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Proposal for a

COUNCIL DECISION

on the system of the European Communities' own resources

Proposal for a

COUNCIL REGULATION

on the implementing measures for the correction of budgetary imbalances in accordance with Articles 4 and 5 of the Council decision of (…) on the system of the European Communities' own resources

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. INTRODUCTION

The European Union creates a community of shared aims. Parts of the EU budget serve a clear cohesion goal. Other parts fund the achievement of specific objectives through EU agreed programmes. As a result, net beneficiaries of, and net contributors to, the EU budget will always exist, although the policy benefits accrue to the Union as a whole.

Budgetary balances (also called net balances), measured by the difference between contributions to and receipts from the EU budget, fail to account fully for the benefits accruing to Member States from participating in the EU. For example, research or border protection expenditure benefits not only the immediate recipients but also gives rise to spill-over effects transcending national borders[1]. It may not be possible to quantify the extent of these spill-overs, but their consideration would modify the assessment of the accounting imbalances.

The definition of budgetary balances is also fraught with significant conceptual and accounting problems. Numerous choices have to be made in computing budgetary balances on the items to be included in the receipts and expenditure flows, and on the reference periods (e.g. cash vs. accrual figures, surpluses from previous years, etc.). The resulting budgetary balances vary significantly depending on the choices made.

Nevertheless, the size of some of these imbalances has been at the centre of discussions. After years of budgetary stalemate and agonizing discussions, the 1984 Fontainebleau agreement introduced the existing UK correction, which was given effect by the own resources decision of 7 May 1985. The decision was based on the following general principle[2]:

'*… any Member State sustaining a budgetary burden which is excessive in relation to its relative prosperity may benefit from a correction at the appropriate time*.'

The principle of a generalised correction was therefore already acknowledged by the European Council in 1984 ('any Member State'). The decision for granting a correction should be based on two criteria: the size of the budgetary imbalance ('excessive') and the wealth of a Member State compared to the EU as a whole ('relative prosperity').

The justifications for granting a correction <u>on an exclusive basis</u> to the UK are today less relevant than at the time of the Fontainebleau European Council, since several other Member States can legitimately claim that their current situation is comparable to the UK's (section 2). Furthermore, the cost of enlargement should be fairly shared. Consequently, it is argued that, in light of the principle set in the Fontainebleau

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1 These spill-over effects include the spending of income generated in the receiving Member State on goods or services produced in another Member State, the purchase of financial asset denominated in various Member States currencies etc.

2 See Fontainebleau European Council, 'Conclusions of the Presidency', Bulletin of the European Communities, 6-1984.

conclusions, the conditions exist for the introduction of a generalised correction mechanism. The parameters defining such a correction mechanism are examined and a proposal is made which would respect the twin goals of:

- preventing excessive negative budgetary balances combined with a reduction of differences between net contributors at comparable levels of prosperity;

- ensuring that the financing costs of the mechanism are kept at a reasonable level.

2. CURRENT SITUATION OF THE UK COMPARED TO OTHER NET CONTRIBUTORS

The following two subsections examine the relative prosperity and the size of the net budgetary balances for all net contributors to the EU budget[3].

2.1. Relative degree of prosperity

The table below gives an overview of the gross national income (GNI) per capita expressed in purchasing power standards (PPS[4]) for the year 2003 for all Member States that were net contributor in the year 2002[5].

Table 1. **GNI per capita of net contributors** (in PPS)
(EU-15 average. = 100)

	2003	**1984**
United Kingdom	111.2	90.6
Denmark	111.1	104.0
Austria	109.8	--
Netherlands	106.6	95.0
Sweden	104.6	--
France	104.2	104.0
Germany	98.6	109.6
Italy	97.3	92.9

This table clearly illustrates that in 2003- GNI per capita, expressed in PPS, ranges between 97% and 111% of the EU-15 average for all net contributors to the EU budget. At 111.2%, the UK's relative prosperity is at the top of the range. This is in sharp contrast with the situation in 1984, when the UK was the least prosperous of the net contributors.

In view of the dramatic shift in the UK's position compared to the other net contributors, it is legitimate to re-consider the existing correction system, in light of the Fontainebleau principle whereby a Member State's net balance should be viewed in relation to its relative prosperity.

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3 The assessment and proposal made in this communication are based on the more detailed information and analysis contained in the technical annex to the Commission's own resources report.

4 The PPS is an artificial currency that reflects differences in national price levels that are not taken into account by exchange rates. This unit allows meaningful volume comparisons of economic indicators among countries. Data on PPS are calculated by Eurostat.

5 Net balances presented in this document, like those used for the UK correction, are calculated including administrative expenditure. For this reason, Belgium and Luxembourg do not appear among the net contributors.

2.2. Net budgetary balances before UK correction

The net budgetary balance of the UK for the year 1985 (the first year for which the correction was calculated) amounted to -0.48% of GNI before correction. (Although accurate data are not available for the other Member States, Germany was the only other major net contributor to the EU budget at that time.) As illustrated in the table below, the UK's net balance has on average remained at a comparable level in recent years. Over the period 1996-2002 the net budgetary balance – before UK correction and including administrative expenditure - of EU-15 net contributors, was on average the following:

Table 2. **Net budgetary balances before UK correction** for EU-15 selected members (annual averages **1996-2002**)

	in % of GNI
United Kingdom	-0.47%
Germany	-0.44%
Netherlands	-0.43%
Sweden	-0.38%
Austria	-0.24%
Italy	-0.06%
France	-0.04%

If the current system remained unchanged, average net budgetary balances for the period 2008-2013[6] would deteriorate for all net contributors across-the-board because of the financing cost of enlargement. According to Commission estimates and assuming expenditure levels equal to the financial perspective ceilings as proposed by the Commission in its communication of 10 February 2003[7], the estimated net balances of the net contributors would be the following.

Table 3. **Estimated net budgetary balances before UK** correction for EU-15 selected members (annual averages 2008-2013[8])

	In % of GNI
United Kingdom	-0.62%
Netherlands	-0.55%
Germany	-0.52%
Sweden	-0.47%
Austria	-0.37%
Italy	-0.29%
France	-0.27%
Denmark	-0.20%
Finland	-0.14%

Under the assumption that the level of agricultural expenditure for the EU-25 agreed by the Brussels European Council in October 2002 and the 'cohesion' expenditure

6 Details on the hypotheses used in calculating these estimates are presented in the technical annex to the own resources report.

7 COM(2004) 101 final.

8 As corrections are reimbursed one year later, averages in this table and the following ones are calculated over a six-year period since the 2007 correction is to be paid in 2008 and the 2013 correction would take place in 2014.

proposed by the Commission under the so-called Objective 1 and Cohesion fund remained unchanged, a reduction of the overall level of payment appropriations from the 1.14% of GNI proposed by the Commission to, say, 1.00%, would only have a very limited impact on the size of the estimated net balances. This is because the expenditure for the new Member States would in essence not be touched and the reduction would be achieved by drastically cutting the other non-agricultural expenditure going to the EU-15 and/or external actions that do not enter into the allocated expenditure. As a consequence, the resulting reduction of own resources payments for the net contributors would to a large extent be offset by a corresponding reduction in EU allocated expenditure in these same Member States.

In the absence of any correction mechanism, the UK would have been on average the largest net contributor over the last 7 years, and would probably remain the largest net contributor to the EU budget over the period till 2013. However, the net balances of NL, DE and, to a lesser extent, SE have been and are expected to remain of a comparable order of magnitude. As shown in the previous section, all these three Member States are currently relatively less prosperous than the UK.

Whether the size of net budgetary balances is 'excessive' in view of the relative prosperity of the Member States concerned largely depends on the political perception of the acceptable degree of financial solidarity within the Union. If the UK net balance was judged 'excessive', then the application of the Fontainebleau principle would rather point to the extension of a correction mechanism to other Member States, who – at lower levels of prosperity - bear negative net balances of a similar order of magnitude.

In any event, granting a correction on an exclusive basis to one Member State appears to be unjustified, especially when taking into account the expected evolution of the net budgetary balances in the enlarged Union under unchanged conditions, as illustrated in the next section.

3. ESTIMATED NET BALANCES WITH UNCHANGED OWN RESOURCES DECISION

Estimates indicate that over the period 2007-2013 the UK correction <u>will increase by more than 50%</u> compared to the average over the latest 7 years to reach an estimated € 7.1 billion from € 4.6 billion in the period 1997-2003.

As a result of the additional expenditure required for enlargement, net balances of <u>all</u> the EU-15 will deteriorate. Although the enlargement to 10 new Member States was unanimously agreed at the Berlin European Council in March 1999, the UK insisted and obtained that enlargement-related expenditure be taken into account[9] when calculating the UK correction, thus shielding it from most of the financial consequences of enlargement. That is the main reason for the expected future increase in the UK correction.

9 Pre-accession expenditure relating to actual payments in the last year before accession of any acceding country is permanently deducted from the allocated expenditure.

As a consequence, the cost for the Member States that pay a full share in the financing of the UK correction, including all the new Member States, will increase proportionally.

Should the current own resources decision remain in force, the average net balance for the net contributors over the 2007-2013 period after UK correction is estimated to be as follows:

Table 4. **Estimated net budgetary balances after UK correction** (annual averages **2008-2013**)	
	in % of GNI
Netherlands	-0.56%
Germany	-0.54%
Sweden	-0.50%
Austria	-0.38%
Italy	-0.41%
Cyprus[10]	-0.37%
France	-0.37%
Denmark	-0.31%
Finland	-0.25%
United Kingdom	-0.25%

According to these estimates, the UK will become (together with Finland) the smallest net contributor to the EU budget, in evident contradiction with the Fontainebleau principle mentioned above. The current system of a unique correction for the UK therefore must be reconsidered. Instead, the generalization of the correction mechanism, evolving from the existing correction would allow bringing the system closer to the original objective of avoiding excessive budgetary burdens in relation to the relative prosperity of Member States. By introducing a sort of 'safety net' for large net contributors beyond a certain level, it may also facilitate a more constructive approach to ensure the budgetary means to meet the policy challenges of the enlarged Union.

4. OUTLINING A GENERALISED CORRECTION MECHANISM

4.1. General outline of the mechanism

The proposed generalised correction mechanism has to be seen in the context of the Commission overall 'package' for the post-2006 financial framework. The final net position of Member States before and after correction is thus likely to be affected by decisions to be taken on the expenditure side of the package.

The generalised correction mechanism is to be calculated on the basis of the net budgetary balance of each Member State in relation to the budget of the EU. The mechanism should be triggered beyond a threshold, expressed as a percentage of each Member State's GNI, reflecting the minimum accepted level of unlimited financial solidarity between Member States. and representing a sort of basic *reasonable net contribution*. Net positions exceeding such a threshold will be eligible

10 Throughout this document estimates are based on areas controlled by the Republic of Cyprus.

for a correction (partial refund). The amount of the correction is to be based on the part of the net balance exceeding this threshold, multiplied by a refund rate (i.e. the percentage of the amount in excess of the agreed threshold to be compensated). If the sum of all corrections exceeds a total predetermined volume, the refund rate is reduced accordingly. Annex 1 explains the steps required and the functioning of the proposed correction mechanism.

4.2 The level of the threshold

Simulations have been run for different levels of the threshold (using a refund rate of 66%) ranging from zero to 0.50% of GNI.

The total sum of the corrections at different threshold levels is estimated as follows:

Table 5. **Estimated gross corrections** (average **2008-2013**)

Level of the threshold (*as a % of GNI, EU-27)*	Sum of all corrections *(in billion of euros)*
0.00%	25.8
0.10%	19.8
0.20%	13.8
0.25%	11.1
0.30%	8.8
0.40%	5.2
0.50%	1.9

A threshold level of around -0.25% would represent a sort of neutral point whereby the estimated future cost of financing the generalised correction mechanism would be equal to the estimated future cost of financing the current UK correction mechanism. A threshold lower than 0.25% would mean that the Member States paying in full the UK rebate (they currently bear more than 90% of the total cost) would have to pay more than the estimated cost of financing the current UK correction mechanism in the future. With a threshold higher than 0.25%, the mechanism would be less costly than financing the estimated future UK correction for those Member States, including all net recipients from the EU budget.

The table above illustrates that the total sum of the corrections with a 0.25% threshold would be substantially higher than the estimated level of the future UK correction with the current own resources decision (ORD) unchanged. Applying a threshold of -0.25% would generate a level of (gross) corrections slightly above € 11 billion, which is significantly higher than the approximately € 7 billion average (net) UK correction for the same period. This difference is linked to the assumption that the financing of the corrections would be shared by all Member States according to their share in GNI (see section 4.3 below).

So an overall volume of up to € 11 billion of corrections could be financed before the GCM became more expensive than the continuation of the current ORD for those Member States who would not benefit from the GCM.

The impact of introducing a generalised mechanism with a threshold is not linear. The effect on Member States' net balances, compared to the current situation, is influenced by a combination of the following elements: a) the level of the Member

States' budgetary imbalance before correction; b) the level of the threshold; and c) the financing rules under the existing UK correction.

All major net contributors to the EU budget (UK, DE, NL, SE) would benefit from the correction mechanism with thresholds lower than or equal to 0.50% of GNI. Smaller net contributors would receive corrections depending on the threshold level. The relative position of each individual net contributor, compared to their estimated future position under the current ORD, is determined by a combination of the following two factors:

- the size of the negative net balance before correction, whereby larger net contributors such as DE, NL, SE tend to benefit more at lower threshold levels (compared to smaller net contributors);

- the current financing regime of the UK correction, whereby Member States currently benefiting from a special arrangement (DE, NL, SE, AT) tend to benefit less at higher threshold levels (compared to smaller net contributors).

Any future 'fairer' mechanism should ensure in particular that the resulting financing cost does not lead to a heavier burden than under the current UK correction mechanism for 'cohesion' Member States.

4.3. Financing rules

Technically the correction could be financed in three different ways:

- Member States who receive a correction do not participate in the financing. Under this option the entire burden of the financing would be concentrated on countries representing less than 50% of the total EU-27 GNI, many of them with relatively low levels of prosperity. Consequently, their net budgetary position would either deteriorate in an unacceptable manner, or the volume of the corrections would have to be severely restricted. Furthermore, distortions could result when a Member State with a net position just below the threshold would have to participate in the financing of the corrections and another Member State just above the threshold would be excluded from the financing.

- Member States participate in the financing of all corrections except their own. This alternative would add considerable complexity to the proposal, since it would entail a separate financing round for each of the corrections.

- All Member States participate in the financing of all corrections. Their financing share in the global amount of the corrections would be determined by their share in GNI.

For sake of feasibility, transparency and simplicity, all Member States should participate in the financing of all corrections (third option).

Although these financing rules are equivalent to adding the amount of the corrections to the expenditure side of the budget (whereby it would also be financed exclusively through an increase of the marginal resource GNI), it is proposed to maintain the

GCM on the revenue side of the budget, as done for the existing UK correction. Adding the corrections to expenditure would artificially inflate the level of budgetary expenditure with a corresponding decrease of available margins under the global expenditure ceilings.

4.4. Comparing corrections levels

A threshold set at -0.35% of GNI will give rise to an estimated average volume of gross corrections of around € 7 billion for the period 2007-2012 (to be financed in 2008-2013).

The generalisation of the correction mechanism combined with the change in the financing rules means that the comparison with the level of the correction under the current system is somewhat blurred. As all Member States, including those benefiting from such a mechanism, will participate in the financing of all corrections, the overall net correction will always be lower than the gross correction, whereas under the current system there is no difference between net and gross correction (what the UK gets is what other Member States pay).

The resulting net balances of the large net contributors after the correction will be higher than the established threshold because of the combined effect of the partial refund and the participation in the financing of the correction system. Conversely, the burden for Member States having to pay fully their share of the financing cost and not benefiting from the correction is lower than at present even if the overall gross correction is larger. Thus, with a threshold set at 0.35% of GNI and a maximum predetermined correction volume set at € 7.5 billion, the combined burden for these Member States would be even lower (by about € 1 billion) than the average level paid during the 2001-2004 period and much lower when compared to the estimated cost of the continuation of the current system over the next financial framework (see table 6).

5. THE COMMISSION'S PROPOSAL

Any correction mechanism entails an additional complication to the financing of the budget. Therefore the basic proposal should be relatively and sufficiently transparent. In this respect, the current parameters of the UK correction calculation should be modified only where necessary and simplified whenever feasible.

The Commission therefore proposes to use the following parameters for a generalised correction mechanism:

– keeping the categories of revenue to be taken into account (VAT + GNI) unchanged. Any other existing complication[11] should be abolished;

– keeping the expenditure headings included in the allocated expenditure unchanged;

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[11] Such as the calculation of the 'UK advantage' and the TOR windfall gains.

– simplifying the financing by basing it only on GNI shares, whereby all Member States would participate in the financing of the global amount of the corrections in proportion to their relative prosperity;

– setting the threshold level at -0.35% of GNI;

– using the refund rate as the adjustment variable with a maximum rate of 66%, to be reduced automatically when the agreed maximum refund volume is exceeded in a given year;

– capping the maximum available refund volume at € 7.5 billion.

In absolute terms, the UK would be by far the largest beneficiary from the generalised correction mechanism, receiving on average a net compensation in excess of € 2 billion per year, approximately twice as much as the net amount DE would receive.

The table below illustrates the estimated net budgetary balances for the period under consideration with the proposed GCM and compares them with the other two alternative scenarios.

Table 6. **Estimated net budgetary balances** (average **2008-2013**)			
	in % of GNI		
	GCM	Current ORD	No correction
United Kingdom	-0.51%	-0.25%	-0.62%
Netherlands	-0.48%	-0.56%	-0.55%
Germany	-0.48%	-0.54%	-0.52%
Sweden	-0.45%	-0.50%	-0.47%
Austria	-0.41%	-0.38%	-0.37%
Italy	-0.35%	-0.41%	-0.29%
France	-0.33%	-0.37%	-0.27%
Cyprus	-0.33%	-0.37%	-0.28%
Denmark	-0.25%	-0.31%	-0.20%
Finland	-0.19%	-0.25%	-0.14%
Spain	0.26%	0.23%	0.32%
Ireland	0.51%	0.47%	0.56%
Malta	1.10%	1.06%	1.16%
Belgium[12]	1.27%	1.21%	1.32%
Slovenia	1.34%	1.31%	1.40%
Portugal	1.54%	1.50%	1.60%
Greece	2.20%	2.16%	2.25%
Hungary	3.09%	3.06%	3.15%
Czech Republic	3.21%	3.17%	3.26%
Slovakia	3.31%	3.27%	3.36%
Estonia	3.79%	3.76%	3.85%
Poland	3.80%	3.76%	3.85%
Lithuania	4.44%	4.41%	4.50%
Latvia	4.45%	4.40%	4.51%
Luxembourg[13]	5.84%	5.80%	5.89%

12 When excluding administrative expenditure, Belgium and Luxembourg appear as net contributors.

With the proposed mechanism, on average, <u>the net balances of the largest net contributors would be at comparable levels</u>, with the UK, DE, NL and SE all between -0.51% and -0.45%, to be compared with a range between -0.56% and -0.25% under the UK correction mechanism (and between -0.62% and -0.47% with no correction). Several Member States (FR, IT, CY and AT) would have net balances averaging between -0.40% and -0.30%, with A somewhat higher than the other three. DK and FI would be the two remaining smaller net contributors with estimated average net balances of -0.19% and -0.25%, respectively.

Even with a threshold level of -0.35%, the largest net contributors will end up having net balances above the threshold because of the combined effect of the partial refund and the participation in the financing of the correction system. Nonetheless, the resulting net budgetary balances for net contributors would be more in line with the Fontainebleau principle when compared to the current system.

On the other hand, the estimated burden of financing the overall correction for all the other Member States would be lower than under the current system.

6. TRANSITIONAL MEASURES

It is appropriate that the introduction of the generalised system for correcting budgetary imbalances (GCM) shall be accompanied by transitional measures for the UK to alleviate the financial impact of the changeover for this Member State. In order not to increase excessively the total cost of the corrections, the application of the generalised system should be progressively phased in for the other eligible Member States.

The option presented here is relatively straightforward and is based on the one hand on additional top-up payments for the UK and on the other hand a phasing-in of the other Member States into the GCM (while the UK would enter immediately into the GCM).

6.1 Additional top-up payments for the UK

In addition to the corrections the UK will receive under the GCM, it is proposed to grant the following top-up payments to the UK over a 4-year period:

- in 2008: € 2.0 billion
- in 2009: € 1.5 billion
- in 2010: € 1.0 billion
- in 2011: € 0.5 billion

These top-up payments would alleviate the financial impact of the introduction of the GCM for the UK in 4 gradual steps. The UK has received in recent years a net correction of on average € 4.6 billion annually over the period 1997-2003. Under the GCM the UK is expected to receive € 2.1 billion annually on average over the period. The proposed transitional measures raise this annual average amount to € 3.1 billion.

Since these lump sum payments represent a phasing-out of the current system, they would continue to be financed according to the current financing rules, i.e.: the UK does not participate in the financing and the share of DE, NL, AT and SE in the financing is restricted to 25% of their normal share.

It is further proposed that neither these payments to the UK nor their financing should impact the calculation of the corrections under the proposed generalised correction mechanism (GCM). Specifically this means:

- the corrections under the GCM will be based on Member State's net balances excluding the effect of the top-up payments;

- the top-up payments to the UK will not be taken into account for the maximum available refund volume (the cap).

6.2 Phasing-in of the GCM for the other Member States

In order to offset the increased cost brought about by the proposed top-up payments for the UK so as to limit the overall financing cost during the transitional period, it is appropriate to foresee a phasing-in period for the other Member States into the GCM. (In order to preserve the logic presented in the previous paragraph, the UK should fully enter into the GCM immediately.)

To this effect it is proposed to phase-in the refund rate, which is applied to the part of any Member State's net balance in excess of the threshold, in the following way for all Member States (except the UK, which would be granted 66% as of the first year):

- in 2008: 33%

- in 2009: 50%

- in 2010: 50%

- in 2011: 66%

6.3 Results of simulation

The overall volume of the corrections (so including both the top-up payments to the UK and the GCM) resulting from this proposal for a transitional regime would be € 7.205 million compared to € 6.771 million under the proposed GCM on average over the period 2008-2013. This represents an increase of approx. € 430 million per year.

The net balances resulting from the application of this combined phasing-in are presented in the table below. The table allows for the comparison with the situation before correction, the situation under the current own resources decision and the situation under the GCM without transitional period.

Estimated net budgetary balances for net contributors (average **2008-2013**)

in % of GNI				
	Without correction	Current UK correction	GCM with 0.35% threshold & cap at € 7.5 bn	Commission Proposal: GCM + transitional period
	(1)	(2)	(3)	(4)
Belgium	1,32%	1,21%	1,26%	1,26%
Czech Republic	3,26%	3,17%	3,20%	3,20%
Denmark	-0,20%	-0,31%	-0,26%	-0,26%
Germany	-0,52%	-0,54%	-0,48%	-0,49%
Estonia	3,85%	3,76%	3,79%	3,78%
Greece	2,25%	2,16%	2,19%	2,19%
Spain	0,32%	0,23%	0,26%	0,25%
France	-0,27%	-0,37%	-0,33%	-0,34%
Ireland	0,56%	0,47%	0,51%	0,50%
Italy	-0,29%	-0,41%	-0,35%	-0,36%
Cyprus	-0,28%	-0,37%	-0,33%	-0,34%
Latvia	4,51%	4,40%	4,45%	4,44%
Lithuania	4,50%	4,41%	4,44%	4,43%
Luxembourg	5,89%	5,80%	5,83%	5,83%
Hungary	3,15%	3,06%	3,09%	3,09%
Malta	1,16%	1,06%	1,10%	1,09%
Netherlands	-0,55%	-0,56%	-0,48%	-0,50%
Austria	-0,37%	-0,38%	-0,41%	-0,41%
Poland	3,85%	3,76%	3,79%	3,79%
Portugal	1,60%	1,50%	1,54%	1,53%
Slovenia	1,40%	1,31%	1,34%	1,33%
Slovakia	3,36%	3,27%	3,30%	3,30%
Finland	-0,14%	-0,25%	-0,20%	-0,20%
Sweden	-0,47%	-0,50%	-0,45%	-0,46%
United Kingdom	-0,62%	-0,25%	-0,51%	-0,46%

7. CONCLUSION

On the basis of its review of the own resource system, the Commission is of the view that the existing correction mechanism on an exclusive basis is no longer justified and proposes the introduction of a generalised mechanism to correct excessive negative budgetary imbalances.

ANNEX 1

Key features of the proposed generalised correction mechanism

Under the proposed mechanism, calculating the corrections involves the following steps:

1. Calculate the aggregate amount of all expenditure allocated to each Member State. Allocated expenditure, as for the current correction mechanism, includes all categories of expenditure that are '*internal*' to the EU[13].

2. Calculate the percentage share of each Member State in total allocated expenditure.

3. Determine the percentage share of each Member State in own resources payments. Since traditional own resources are excluded from the categories of revenue to be taken into account, the combined share in VAT and GNI own resources is used to calculate any Member States' share in EU budgetary revenue[14].

4. Deduct (2) from (3) above for each Member State, to obtain the corresponding percentage showing the corresponding positive/negative balance.

5. For each Member State, multiply the percentage resulting from (4) above by total allocated expenditure, to obtain the net budgetary contribution/benefit expressed in euros.

6. Multiply the threshold corresponding to the *reasonable net contribution* (RNC) by the GNI (in €) of each Member State and deduct from the result obtained under (5).

7. If the result obtained under (6) is greater than zero, multiply the result under (6) by the refund rate to obtain the correction for each Member State and reduce the refund rate as necessary if the sum of all corrections exceeds the predetermined maximum refund volume (see below).

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13 This includes virtually the total amount of the current expenditure headings 1 (agriculture) and 2 (structural operations) as well as the vast majority of expenditure under headings 3 (internal policies) and 5 (administration), excluding only some minor items of expenditure that cannot be reasonably allocated to any individual Member State. Headings 4 (external policies), 6 (reserves) and 7 (pre-accession expenditure) relate explicitly to 'external' expenditure and are therefore not taken into account.

14 A proposal for a generalised correction mechanism should be as simple and transparent as possible. Therefore all existing complications in the UK rebate calculation which are related to the preservation of the UK's 1984 revenue position (share in uncapped VAT, calculating the 'advantage' as well as the 'TOR windfall gains'), should be abolished.

The total cost of the correction mechanism, i.e. the sum of all corrections is limited by a *maximum available refund volume* (MARV). The MARV should be determined ex-ante for the period of the financial perspective as a yearly ad-hoc amount[15].

Net positions exceeding the RNC are eligible for a partial refund: the corrective percentage or the *refund rate* (RR), to be applied to the part of the Member State's net budgetary balance exceeding the threshold (RNC). This refund rate is a dependent variable for which an upper limit of 66% (currently used for the UK correction) applies. The actual refund rate will be derived from the available refund volume. Thus, the refund rate is automatically reduced when the application of the 66% maximum refund rate breached the MARV.

The partial refund is made ex-post as currently done for the UK correction.

The resulting formula for calculating the generalised correction mechanism is the following:

$$C_x^{RR} = \left[\left(\frac{TP_x}{TP} - \frac{E_x}{E}\right) * E - RNC * Y_x\right] * RR$$

if $C_x^{RR} > 0$

where RR = 0.66 if $\sum_x C_x^{0.66} \leq$ MARV and

RR = $\dfrac{MARV}{\sum_x C_x^{0.66}} * 0.66$ if $\sum_x C_x^{0.66} >$ MARV

Where: TP = Total VAT- and GNI-based payments made by all Member States in respect of year *t*
TP_x = VAT- and GNI-based payments made by Member State x in respect of year *t*
E = Total allocated expenditure in respect of year *t*
E_x = Expenditure allocated to Member State x in respect of year *t*
C_x^{RR} = Correction (at refund rate RR) to be granted to Member State x in respect of year *t*
RNC = Reasonable net contribution (= threshold) expressed in % of GNI
Y_x = GNI of year *t* of Member State x
RR = Refund rate
MARV = Maximum available refund volume
$\sum_x C_x^{0.66}$ = Total sum of corrections if RR is equal to 0.66

15 Fixing the level of the MARV is clearly a discretionary decision which is not a-priori subject to any binding constraint. However, political realism would suggest that the cost of financing the corrections should not exceed the equivalent of the estimated future financing cost of the UK correction for those Member States currently financing a full share (i.e. all except UK, D, NL, S and A).

2004/0170 (CNS)

Proposal for a

COUNCIL DECISION

on the system of the European Communities' own resources

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 269 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 173 thereof,

Having regard to the proposal from the Commission[16],

Having regard to the opinion of the European Parliament[17],

Having regard to the opinion of the Court of Auditors[18],

Having regard to the opinion of the European Economic and Social Committee[19],

Whereas:

(1) The European Council meeting in Berlin on 24 and 25 March 1999 concluded, *inter alia*, that the system of the Communities' own resources should be equitable, transparent, cost-effective, simple and based on criteria which best express each Member State's ability to contribute.

(2) The Communities' own resources system must ensure adequate resources for the orderly development of the Communities' policies, subject to the need for strict budgetary discipline.

(3) According to Council Decision 2000/597/EC, Euratom of 29 September 2000 on the system of the European Communities' own resources[20], gross national income (GNI) for the year is defined at market prices as provided by the Commission in application of the European system of integrated economic accounts (hereinafter referred to as the 'ESA 95') in accordance with Regulation (EC) No. 2223/96.

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16 OJ C […], […], p. […].
17 Opinion delivered on (OJ C […], […], p. […]).
18 OJ C […], […], p. […].
19 OJ C […], […], p. […].
20 OJ L 253, 7.10.2000, p. 42.

(4) It is appropriate, should modifications to the ESA 95 result in significant changes in GNI as provided by the Commission in accordance with Regulation (EC) No 2223/96, that the Council decide whether these modifications apply for the purposes of own resources.

(5) According to Article 3(1) and 3(2) of Council Decision 2000/597/EC, the Commission calculated the new percentages of the ceiling for own resources and the ceiling for appropriations for payments, expressed in two decimal places, in December 2001 on the basis of the formula therein.

(6) According to the communication[21] from the Commission to the Council and the European Parliament on the adaptation of the ceiling of own resources and the ceiling for appropriations for commitments following the entry into force of Decision 2000/597/EC, Euratom of 12 December 2001, the maximum ceiling of own resources is set equal to 1.24 % of the Communities' GNI at market prices and an overall ceiling of 1.31 % of the Communities' GNI was set for appropriations for commitments.

(7) It is appropriate that a similar method be used in the future on the occasion of changes in the ESA 95 which may have effects on the level of GNI should Council decide that these modifications apply for the purposes of own resources.

(8) Following the implementation in EU law of the agreements concluded during the Uruguay round of multilateral trade there is no longer any material difference between agricultural duties and customs duties. It is therefore appropriate to eliminate this distinction in the area of the EU budget.

(9) It is appropriate that the value added tax bases of the Member States continue to be restricted to 50 % of their GNI.

(10) In the interest of transparency and simplicity it is proposed to establish the uniform rate of VAT as a fixed percentage. In order to avoid that this technical change has an impact on Member States' payments of the VAT resource, the fixed rate should reflect the current uniform rate of call. The uniform rate of VAT should therefore be fixed at 0.30 %.

(11) The European Council of 25 and 26 June 1984 concluded that 'any Member State sustaining a budgetary burden which is excessive in relation to its relative prosperity may benefit from a correction at the appropriate time'. Since several Member States at comparable levels of prosperity are sustaining a similar budgetary burden, it is appropriate to replace the correction for budgetary imbalances granted to the UK under Article (4) of Council Decision 2000/597/EC with a generalised system for correcting budgetary imbalances.

(12) It is appropriate that the introduction of the generalised system for correcting budgetary imbalances shall be accompanied by transitional measures for the UK to alleviate the financial impact of the changeover for this Member State. In order not to increase excessively the total cost of the corrections, the application of the generalised system should be progressively phased in for the other eligible Member States.

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21 COM(2001) 801 final.

(13) The Commission shall continue to examine the possibilities of modifying the own resources structure by introducing a genuinely tax-based own resource to be operational from 1 January 2014 and shall submit a corresponding proposal to the Council.

(14) Provisions must be laid down to cover the changeover from the system introduced by Decision 2000/597/EC, Euratom to that arising from this Decision.

HAS LAID DOWN THESE PROVISIONS, WHICH IT RECOMMENDS TO THE MEMBER STATES FOR ADOPTION:

Article 1

The Communities shall be allocated own resources in accordance with the rules laid down in the following Articles in order to ensure, in accordance with Article 269 of the Treaty establishing the European Community (hereinafter referred to as the ‘EC Treaty’) and Article 173 of the Treaty establishing the European Atomic Energy Community (hereinafter referred to as the ‘Euratom Treaty’), the financing of the budget of the European Union.

The budget of the European Union shall, without prejudice to other revenue, be financed wholly from the Communities' own resources.

Article 2

1. Revenue from the following shall constitute own resources entered in the budget of the European Union:

(a) levies, premiums, additional or compensatory amounts, additional amounts or factors, Common Customs Tariff duties and other duties established or to be established by the institutions of the Communities in respect of trade with non-member countries, customs duties on products coming under the former Treaty establishing the European Coal and Steel Community as well as contributions and other duties provided for within the framework of the common organisation of the markets in sugar;

(b) the application of a uniform rate valid for all Member States to the harmonised VAT assessment bases determined according to Community rules. The assessment base to be taken into account for this purpose shall not exceed 50 % of GNI for each Member State, as defined in paragraph 7;

(c) the application of a rate — to be determined pursuant to the budgetary procedure in the light of the total of all other revenue — to the sum of all the Member States' GNIs.

2. Revenue deriving from any new charges introduced within the framework of a common policy, in accordance with the EC Treaty or the Euratom Treaty, provided that the procedure laid down in Article 269 of the EC Treaty or in Article 173 of the Euratom Treaty has been followed, shall also constitute own resources entered in the budget of the European Union.

3. Member States shall retain, by way of collection costs, 25 % of the amounts referred to in paragraph 1(a).

4. The uniform rate referred to in paragraph 1(b) shall correspond to 0.30 %.

5. The rate fixed under paragraph 1(c) shall apply to the GNI of each Member State.

6. If, at the beginning of the financial year, the budget has not been adopted, the previous uniform VAT rate and rate applicable to Member States' GNIs shall remain applicable until the entry into force of the new rates.

7. For the purposes of applying this Decision, GNI for the year is calculated at market prices as provided by the Commission in application of the ESA 95 in accordance with Regulation (EC) No 2223/96.

Should modifications to the ESA 95 result in significant changes in the GNI as provided by the Commission, the Council, acting unanimously on a proposal of the Commission and after consulting the European Parliament, shall decide whether these modifications shall apply for the purposes of this Decision.

Article 3

1. The total amount of own resources assigned to the Communities to cover appropriations for payments may not exceed 1.24 % of the total GNIs of the Member States.

2. Appropriations for commitments entered in the general budget of the European Union must follow an orderly progression resulting in a total amount, which does not exceed 1.31 % of the total GNIs of the Member States.

An orderly ratio between appropriations for commitments and appropriations for payments shall be maintained to guarantee their compatibility and to enable the ceiling pursuant to paragraph 1 to be respected in subsequent years.

3. In the case of modifications to the ESA 95 which result in changes in the level of GNI that apply for the purposes of this Decision, the ceilings for payments and commitments as determined in paragraphs 1 and 2 shall be recalculated by the Commission on the basis of the following formula:

$$1.24\%(1.31\%) * \frac{GNI_{t-2} + GNI_{t-1} + GNI_{t} \quad ESA\ current}{GNI_{t-2} + GNI_{t-1} + GNI_{t} \quad ESA\ modified}$$

where *t* is the latest full year for which Eurostat data are available.

Article 4

1. Any Member State sustaining a negative budgetary imbalance in excess of a threshold equivalent to a certain percentage of its GNI shall be granted a correction. The total amount of the corrections in a given year shall not exceed a maximum available refund volume expressed in euro. The Council, in accordance with the procedure laid down in Article 279(2) of the EC Treaty, shall lay down the implementing measures for the calculation of the corrections and their financing, in particular the threshold and the maximum available refund volume.

The corrections shall be established by:

(a) calculating for each Member State the budgetary imbalance as the difference, in a financial year, between:

- the percentage share of that Member State in the sum of the total VAT-based and GNI-based own resources payments, and

- the percentage share of that Member State in total allocated expenditure;

(b) multiplying the difference thus obtained by total allocated expenditure;

(c) deducting from the result under (b) the value of that Member State's GNI multiplied by the threshold;

(d) if the result obtained under (c) is positive, multiplying this result by a refund rate, fixed at a maximum of 0.66 and, if necessary, reduced proportionally to respect the maximum available refund volume.

2. The following transitional measures shall apply:

(a) In addition to the corrections resulting from the application of Article 4(1) of this Decision, the United Kingdom shall receive the following payments:

in 2008: € 2.0 billion

in 2009: € 1.5 billion

in 2010: € 1.0 billion

in 2011: € 0.5 billion

These amounts shall be financed in accordance with the rules laid down in Article 5 of Council Decision 2000/597/EC, Euratom.

These amounts and their financing shall not be taken into account for the calculation of the corrections mentioned under Article 4(1)(d) of this Decision.

(b) The maximum refund rate mentioned under Article 4(1)(d) of this Decision shall be phased-in for all Member States other than the United Kingdom according to the following schedule:

in 2008: 33%

in 2009: 50%

in 2010: 50%

in 2011: 66%

Article 5

1. The cost of the corrections shall be borne by all Member States in accordance with the following arrangements: the distribution of the cost shall be calculated by reference to each Member State's share in total EU GNI.

2. The correction shall be granted to any Member State by a reduction in its payments resulting from the application of Article 2(1)(c). The costs borne by all the Member States shall be added to their payments resulting from the application for each Member State of Article 2(1)(c).

3. The Commission shall perform the calculations required for the application of Article 4 and this Article.

4. If, at the beginning of the financial year, the budget has not been adopted, the correction granted to any Member State and the costs borne by all the Member States as entered in the last budget finally adopted shall remain applicable.

Article 6

The revenue referred to in Article 2 shall be used without distinction to finance all expenditure entered in the budget.

Article 7

Any surplus of the Communities' revenue over total actual expenditure during a financial year shall be carried over to the following financial year.

Article 8

1. The Communities' own resources referred to in Article 2(1)(a) shall be collected by the Member States in accordance with the national provisions imposed by law, regulation or administrative action, which shall, where appropriate, be adapted to meet the requirements of Community rules.

The Commission shall examine at regular intervals the national provisions communicated to it by the Member States, transmit to the Member States the adjustments it deems necessary in order to ensure that they comply with Community rules and report to the budget authority.

Member States shall make the resources provided for in Article 2(1)(a) to (c) available to the Commission.

2. Without prejudice to the auditing of the accounts and to checks that they are lawful and regular as laid down in Article 248 of the EC Treaty and Article 160C of the Euratom Treaty, such auditing and checks being mainly concerned with the reliability and effectiveness of national systems and procedures for determining the base for own resources accruing from VAT and GNI and without prejudice to the inspection arrangements made pursuant to Article 279(1)(b) of the EC Treaty and Article 183 point (c) of the Euratom Treaty, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, adopt the provisions necessary to apply this Decision and to make possible the inspection of the collection, the making available to the Commission and payment of the revenue referred to in Articles 2 and 5.

Article 9

The Commission shall submit to the Council a proposal to modify the own resources structure by introducing a genuinely tax-based own resource to be operational from 1 January 2014.

Article 10

1. Member States shall be notified of this Decision by the Secretary-General of the Council and the Decision shall be published in the *Official Journal of the European Union*.

Member States shall notify the Secretary-General of the Council without delay of the completion of the procedures for the adoption of this Decision in accordance with their respective constitutional requirements.

This Decision shall enter into force on the first day of the month following receipt of the last of the notifications referred to in the second subparagraph. It shall take effect on 1 January 2007.

2. (a) Subject to (b), Decision 2000/597/EC, Euratom shall be repealed as of 1 January 2007. Any references to the Council Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources[22], to Council Decision 85/257/EEC, Euratom of 7 May 1985 on the Communities' system of own resources[23], to Decision 88/376/EEC, Euratom, to Decision 94/728/EC, Euratom, or to Decision 2000/597/EC, Euratom shall be construed as references to this Decision.

(b) Articles 2, 4 and 5 of Decisions 88/376/EEC, Euratom, 94/728/EC, Euratom and 2000/597/EC, Euratom shall continue to apply to the calculation and adjustment of revenue accruing from the application of a uniform rate valid for all Member States to the VAT base determined in a uniform manner and limited between 50 % to 55 % of the GNP or GNI of each Member State, depending on the relevant year, and to the calculation of the correction of budgetary imbalances granted to the United Kingdom for the years 1988 to 2006.

(c) For amounts referred to in Article 2(1)(a) which should have been made available by the Member States before 28 February 2001 in accordance with the applicable Community rules, Member States shall continue to retain 10 % of these amounts by way of collection costs.

Done at Brussels,

For the Council
The President

[22] OJ L 94, 28.4.1970, p. 19.
[23] OJ L 128, 14.5.1985, p. 15. Decision repealed by Decision 88/376/EEC, Euratom.

EXPLANATORY MEMORANDUM

The purpose of this proposal is to lay down the implementing measures for the correction of budgetary imbalances laid down in the Council Decision on the system of the Communities' own resources of (.........). The present proposal for a Council Regulation replaces the "Calculation Method" of 29 September 2000[24].

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24 *Calculation, financing, payment and entry in the budget of the correction of budgetary imbalances in accordance with Articles 4 and 5 of the Council Decision on the system of the EU's own resources* (Council of the European Union, 10646/00 ADD 2).

2004/0171 (CNS)

Proposal for a

COUNCIL REGULATION

on the implementing measures for the correction of budgetary imbalances in accordance with Articles 4 and 5 of the Council decision of (…) on the system of the European Communities' own resources

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 279(2),

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof,

Having regard to Council Decision 200x/xxx/EC, Euratom of (…) on the system of the European Communities' own resources[25], and in particular Articles 4 and 5 thereof,

Having regard to the proposal from the Commission[26],

Having regard to the opinion of the European Parliament,[27]

Having regard to the opinion of the Court of Auditors,[28]

Whereas:

(1) According to Council Decision of (…) the correction for budgetary imbalances granted to the UK under Article (4) of Council Decision 2000/597/EC shall be replaced with a generalised system for correcting excessive negative budgetary imbalances.

(2) According to Council Decision of (…), the Council shall lay down the implementing measures for the calculation of these corrections and their financing, in particular the threshold and the maximum available refund volume.

(3) It is appropriate to define the categories of expenditure and revenue to be taken into account for the calculation of the corrections.

(4) It is appropriate to lay down the rules for entering the corrections in the budget.

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25 OJ L […], […], p. […].
26 OJ C […], […], p. […].
27 OJ C […], […], p. […].
28 OJ C […], […], p. […].

HAS ADOPTED THIS REGULATION:

Article 1

1. The calculation of the amount of the correction based on the budgetary imbalances of Member States of year *t* in accordance with Article 4 of Council decision (…) shall be established by:

(a) calculating for each Member State the budgetary imbalance as the difference between:

- the percentage share of that Member State in the sum of the total VAT-based and GNI-based own resources payments relating to year *t*, and

- the percentage share of that Member State in total allocated expenditure;

(b) multiplying the difference thus obtained by total allocated expenditure;

(c) deducting from the result under (b) the value of that Member State's gross national income (GNI) multiplied by the threshold;

(d) if the result obtained under (c) is positive, multiplying this result by a refund rate, fixed at a maximum of 0.66 and, if necessary, reduced proportionally to respect the maximum available refund volume.

2. The result obtained by steps (a) to (d) above corresponds to the following formula:

$$C_x^{RR} = \left[\left(\frac{TP_x}{TP} - \frac{E_x}{E}\right) * E - RNC * Y_x\right] * RR$$

if $C_x^{RR} > 0$

where RR = 0.66 if $\sum_x C_x^{0.66} \leq$ MARV and

RR = $\dfrac{MARV}{\sum_x C_x^{0.66}} * 0.66$ if $\sum_x C_x^{0.66} >$ MARV

Where: TP = Total VAT- and GNI-based payments made by all Member States in respect of year *t*
TP_x = VAT- and GNI-based payments made by Member State x in respect of year *t*
E = Total allocated expenditure in respect of year *t*
E_x = Expenditure allocated to Member State x in respect of year *t*
C_x^{RR} = Correction (at refund rate RR) to be granted to Member State x in respect of year *t*
RNC = Reasonable net contribution (= threshold) expressed in % of GNI
Y_x = GNI of year *t* of Member State x
RR = Refund rate
MARV = Maximum available refund volume
$\sum_x C_x^{0.66}$ = Total sum of corrections if RR is equal to 0.66

3. For the purposes of calculating the corrections, VAT-based and GNI-based payments shall not include the payments relating to the corrections.

Article 2

1. The threshold referred to in Article 1 shall be equal to 0.35 % of the GNI of the relevant Member State.

2. The maximum available refund volume (MARV) referred to in Article 1 shall be equal to euro 7.5 billion.

Article 3

1. The distribution of the total cost of the corrections in accordance with Article 5 of Council decision (…) shall be calculated in proportion to each Member State's share in total EU GNI in year *t*.

2. The correction shall be granted to any Member State by a reduction in its payments resulting from the application of Article 2(1)(c) of Council decision (…).

3. The cost of the corrections borne by all Member States shall be added to their payments resulting from the application for each Member State of Article 2(1)(c) of Council decision (…).

Article 4

1. The concept of expenditure to be used in the calculation of the corrections shall correspond to actual payments (execution of appropriations for payments) made in the year in question (year *t*) under that year's appropriations for payments as well as payments under carryovers of non-executed appropriations for payments to the following year (from year *t* to year *t+1*). Only utilised appropriations for payments, i.e. the amount of payments actually made, shall be taken into account.

2. The allocation of expenditure across the Member States shall be governed by the following rules:

In general, payments shall be allocated to the Member State in which the principal recipient resides. However, in those cases where the Commission is aware that the recipient in question acts as an intermediary, the payments shall be allocated whenever this is possible to the Member State(s) in which the final beneficiary(ies) is(are) resident, in accordance with their shares in these payments.

Total allocated expenditure shall be based on total expenditure of the general budget of the European Union, excluding the following two main categories of expenditure:

- *Expenditure on external policies*, including pre-accession or enlargement-related expenditure in non-member countries as well as other expenditure benefiting recipients outside the Union, such as development co-operation expenditure, research expenditure spent outside the EU, administrative expenditure paid to recipients outside the Union, etc.

- *Expenditure that cannot be allocated or identified* due to conceptual or other difficulties, such as expenditure on representation, on missions and on formal and other meetings as well as payments related to cross-border Community initiatives, promotion of inter-regional co-operative operations and other cross-border actions.

Article 5

1. The amount of the corrections shall be budgeted in two steps:

(a) The result of the first provisional calculation of the amount of the corrections for year *t* shall be entered in the preliminary draft budget of year *t+1*. The calculation shall be based on the most recent data available for both revenue and expenditure.

(b) The result of the definitive calculation of the amount of the corrections for year *t* shall be budgeted in an amending budget of year *t+3*. The calculation shall be based on the data on VAT bases, GNI and allocated expenditure relating to year *t* as known at 31 December of year *t+2*, which shall, where applicable, be converted into euro according to the annual average exchange rate of the year *t*.

In order to calculate the share of each Member State in the sum of the total VAT-based and GNI-based own resources payments the budget of year *t* shall be recalculated on the basis of the outturn of appropriations for payments for year *t*, reduced by other revenue relating to year *t* (not including the balance of the previous exercise or other balances or adjustments of balances relating to previous years) and the actual amount of traditional own resources made available in year *t*. The remaining amount shall be financed by the VAT-based own resource up to the uniform rate of call of VAT and by the GNI-based resource for the residual amount necessary to balance the budget.

2. The financing of the corrections referred to in paragraph (1)(a) above shall be calculated on the basis of the latest data on Member States GNI for year *t*, available when the preliminary draft budget is drawn up.

3. A definitive calculation shall also be made in respect of the financing of the corrections for year *t* referred to in paragraph (1)(b) above. The calculation shall be based on Member States' GNI in year *t*, as known at 31 December of year *t+2*, which shall, where applicable, be converted into euro according to the annual average exchange rate of the year *t*. The definitive financing data shall be compared with the payments relating to the corrections for year *t* already entered in the budget in year *t+1*. The balances per Member State shall be entered in an appropriate budgetary chapter of the amending budget referred to under paragraph (1)(b) above and converted into national currency according to the annual average exchange rate of the year *t*.

Article 6

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*. It shall take effect as stipulated in Article 10 of Council decision (…).

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

Done at Brussels,

For the Council
The President