles 1 and 2 unchanged

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the

- proposal from the Commission of the European Communities to the Council (Doc. C2-33/85 - COM(85) 170 final) for a regulation extending the term of validity of Regulation (EEC, Euratom, ECSC) No. 2892/77 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

and

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

The European Parliament:

- having regard to the Council Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources¹,
 - having regard to the Council Decision of 11 May 1985 on the Communities' system of own resources²,
 - having regard to the proposal from the Commission to the Council³,
 - having been consulted by the Council (Doc.(2-33/85) COM(85) 170 final),
 - having regard to the opinion delivered by Parliament on the previous amendment and extension of Regulation No. 2892/77⁴,
 - having regard to the report of the Committee on Budgets and the opinion of the Committee on Budgetary Control (Doc.),
 - having regard to the outcome of the votes on the Commission proposal,
- A. whereas improvements to the implementing regulations in respect of the own resources system are necessary, not least because of the increasing number of violations of the Community's financial autonomy in recent years,
- B. whereas proposals for the revision of Regulation No. 2891/77 on own resources have been before the Council since 1982 and whereas Parliament has repeatedly urged that they be dealt with rapidly,
1. Takes note of the Commission's report on implementing Regulations No. 2891/77 and No. 2892/77 in respect of the Community's own resources system;

¹J L 94, 28.4.1970, p.19

²J L 128/15, 14.5.1985

³J C 125, 22.5.1985, p.16

⁴J C 13, 17.1.1983, p.218

2. Regrets that a majority of Member States still record the Community's own resources in national budget documents as national revenue to be transferred subsequently to the Community;
3. Requests the Commission to take steps to induce the Member States that have not already done so to record the Community's own resources in national budgets and national accounts in a manner which is in conformity with the Community nature of these resources; considers that the Commission should devise a Community model on the basis of which the entries concerned could be harmonized;
4. Supports the Commission's preference for the returns method with regard to the calculation of the base for own resources accruing from VAT; reiterates that only a method based on the returns by taxable persons is compatible with the basic idea that the Community's own resources flow from European taxation rather than from national financial contributions;
5. Approves a further extension of Regulation No. 2892/77 in respect of own resources accruing from VAT until 31 December 1988; hopes, however, that the extension of Regulation 2892/77 will be used to encourage the Member States which have hitherto been using the statistical revenue method for the calculation of the VAT base henceforth to apply the returns method;
6. Requests the Commission to investigate ways of dealing with the genuine difficulties encountered in the Member States in applying the returns method;
7. Requests the Commission to develop and improve the returns method and, in so doing, to restrict to a minimum the additional administrative formalities which the returns method might entail, particularly for small businesses;
8. Believes that the revenue method must be corrected in order to prevent this method being, even temporarily, financially more advantageous for the Member States than the returns method;
9. Proposes in particular that the estimated assessments should be included more quickly in the calculation of the VAT base and that the information available to the Commission regarding the collection of VAT should be improved;
10. Reiterates its view that the management committee procedure under Article 13 of Regulation 2892/77 is at variance with the purely advisory powers of the Committee on Own Resources, particularly as each Member State has the option of having a Commission decision amended by the Council;
11. Requests the Commission, in the report it has promised to submit one year before the new own resources ceiling has been reached, to include a proposal that would permit a rapid transition to the returns method as the uniform method for establishing the VAT base;
12. Urges the Council to speed up its work with regard to:
 - the revision of Regulation 2891/77;
 - the 18th VAT Directive concerning the gradual abolition of derogations from the common VAT system;
 - the Commission's proposals regarding measures to be taken in the event of irregularities which have consequences for own resources;

13. Draws the Council's attention in this connection to the amendment adopted by Parliament to the 1985 draft budget, pursuant to which 30 m ECU in revenue from interest on the Commission's own resources accounts with the national treasuries were included in the budget;
14. Is aware of the fact that such inclusion in the budget requires the amendment of Regulation 2891/77, pursuant to paragraph IV, 3(c) of the joint declaration of 30 June 1982*; reminds the Council however that pursuant to that same paragraph it is required 'to use (its) best endeavours to adopt the regulation by the end of May at the latest';
15. Instructs its President to forward to the Council and Commission, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.

* OJ C 194, 28.2.1982

EXPLANATORY STATEMENTINTRODUCTION

1. This Commission document (COM(85) 170 of 19.4.1985) is in two parts:
 - a report on the implementation of Regulations 2891/77 and 2892/77 which govern the system of own resources, and
 - a proposal to extend the term of validity of Regulation 2892/77, which is to expire on 31 December.

This document is one of a series of amendments to the system of own resources which began in 1982.

2. The idea of own resources is closely linked to the very nature of the European Communities. The ECSC has had such resources since its inception, in the form of levies on the production of coal and steel. The High Authority of the ECSC was also empowered to contract loans (Article 49 ECSC).

Unlike the ECSC, the EEC was initially financed by contributions from the Member States (Article 200 EEC). Article 201 EEC did however require the Commission to examine the conditions under which the financial contributions of Member States could be replaced by own resources, in particular by revenue accruing from the common customs tariff when it had been finally introduced.

3. This gave rise to the Decision of 21 April 1970¹ replacing the financial contributions from Member States by the Communities' own resources. This decision has just been replaced by the Decision of 7 May 1985² raising the maximum rate of mobilization of VAT to 1.4%, and allowing compensation to be paid to certain Member States by deduction from their VAT payments.
4. The Decision of 21 April 1970 was initially implemented by Regulation 2/71³ of 2 January 1971. Following the 1975 Treaty widening Parliament's budgetary powers and the agreements on the basis of assessment for a common system of value added tax (6th VAT directive of 17 May 1977)⁴ this regulation was replaced on 19 December 1977 by two new regulations:
 - Regulation 2891/77, laying down general provisions for own resources and specific provisions concerning the traditional own resources: customs duties, agricultural levies, and sugar levies;
 - Regulation 2892/77 dealing more specifically with own resources accruing from VAT.

¹ OJ No. L 94, 28.4.1970, p. 19

² OJ No. L 128, 14.5.1985, p. 15

³ OJ No. L 3, 5.1.1971, p. 1

⁴ OJ No. L 145, 13.6.1977, p. 1

5. Regulation 2892/77 left it up to the Member States to choose between two methods for determining the basis of assessment for VAT: the returns method and the revenue method, also known as the statistical method. The intention was to go over to a uniform system for collecting VAT resources by the end of 1982. Regulation 2892/77 was therefore scheduled to expire on 31.12.1982. Because of the delay in introducing VAT in the Member States, the Commission was unable to propose a uniform system in 1982. It did however propose changes in several other aspects of Regulations 2891 and 2892/77.

CONSULTATION IN THE PAST

6. Parliament was therefore consulted on the following proposals:

A. regarding Regulation 2891/77:

- A1. COM(82) 316 of 20 July 1982 - OJ No. C 231, 4.9.1982. This proposal made a large number of technical improvements and amendments to bring Regulation 2891/77 into line with the proposals for amendment of the general Financial Regulation. There were also more fundamental matters such as independent powers of verification for the Commission and to enable Commission accounts with the national treasuries to bear interest.
- A2. Following Parliament's opinion (Doc. 1-1006/82 - OJ No. C 13, 17.1.1983), the Commission tabled a first amendment to its proposal; COM(83) 254, of 10 May 1983 - OJ No. C 146, 4.6.1983. The Commission thus adopted Parliament's wishes as regards the bodies to which the Commission's accounts are open, the calculation of moratory interest, the rules for making own resources available in the absence of a budget, etc.
- A3. In October 1983 the Commission introduced a second amendment to its initial proposal: COM(83) 621, 21.10.1983 - OJ No. C 303, 10.11.1983, adding to it a section which was still being considered in 1982 concerning the basic concept of establishing own resources.

This proposal was critically received by the Committee on Budgets. After it had been referred to that committee under Rule 36 of Parliament's Rules of Procedure, a text was drawn up as a compromise between the Commission and Parliament in respect of:

- the definition of the concept of 'establishment' and the concept of own resources;
- the scope for delaying the making available of resources to the Commission or of waiving them;
- renewed progress towards harmonization of national provisions in respect of own resources.

- A4. Parliament ratified this compromise text (Doc. OJ No. C 172, 2.7.1984), which was then adopted by the Commission in the third amendment to the proposal amending Regulation 2891/77: COM(84) 465, 31.7.1984 - OJ No. C 219, 21.8.1984.

None of these Commission proposals has yet resulted in a Council regulation.

B. regarding Regulation 2892/77:

B1. COM(82) 412, 9.7.1982 - OJ No. C 200, 4.8.1982, was the initial proposal to amend Regulation 2892/77 and was submitted at the same time as the initial proposal to amend Regulation 2891/77 (see A1 above).

In its opinion (Doc. 1-1006/83 - OJ No. C 13, 17.1.1983), Parliament largely supported the Commission's proposals, including the postponement of a decision on the definitive procedure for calculating the VAT base until June 1985. Parliament did however urge that the regulation include greater powers for the Commission in respect of corrections to the VAT base.

B2. The Commission adopted Parliament's opinion, except that part of it relating to the 'management committee' on own resources, and submitted an amendment to its initial proposal, COM(83) 101, 1.3.1983 - OJ No. C 67, 12.3.1983.

B3. In the meantime, the Council had adopted Regulation 3350/82, 28.12.1982, OJ No. L 373, 31.12.1982, to extend the validity of Regulation 2892/77 until 31.12.1985.

B4. One year later, on 19 December 1983, the Council adopted Regulation 3625/83, OJ No. L 360, 23.12.1983, incorporating the main points of the other Commission proposals.

B5. The present proposal, COM(85) 170, will again extend Regulation 2892/77, until 31 December 1988.

THE EXTENSION OF REGULATION 2892/77

7. In respect of Regulation 2892/77, which expires on 31 December 1985, the following questions are still outstanding:

- the definition of the definitive system for establishing the VAT base (see point 8 of this document)
- Parliament's amendment on the powers of the Advisory Committee on Own Resources, in particular to remove the Council's ability to overturn the decisions of the Commission at the request of a Member State (see points 9-20);
- abolishing the exemptions to the common system of VAT (see point 21);
- problems of control (see point 22).

8. Parliament's amendment on the powers of the Advisory Committee on Own Resources was based on constitutional arguments. By their very nature, the Communities' own resources can no longer fall under the control of the Member States, which makes it difficult to accept each Member State's right to approach the Council to overturn a decision of the Commission.

An advisory committee holding powers of this nature is also an infringement of the division of powers between the Institutions under the Treaties. The committee is in fact required to examine 'problems arising out of application of this regulation', which is itself a regulation implementing the basic legislative decision. It is difficult to see how Article 155 of the EEC Treaty, which lays down the powers of the Commission, can be interpreted in such a way as to deprive it of the power of taking, on its own responsibility, measures to implement a regulation implementing a basic legislative act.

9. The choice of the uniform and definitive method for determining the basis of assessment for VAT resources gives rise to more complex problems.
10. The Commission originally proposed that the VAT base should be determined by reference to the returns made by taxable persons. Regulation 2892/77 described this as the 'returns method'.

However, the Council established a second method, the 'revenue' method, in which the VAT base is determined by dividing the total net revenue collected by an average weighted rate representing the VAT rates applying in the Member State concerned. The Member States could choose freely between the two methods until 31.12.1982, when a uniform and definitive method would be adopted.

11. Seven Member States opted for the revenue method from the start: Belgium, Germany, France, Italy, Luxembourg, the Netherlands and the United Kingdom. Greece has not yet introduced VAT. Denmark originally chose the returns method, but since 1983 has used the revenue method. At present, only Ireland is still using the returns method.
12. Despite claims to the contrary, the returns method does not require all taxable persons to show Community and national VAT separately on their invoices and returns. Nor does it require complicated calculations by those required to make the returns. The main difficulty in applying the returns method seems to lie in the models used in the national VAT systems for the periodic returns. Hitherto transactions have had to be broken down by VAT rate for SALES alone. The VAT paid on PURCHASES may generally be deducted as a whole item. For a correct application of the returns method PURCHASES must, according to the Commission, also be broken down per VAT rate. For both methods the national administrations are responsible for calculation and verification.
13. In the revenue method, calculation of the weighted average rate (by which the total revenue is divided to obtain the VAT base) is a complex operation involving various non-fiscal data. The advantage of this method, according to its supporters, was, when VAT was introduced, that use needed to be made only of figures already available to the various national authorities. This argument was largely disproved by the facts. The figures in the national accounts needed to analyse the total revenue by the VAT rates in force were not designed from a fiscal point of view and frequently show insufficient detail.

Estimates from other sources therefore have to be made. These are complicated still further by differences between the national accounting systems of the Member States and by the fact that there is a considerable time lag between the period for which economic data are available and the financial year for which the VAT base is calculated. Since the estimated assessments are not incorporated into the VAT base until they are actually collected and not at the time of the levy itself it is distinctly possible that the revenue method could lead to an under-assessment of the VAT base, i.e. deferment to the following year.

14. The Commission has, moreover, not found any great differences between the two methods as regards the reliability of the final result of the calculations or their respective costs.
15. There thus remains only the fundamental political question:
 - Can Parliament tolerate the fact that revenue from VAT is being increasingly watered down to a national financial contribution following the necessary abandonment of the principle of the uniform VAT rate and can it accept that the establishment of the uniform VAT base is ultimately reduced to a statistical calculation?
 - Or must every effort be made in connection with the calculation of the VAT base to revive the Community's own resources system and the financial autonomy of the Community which is dependent thereupon?
16. VAT, unlike the ECSC levy or the traditional own resources is not a Community tax. It is rather the first example of harmonized taxation at Community level. This harmonization is far from being complete, as the variety of rates applied in the Member States shows. Its yield goes largely into the national coffers.
17. Nevertheless, the Decisions of 21 April 1970 and 7 May 1985 make VAT part of the Community's own resources and distinguish between VAT resources and national contributions. It would therefore be desirable to assimilate the financial arrangements for VAT as far as possible to the other own resources and the provisions of the VAT directives, especially those of the Sixth directive on the uniform basis of assessment for VAT. Although the lack of harmonization in national VAT rates would make it difficult to collect Community VAT directly, it is necessary to ensure that the Community's budget does not become even more remote from its citizens.
18. The Commission still favours the returns method. Although there has been de facto harmonization in favour of the revenue method, the Commission is not proposing to make the latter the uniform and definitive method. The Commission prefers to extend the transitional period during which either method can be chosen. Barring any hope of a future upsurge of Community spirit among the national experts, this attitude does nothing to promote the returns method. The use of the revenue method has encouraged the national administrations, and the Commission, to develop a specific and complex system of calculations and estimates. If this system is allowed to continue and be extended, the chances for a readoption of the returns method will hardly improve.
19. In recent years the Community's own resources system has suffered a number of severe blows. The decision of 7 May 1985 not only strictly limited the increase in the VAT ceiling, it also introduced a graduation of the VAT rate, for certain Member States, in accordance with a method closely related to the idea of 'juste retour'. It is no longer exceptional for plans for Europe's further development to be based on intergovernmental rather than Community financing.

If Parliament and the Commission are serious in calling for the Community's financial autonomy and the Community nature of own resources to be safeguarded, they must establish conditions encouraging the transition from the revenue method to the returns method.

20. For this purpose it is essential, firstly, that any possibility of under-estimation of the VAT base should be removed from the revenue method in order to avoid Member States giving preference to this method for financial reasons, even temporarily.

Secondly, the returns method must also be further developed and improved, in particular in order to prevent an excessive administrative burden being placed on small businesses.

At the same time the Commission's information system in respect of VAT must be improved in such a way that the data which are necessary for the application of the returns method gradually become available. A first step in that direction has been made with the Commission's proposals regarding the measures to be taken in the event of irregularities which have consequences for own resources (see point 22 below). This first step should be followed by more specific proposals which will make it possible, when new own resources above the present 1.4% VAT ceiling are introduced, for a uniform returns method to be determined for the calculation of the VAT base.

21. In its opinion No. 2/85 of 3 July 1985 of the Court of Auditors stated that the technical arguments put forward by the Commission in favour of extending Regulation 2892/77 were not convincing. The Court also points out that the continual existence of transitional arrangements over an excessively long period may also raise problems.

However, for the reasons set out above, the rapporteur cannot endorse the Court of Auditors' conclusion that the definitive method must be established immediately.

22. Another major problem in respect of VAT is the number of possible exemptions to the common VAT system, which the sixth VAT directive permitted for a transitional period. The gradual abolition of many of these exemptions was the subject of a proposal for an eighteenth VAT directive of 4 December 1984¹.

23. Finally, there is the problem of checking the data forwarded by the Member States. Article 12 of Regulation 2892/77 confines these checks to the correctness of the operations to centralize the assessment basis, to determine the weighted average rate and the total net VAT revenue collected. This article does not authorize checks on any fraud in individual returns; we would refer here to the Commission Proposal of March 1979 on the measures to be taken in the event of irregularities affecting own resources and the organization of an information system for the Commission in this field². In February 1984 the Commission asked the Council to resume consideration of this proposal³.

Pending the adoption of the proposed improvements, the Committee on Budgetary Control, in its opinion on this proposal (PE 99.612), calls on the Commission to initiate an independent inquiry into VAT fraud.

¹ COM(84) 689, Doc. 2-1352/84

² OJ No. C 88, 4.4.1979, p. 4

³ COM(84) 54, 10.2.1984

24. The text of Articles 12 and 10b of Regulation 2892/77 which was amended by the Council in 1983 does not accord with the text proposed by Parliament. However, the present text of Article 10b enables the Commission, on correction of VAT summary accounts relating to previous years, to take the steps 'it considers necessary to ensure the correct application of this Regulation', even if the Member State does not agree. If the Commission assumes its responsibilities in this respect, it would not seem necessary for Parliament to insist on a new amendment.

CURRENT AMENDMENTS TO REGULATION 2891/77

25. The Council is not showing much interest in pushing ahead with the amendment of this regulation. The Commission's initial proposals date back to 1982. They have been supplemented and improved in several subsequent amendments (see point 6).

Two points in particular seem to be causing the Council difficulties, and both are related to the very essence of own resources:

- the proposal to give the Commission independent powers of control (see point 2)
- interest on Commission accounts with the national treasuries (see points 25 to 28).

Parliament also urged the Commission to produce a paper showing how own resources are presented in the national budgets (see point 29).

26. On the first point, Parliament and its Committee on Budgetary Control in particular have on several occasions urged that the Commission be given greater control powers. The opinion of the Committee on Budgetary Control (PE 99.612) demands the early adoption of the amendments to Regulation 2891/77 to this effect proposed in September 1982.

27. On the second, the system set up under Article 9 of Regulation 2891/77 under which own resources are entered in accounts with the national treasuries rather than being transferred direct to the Commission dates back to the time when the budget was financed from contributions by the Member States. Exchange rate risks were borne by the Member State. In those circumstances there could be no question of interest accruing to the Community.

28. With the introduction of own resources, the Commission had proposed retaining entry in accounts with the national treasuries, but in return, and in accordance with the principle of own resources, providing that it could freely use the amounts entered, which were no longer protected against exchange rate risks, but would yield interest.

The Council took up the Commission's proposal in that the Community now bears the exchange rate risk; however the sums do not bear interest and are available to the Commission only for its immediate financial needs. From this point of view, the Community is worse off under the own resources systems than it was under the previous system of national contributions.

29. Logically, in 1982 the Commission again pressed its previous proposal regarding interest. Nevertheless it abandoned its demand for free access to the sums due. Parliament fully supported this proposal. It also proposed that those Member States which so desired might credit the amount of own resources to an account with a financial institution in the Member State, so that the National Treasury would no longer have to bear the interest.
30. Parliament also used its budgetary powers to strengthen the Community nature of own resources along the lines proposed by the Commission.

In the 1984 budget, Parliament made a token entry for interest on revenue. In the 1985 budget, Parliament entered the sum of 30 m ECU against this item, as proposed by the Commission in its preliminary draft budget. In its initial proposals to amend Regulation 2891/77, the Commission estimated the total interest involved at 140 m ECU. This entry in the budget will force the Council to give its views on the Commission proposal, both on legal grounds as provided for in the Joint Declaration of 30 June 1982(OJ No. C 194, 28.7.1982) and on grounds of balancing the budget, with a view to financing the 1985 budget.

31. Another point arising from the Community nature of own resources is the way in which these resources are shown in the national budgets. As the Community's own resources, they should not appear at all in national budgets and accounts. Annex II to the Commission report accompanying the proposal to extend Regulation 2892/77 describes the practice in each Member State.
32. This shows that in national budget documents only four Member States 'have a method of presentation any where near in keeping with the nature of own resources' (para. 31, Commission report). They were Belgium, Germany, Luxembourg and the Netherlands. Although own resources are still mentioned in budget documents, there is no doubt as to their significance, which is for information only.
33. In Denmark and France, own resources are still included in national revenue and are then deducted in the form of 'negative revenue' in the case of Denmark and 'payments from State revenue to the European Communities' in France. In the four other Member States, Greece, Ireland, Italy and the United Kingdom, the situation is even worse; they include own resources in the revenue side of their budgets before entering transfers to the Community budget on the expenditure side. Greece and the United Kingdom provide notes and tables 'explaining all financial relations with the Communities' (last sentence of section A(1) of Annex II, Commission report).
34. In their national accounts eight Member States treat own resources in accordance with ESA (European system of integrated accounts) principles, which take into account the Community nature of own resources. Germany continues to ignore the ESA in this respect. Details for Greece are not yet available.
35. The Commission's conclusion that 'this situation could be improved' (section 2.4. of the report) would seem to be rather an understatement. Fresh action by the Commission seems necessary, in order to compel the Member States that have not yet done so to record the Community's own resources in the national budgets and national accounts in a manner which is in conformity with the Community nature of these resources. It would also seem appropriate for the Commission to draw up a Community model in order to harmonize the entries concerned.

OPINION

(Rule 101 of the Rules of Procedure)
of the Committee on Budgetary Control

Draftsman : Mr. Richie RYAN

On 20 November 1984, the Committee on Budgetary Control appointed Mr. R. RYAN as member responsible for own resources.

The Committee considered and adopted the draft opinion at its meeting of 19 September 1985 by fourteen votes to three with one abstention.

The following took part in the vote:- Mr. AIGNER, Chairman; Mrs BOSERUP, vice-chairman; Mr. BATTERSBY, vice-chairman; Mr. RYAN, draftsman; Mr. ALBER (deputizing for Mrs. Lentz-Cornette); Mr. ANASTASSOPOULOS (deputizing for Mr. Marck); Mr. DIMITRIADIS, Mr. FRÜH (deputizing for Mr. Bardong); Mr. GUERHEUR; Mrs. HOFF; Mr. PAPOUTSIS; Mr. PITT; Mr. PRICE, Mr. SCHÖN, Mr. SCHREIBER, Mrs. SCRIVENER; Mr. SIMMONDS and Mr. TOMLINSON (deputizing for Mr. Wettig).

INTRODUCTION

1. The Committee on Budgetary Control attaches great importance to own resources and it is vital that all own resources which are due to the Community are collected and made available in full. In so far as possible, procedures for collection should be harmonized and frauds and irregularities which divert the Community's own resources should be eliminated.
2. It was for these reasons that the introduction to the discharge resolution for 1983¹ called attention to certain weaknesses in the own resources system and asked the Court of Auditors to prepare a special report on the customs duties and levies area of the own resources system. The resolution also included a statement regretting the fact that there is no regular, obligatory transmission of information to the Commission on frauds and irregularities concerning own resources.
3. The Committee on Budgetary Control had already stressed this later point in the GABERT report; the resolution which accompanied this report was adopted by Parliament in April 1984².
4. The Commission's report on the implementation of Regulations Nos. 2891/77 and 2892/77 concerning own resources is provided for by Article 22 of Regulation No. 2891/77³. Parliament requested this report in April 1982 in the context of the 1980 discharge resolution⁴ and in April 1983 in the context of the 1981 discharge⁵ resolution. Parliament also requested the report in resolutions of December 1982⁶ and June 1984⁷ on proposed amendments to the Regulations. Such a report is indispensable for Parliament which must, on the one hand, exercise its control over the proper functioning of the own resources system and, on the other, give its opinion on the regulations proposed in this area.

¹ OJ C122 20/5/85 ⁶ OJ C13, p.218, 17.1.83

² OJ C127, p.52, 14.5.84 ⁷ OJ C172, p.145, 2.7.84

³ OJ L336, p.7, 27.12.77

⁴ OJ L46 18/2/83

⁵ OJ L174 30/6/83

5. From the point of view of the Committee on Budgetary Control, the Commission's report gives a comprehensive review of the functioning of the own resources system. It is important to recall that the system chosen in 1979 to ensure the Community's financial autonomy, the aim of which was to cover all expenditure arising from Community activity by resources determined and controlled by the Community, did not become completely operational until 1980 and had, by 1983, reached its limits. An appreciation of the functioning of the system must equally take into account the fact that, since 1983, the Community has been dependent on decisions taken by Member States for securing the resources it requires and that it is not yet clear when this state of affairs will come to an end.
6. From the Budgetary Control viewpoint there are two broad areas to be considered. These are the control and functioning of the system and the identification and pursuit of frauds and irregularities.

CONTROL AND FUNCTIONING OF THE SYSTEM

Treatment of own resources in Member States' Budgets and National Accounts

7. In its resolution on proposed amendments to Regulation nos. 2391/77 and 2892/77 of 17 December 1982¹, Parliament asked that a report be submitted on the treatment of own resources in national budgetary documents and accounts and on the compatibility of this treatment with Community's financial autonomy. As own resources have been allocated once and for all to the Community and control over these resources should be exercised by the Community's Budgetary Authority, they should not be entered in national budgets to receive national legislative authorisation. Nevertheless, as the Commission report makes clear, only four Member States present their budgets in such a way as to respect this principle. The failure of most Member States to recognise the logic of own resources in budgetary presentation is to be regretted, not least because the presentation adopted tends to suggest that own resources are a kind of national contribution to the Community's budget.
8. Although the Commission describes this situation in its report, it makes no proposals on how it might be improved. The Committee on Budgetary Control's view is that the Commission should make representations to the Member States concerned (Denmark, Greece, France, Ireland, Italy and the United Kingdom) in order to secure a more logical and coherent presentation of own resources in their budgets.
9. As regards national accounts, which are accounting and statistical documents and which show how own resources are considered by national administrations, all Member States, with the exception of Germany and, for the moment, Greece, treat own resources in accordance with Community rules. The Commission should make representation to the Member States concerned.
Establishment and making available of own resources
10. Article 1 of Regulation no. 2891/77² allows the establishment of own resources to be determined by reference to the national provisions of each Member State. This means that there is no common definition or harmonized application of the concept of establishment of own resources. To overcome this difficulty, Parliament and the Commission have proposed, in amendments to the Regulation still to be adopted by the Council, that the concept of establishment be

1 OJ C13, p. 210, 17.1.83
2 OJ C336, p. 1, 27.12...

clarified by reference to entry in accounts. Thus, own resources would be established with the entry into the accounts arising from the chargeable event. If entry into accounts is used to define establishment, a degree of harmonization which is lacking at the moment will be achieved.

11. Amendments proposed by the Commission and approved by Parliament specifying the conditions under which Member States may defer or be released from the obligation of making established entitlements available also await adoption by the Council. These amendments have been proposed because the concept of force majeure, notwithstanding Court of Justice rulings on its interpretation, continues to be applied in different ways by different Member States.
12. Until the concept of establishment is clarified by reference to entry in accounts and 'force majeure' is replaced by a precise set of rules on when established entitlements need not be made available, the situation will remain unsatisfactory because own resources will not be defined and made available in the same way in all Member States. The Council should therefore be urged to adopt the appropriate legislation without further delay.

Control and correction of the VAT base

13. Control and correction of the VAT base hinges on the annual statement of tax - chargeable transactions submitted by Member States by 1 July of the year following the calendar year concerned. This forms the basis for corrections made to the VAT base including those arising from the control visits undertaken by the Commission in conjunction with the Member States. Current arrangements build into the system a delay in final establishment of the VAT base for any year and, in the event of unresolved disagreement between the Commission and a Member State, the Commission's final recourse is invocation of Article 169 of the EEC treaty against the Member State. Difficulties in estimating the amounts involved make it more important that the Commission acts speedily to secure own resources which are not made available while disagreements are unresolved. In its annual report for the 1983 financial year the Court of Auditors notes that the Commission has been tardy in initiating recovery action through the Court of Justice. Given the time lags which are in any case inherent in the control system this is to be regretted. The Commission should now examine all possibilities for earlier correction of the VAT base including correction before submission of the annual statement by Member States. For example, there may be possibilities for making corrections during the financial year concerned on the basis of the monthly statements of accounts forwarded by Member States.
14. Member States receive 'compensations' for transactions which continue to be taxed although they should be exempt and 'authorizations' for transactions which continue to be exempt although they should be taxed. These mechanisms have to be retained as long as the derogations in the sixth VAT Directive are retained. The Commission has suggested that most of these derogations be phased out in the period to 1 January 1988. Again, the proposal is still with the Council for decision and the Committee on Budgetary Control would ask that the Council be urged to accept the timetable proposed for the termination of these derogations.

Method for determining the VAT base

15. Regulation No.2892/77 of December 1977¹ allowed Member States to choose between the returns method and the revenue method for determining the VAT assessment basis for a period subsequently extended by Regulation No.3550/82² to the end of 1985. The returns method is based on tax returns while the revenue method applies the VAT rate or rates in force during the year to the total revenue collected. The returns method therefore establishes a direct link between the Community and the taxpayer whereas the revenue method is based on a statistical calculation using national data. The Commission now proposes an extension of the period of validity of Regulation no.2892/77 on VAT to 31 December 1988. Notwithstanding the late implementation of Regulation No.2892/77, the Committee on Budgetary Control deplores the fact that the Commission is not now in a position to recommend that the returns method be adopted in all Member States. In the Committee's view, the transitional period allowed to the end of 1985 should have been used by the Commission to encourage harmonization on the basis of the returns method which takes full account of the desirability of establishing a direct link between the taxpayer and the Community.
16. There is little evidence in the report that the Commission has, in fact, done this. Nor is there an explanation of why one Member State, Denmark, changed from the returns to the revenue method despite the fact that Article 3 of Regulation No.2892/77 requires Member States to inform the Commission of underlying reasons for such a change.
17. In fact, only one Member State now uses the returns method, Ireland, and it is difficult to envisage the remaining Member States changing to it before the end of 1988 unless required to do so.
18. The view of the Committee on Budgetary Control is that the Commission should now bring forward a firm proposal for the adoption of the returns method and use any transitional period in order to ensure, in conjunction with Member States, that the returns method is properly implemented throughout the Community. Such a course of action would also give clear guidance to Spain and Portugal.

IDENTIFICATION, COMMUNICATION AND PURSUIT OF FRAUDS AND IRREGULARITIES

Inspection and control of 'traditional' own resources

19. In accordance with Article 18 of Regulation no. 2891/77³ Member States carry out verifications and enquiries concerning the establishment of own resources. Additional inspections are carried out with the Commission at the Commission's reasoned request. The Commission cannot carry out independent inspections nor can it control taxpayers directly. The joint inspections carried out, with the exception of those concerning sugar levies, are in effect inspections of administrations. The view of the Committee on Budgetary Control is that the Commission's powers of inspection in the area of own resources remain inadequate and that the Council should be urged to adopt without further delay the Commission's proposals for strengthening these powers including provision for independent inspection.

¹ OJ L336, p. 27.12.77

² OJ L373, p.1, 21.12.82

³ OJ L336, p.8, 27.12.77

Communication of frauds and irregularities

20. It is a deplorable state of affairs that the Commission's information on frauds and irregularities is, as the report admits, 'far from being as complete as it should be'. The report makes clear that there is no systematic procedure for the regular communication from Member States of frauds and irregularities concerning own resources. The Commission does not have information for detailed analysis of individual cases of frauds and irregularities and the implications of this go beyond the recovery of sums in the individual cases concerned. Without this information it is difficult to see how the Commission can become aware of loopholes in present procedures which may be exploited on more than one occasion or can bring forward proposals for closing these loopholes.
21. Moreover, without adequate information the Commission cannot estimate the sums lost to the Community through fraud in own resources or discuss with Member States their responsibilities for recovering or making good these losses. The Committee on Budgetary Control considers therefore that Regulation No.2891/77 should be amended to require Member States to report on a regular basis all own resources frauds and irregularities involving sums over an agreed threshold in such a way as to permit analysis of these frauds, including analysis of their duplicability. The Commission's proposal for a Regulation establishing an information system in this field should be adopted by the Council without further delay. The proposal was submitted in March 1979.

Frauds and irregularities concerning VAT own resources

22. The Commission is considering whether it can investigate VAT frauds in Member States as requested by Parliament in the Gabert resolution² which was submitted by the Committee on Budgetary Control. The Gabert report considered that the information obtained could be used to revise the Community's share of the proceeds of VAT in each Member State. It is difficult to see how astute use of this information would undermine the fiscal nature of Community VAT as the Commission suggests in its report; the Committee on Budgetary Control would ask that Parliament calls upon the Commission to begin investigation of VAT frauds in Member States forthwith.

CONCLUSION

23. There is an approach to the question of own resources which, since 1980, has tended to raise doubts about the principle of financial autonomy by emphasising the 'national contributions' aspect of certain own resources and, with increasing frequency, submitting the decision to raise resources to ratification by national authorities.
24. The extension of the period of validity of Regulation No.2892/77 must not be an occasion for the consolidation of this development. Parliament can only accept this extension if, at the same time, measures to consolidate financial autonomy are taken.

¹ COM(85) 170 final, page 11
² OJ C 127, p.53, 14/5/1984

The Committee on Budgetary Control therefore requests the Committee on Budgets to include the following paragraphs in the motion for a resolution on the Commission's report on the implementation of Council Regulations nos. 2891/77 and 2892/77 concerning own resources and the Proposal for a Regulation extending the term of validity of Regulation no. 2892/77 concerning value added tax;

- Reiterates its preference for the returns method for determining the VAT base as the method which establishes a direct link between the Community and the tax payable and is most clearly compatible with the principle of the Community's financial autonomy;

- Urges the Commission to propose a Regulation which would require Member States to adopt the returns method over an appropriate period.

- Notes and deplores the fact that the practical application of the legislation establishing the own resources system, a system which did not become operational until 1980 and had reached its limits by 1983, has had the effect of making own resources increasingly resemble a form of national contribution to the Community's budget;

- Is deeply concerned that the tendency to treat and regard own resources as a form of national contribution is undermining the Community's financial autonomy which is a fundamental pre-condition of its existence;

- While noting that the erosion of financial autonomy is not solely due to methods of budgetary presentation deplores the inclusion, in some Member States, of own resources in budgetary documents ratified by national authorities and calls upon the Commission to urge those Member States whose budgetary presentation and accounting procedures do not respect the Community nature of own resources to change their presentation accordingly;

- Deplores the fact that the Commission's powers to pursue frauds and irregularities concerning the Community's own resources are inadequate;

- Insists that frauds and irregularities affecting own resources are uncovered and pursued and calls upon the Council to adopt the proposed amendments to Regulation no. 2891/77 which would allow the Commission to carry out independent inspections of irregularities affecting traditional own resources;

- Deplores the fact that the Commission does not receive regular and comprehensive information on own resources, frauds and irregularities from Member States and calls upon the Council to adopt without further delay the Commission's proposed regulation for Member States to report frauds and irregularities on a regular basis;

- Calls upon the Commission to begin independent investigation and analysis of VAT frauds;

- In view of the importance of the subject requests that a conciliation procedure between Parliament and the Council be opened.