

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 7 May 1985

on the Communities' system of own resources

(85/257/EEC, Euratom)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 201 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 ⁽¹⁾,

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

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources ⁽⁴⁾, hereinafter referred to as 'the Decision of 21 April 1970', introduced a Community system of own resources;

Whereas, in order to augment own resources, while retaining the existing sources of revenue introduced by the Decision of 21 April 1970, the 1 % limit to the rate applied to the uniform basis for assessing value added tax should be increased;

Whereas the European Council which met in Fontainebleau on 25 and 26 June 1984 reached certain conclusions;

Whereas, by the terms of those conclusions, the maximum rate of mobilization of value added tax own resources will be 1,4 % on 1 January 1986; whereas this maximum rate applies to every Member State and will enter into force as soon as the ratification procedures are completed and by 1 January 1986 at the latest; whereas the maximum rate may be increased to 1,6 % on 1 January 1988 by unanimous decision of the Council and after agreement has been given in accordance with national procedures;

Whereas, in those same conclusions, the European Council considered that expenditure policy is ultimately the essential means of resolving the question of budgetary imbalances;

Whereas, however, the European Council decided that any Member State bearing an excessive budgetary burden in relation to its relative prosperity may benefit at the appropriate time from a correction;

Whereas such a correction must now be applied to the United Kingdom,

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

Article 1

The Communities shall be allocated resources of their own in accordance with the following Articles in order to ensure that their budget is in balance.

The budget of the Communities shall, irrespective of other revenue, be financed entirely from the Communities' own resources.

⁽¹⁾ OJ No C 193, 21. 7. 1984, p. 5.

⁽²⁾ OJ No C 315, 26. 11. 1984, p. 60.

⁽³⁾ OJ No C 307, 19. 11. 1984, p. 24.

⁽⁴⁾ OJ No L 94, 28. 4. 1970, p. 19.

Article 2

Revenue from :

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

shall constitute own resources entered in the budget of the Communities.

In addition, revenue accruing from other charges introduced within the framework of a common policy in accordance with the Treaty establishing the European Economic Community or the Treaty establishing the European Atomic Energy Community shall constitute own resources entered in the budget of the Communities, subject to the procedure laid down in Article 201 of the Treaty establishing the European Economic Community or in Article 173 of the Treaty establishing the European Atomic Energy Community having been followed.

Article 3

1. Own resources shall also include revenue accruing, in accordance with this Article, from the application of rates to the assessment basis for value added tax which is determined in a uniform manner for Member States according to Community rules.

2. None of the rates referred to in paragraph 1 shall exceed 1,4 %. The rates shall be fixed, taking into account all other revenue, within the framework of the budgetary procedure.

3. The rates shall be calculated as follows :

- (a) a uniform rate shall be determined in relation to the assessment basis referred to in paragraph 1 ;
- (b) as regards the rate to be applied to the United Kingdom, a deduction shall be made from the amount payable under the uniform rate by :
 - (i) calculating the difference, in the preceding budgetary year, between the percentage share

of the United Kingdom in the value added tax which would have been paid in that year, including adjustments in respect of previous years, had the uniform rate been applied, and the percentage share of the United Kingdom in total allocated expenditure ;

- (ii) applying the difference thus obtained to total allocated expenditure ;
- (iii) multiplying the result by 0,66.

The reduced amount shall be divided by the assessment basis of the United Kingdom ;

- (c) as regards the rates to be applied to the other Member States, a sum equivalent to the deduction referred to in (b) shall be borne by them. The allocation of this sum shall first be calculated according to their respective shares in value added tax payments payable under the uniform rate, the United Kingdom being excluded ; it shall subsequently be adjusted so as to limit the participation of the Federal Republic of Germany to two-thirds of the share produced by that calculation.

The rates to be applied to these Member States shall be obtained by dividing the total obtained by adding together the amounts payable under the uniform rate and their shares in the additional sum by the assessment basis of each Member State ;

- (d) where paragraph 7 applies, financial contributions shall be substituted for payments of value added tax in the calculations referred to in this paragraph for any Member State concerned.

4. On the entry into force of this paragraph, and by way of derogation from the Decision of 21 April 1970, a lump-sum deduction of 1 000 million ECU shall be made from the amount of value added tax payable by the United Kingdom. A sum equivalent to the deduction shall be borne by the other Member States, being allocated in accordance with paragraph 3 (c).

The operations referred to in the preceding subparagraph shall constitute modifications to own resources accruing from value added tax in respect of the financial year 1985. If necessary, the corresponding amounts shall be entered in the accounts for the financial year 1985 by the Commission.

5. The Commission shall carry out the calculations necessary for the application of paragraphs 3 and 4.

6. If, at the beginning of the financial year, the budget has not been adopted, the rates of value added tax previously fixed shall remain applicable until the entry into force of new rates.

7. By way of derogation from paragraph 1, if, on 1 January of the financial year in question, the rules determining the uniform basis for assessing value added tax have not yet been applied in all Member States, the financial contribution to the budget of the Communities to be made by a Member State not yet applying this uniform basis shall be determined according to the proportion of its gross national product to the sum total of the gross national products of the Member States. The balance of the budget shall be covered by revenue accruing from value added tax in accordance with paragraph 1 and collected by the other Member States. This derogation shall cease to have effect as soon as the rules for determining the uniform basis for assessing value added tax are applied in all Member States.

8. For the purpose of paragraph 7, 'gross national product' shall mean gross national product at market prices.

Article 4

1. The revenue referred to in Articles 2 and 3 shall be used without distinction to finance all expenditure entered in the budget of the Communities.

2. Financing from the Communities' own resources of the expenditure connected with research programmes of the European Communities shall exclude neither entry in the budget of the Communities of expenditure relating to supplementary programmes nor the financing of this expenditure by means of financial contributions from Member States, the level and scale of funding of which will be fixed pursuant to a decision of the Council acting unanimously.

Article 5

The Communities shall refund to each Member State 10 % of the amounts paid in accordance with the first paragraph of Article 2 in order to cover expense incurred in collection.

Article 6

Any surplus of the Communities' own resources over and above the actual expenditure during a financial year shall be carried over to the following financial year.

Article 7

1. The Community resources referred to in Articles 2 and 3 shall be collected by the Member States in

accordance with national provisions imposed by law, regulation or administrative action, which shall, where necessary, be amended for that purpose. Member States shall make these resources available to the Commission.

2. Without prejudice to the auditing of accounts provided for in Article 206a of the Treaty establishing the European Economic Community, or to the inspection arrangements made pursuant to Article 209 (c) of that Treaty, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, adopt provisions relating to the supervision of collection, the making available to the Commission, and the payment of the revenue referred to in Articles 2 and 3.

Article 8

Member States shall be notified of this Decision by the Secretary-General of the Council of the European Communities; it shall be published in the *Official Journal of the European Communities*.

Member States shall notify the Secretary-General of the Council of the European Communities 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:

- as regards the provisions of Article 3 (4), on the second day after receipt of the last of the notifications referred to in the second paragraph;
- as regards its other provisions, on the second day after receipt of the last such notification or after the deposit, by the present Member States of the Communities, of the last of the instruments of ratification of the Treaties of Accession of Spain and Portugal, whichever occurs later, unless the Council, acting unanimously, decides otherwise.

Without prejudice to Article 3 (4), this Decision shall enter into effect on 1 January 1986 and the Decision of 21 April 1970 shall be repealed on the same date. To the extent necessary, any reference to the Decision of 21 April 1970 shall be understood as referring to this Decision.

Done at Brussels, 7 May 1985.

For the Council

The President

G. ANDREOTTI