



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 1.7.2003  
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2003/0131 (CNS)

Proposal for a

**COUNCIL REGULATION**

**amending Regulation (EC, Euratom) No 1150/2000 implementing Decision 2000/597/EC,  
Euratom on the system of the Communities' own resources**

(presented by the Commission)

## **EXPLANATORY MEMORANDUM**

The purpose of this proposal is to update the financial rules in line with both the new Council Decision of 29 September 2000<sup>1</sup> and certain protocols attached to the Amsterdam Treaty. The proposal also sets out to improve the management of traditional own resources, which are recovered by the Member States.

The amendments proposed by the Commission are summarised below.

### **1. PROVISIONS TO BE AMENDED AS A RESULT OF DECISION 2000/597/EC, EURATOM**

#### **Cost of collecting traditional own resources (Article 10(1))**

Under Article 2(3) of the new Decision on own resources, the proportion to be retained by Member States increases from 10% to 25% for entitlements established after 31 December 2000. Article 10(1) of Council Regulation No 1552/1989,<sup>2</sup> in the consolidated version of Council Regulation No 1150/00 of 22 May 2000,<sup>3</sup> is adapted accordingly.

The new Decision entered into force on 1 March 2002. However, the provision relating to the percentage to be retained took effect on 1 January 2001 and concerns payments of resources made during or after March 2001, with the exception of amounts which should have been made available before that date. Article 3 of this proposal therefore provides for Article 10(1) to be applied retrospectively.

### **2. NEW PROVISIONS**

#### **Arrangements to be applied in the case of "opt-outs" (Article 10a)**

Under the Protocols for Denmark, Ireland and the United Kingdom attached to the Amsterdam Treaty, relating to Title IV of the TEC (visas, asylum, immigration and other policies linked with the free movement of persons), these Member States need not participate in these measures and are therefore not obliged to bear the financial consequences, other than the administrative costs of such measures. They can therefore obtain an adjustment corresponding to their own resources payments.

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<sup>1</sup> Decision on the system of the European Communities' own resources - 2000/597/EC, Euratom, OJ L 253, 7.10.2000, p. 42.

<sup>2</sup> OJ L 155, 7.6.1989, p. 1.

<sup>3</sup> OJ L 130/1, 31.05.2000, p. 1.

There is already a recent precedent for this situation in the shape of the Protocol for the United Kingdom attached to the social chapter of the Maastricht Treaty, as a result of which a budgetary mechanism was set up to exempt this Member State from financial participation in these operations. Following a change in the United Kingdom's position on this matter, this budgetary mechanism was never applied.

As this adjustment will be made to own resources, it is logical that the method of calculation and the arrangements for accommodating this exemption in the budget should be given a specific regulatory basis in the new Regulation on own resources. Under the mechanism proposed, the Commission will calculate the adjustment during the year following the financial year concerned, at the same time as it determines the GNP balances for that year. The adjustment and its financing by the other Member States will be based on the GNP scale for the year in question.

### **Single rate of interest for late payment (Article 11)**

At present, any delay in making entries in the Commission's account gives rise to the payment of interest at a rate equal to the interest rate applicable on the due date for short-term public financing operations on the money market of the Member State concerned. This base rate, in most cases the rate for Treasury bonds, is increased by two percentage points and a further 0.25 of a percentage point for each month of delay. The increased rate is applied to the entire period of delay.

Difficulties have cropped up in actually applying the present calculation of interest for late payment, primarily because of the non-availability of the interest rates that should be used as the base.

Indeed the market situation in some Member States has sometimes prompted the national authorities responsible not to issue the Treasury bonds, which should serve as the reference.

To overcome these difficulties and to standardise the treatment of interest for late payment within the euro area, it is proposed that the rate used by the European Central Bank for its refinancing operations be applied for the twelve Member States which already belong to the Economic and Monetary Union (EMU) and any which may participate later. This rate is published every month in the Official Journal of the European Union, C series.

For those Member States not part of the EMU, the base rate applicable will be that used by the national central bank for its refinancing operations.

### **Clearance of the separate account (Article 17(2))**

Regulation No 1552/89 introduced the principle of a dual accounting system (the normal A account and the separate B account) to distinguish between recovered debts and outstanding debts. The separate account allows Member States to defer making established entitlements available until they have actually been recovered. With a view to sound management provision was made for removing items from the separate account, viz.: the correction/(partial) cancellation procedure, and the specific write-off procedure (where recovery proves impossible).

For the Commission, the separate account is an instrument for monitoring the recovery of outstanding entitlements and a gauge of the efforts made by Member States towards that recovery.

However, inspections by the Court of Auditors and the Commission have revealed a number of anomalies in the arrangements for removing items from the clearance of the separate account which obscure the actual recovery situation. Continuing to record amounts when recovery is unlikely undermines the reliability of the separate account. The balance has increased continually in recent years while a large proportion of the amounts entered in the account can be considered irrecoverable. The Court of Auditors has also drawn the Commission's attention to this point and has asked it to make corresponding provisions in its accounts so that the balance gives a more realistic picture of the budgetary situation. The Commission has done this in recent financial years.<sup>4</sup>

However, as the recovery of outstanding entitlements is administered by the Member States, it should be up to them and not the Commission to make the annual estimate of the amount unlikely to be recovered. So, together with the final quarterly statement for a given year, the Member States should send the Commission an estimate of the total amount of entitlements entered in the separate account for which recovery is unlikely. The Commission would then obtain a more realistic view of the budgetary situation every year.

In practice, only some Member States apply, (fairly) regularly, the procedure for writing off amounts of own resources exceeding €10 000 which have proved to be irrecoverable. The others do not use this procedure as they consider that they cannot declare an amount to be *definitively* irrecoverable.

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<sup>4</sup> At 31.12.2000 the balance in the B account was € 035.407 million (SEC (2001) 528 BUDG/C/2). A provision of €1 286.812 million has been established (SEC (2001) 531 Volume IV).

In 1997 the Commission presented a proposal to improve the write-off procedure. Under this proposal, Member States were to remove from the separate account any debt exceeding €50 000 which had not been recovered within five years of the date on which the recovery notice became finally enforceable. The Commission should be notified of such cases at the same time so that it could assess whether the Member States had shown due diligence during the collection procedure.

Although it gave a favourable opinion of this new write-off procedure, the Council has not stated its final position as no agreement was reached on another point of the proposal.

The Commission considers that the provisions concerning the write-off procedure put forward in its initial proposal should be resuscitated so that the balance in the separate account gives a more realistic picture of the situation. The procedure proposed would operate as follows.

- For *amounts exceeding €50 000* the Member States would remove from the separate account any debt which had not been recovered within five years of the date on which the recovery notice became finally enforceable, i.e. after an administrative or judicial appeal where applicable, and would notify the Commission within three months of those amounts so written-off or not recovered within five years. This notification, duly accompanied by the reasons why the amounts had not been recovered, would be made on a form drawn up by the Commission after consulting the Advisory Committee on Own Resources. This notification would allow the Commission to examine the reasons why the Member State has been unable to make these amounts available and the measures that it had taken to recover the amounts.

The Commission would be obliged to take a substantiated decision on the Member State's notification within six months of receipt if it considered that the definitive failure to recover an amount was not due to *force majeure* or other reasons not attributable to the Member State concerned. The Member State would then be obliged to make the amount available to the Commission by the first working day after the 19th day of the second month following the month in which it was notified of the decision.

- For *amounts not exceeding €50 000*, the responsibility for recovery would remain with Member States, who would be absolved of the obligation to make these amounts available to the Commission if they were recovered subsequent to having been declared or deemed irrecoverable recovered. However, the Commission would reserve the right to examine the procedures for clearance of cases below the €50 000 threshold during its inspection visits.

The 1997 proposal would now be withdrawn as some of its provisions - those relating to the write-off procedure - are incorporated in the current proposal.

### **Abolition of annual statements (Article 7)**

Article 6(4) establishes the monthly statement as the key document in the system of accounts for traditional own resources. This document is therefore used as the basis for the Commission's inspection of whether the accounts have been properly kept. In practice, the annual summary statements forwarded by the Member States are nothing more than a summary of the monthly statements. Member States should therefore no longer be required to send annual summary statements. The monthly statements will remain the only formal statement for the purpose of any corrections.

### **Correction for budgetary imbalances (Articles 6 and 10)**

In accordance with Articles 4 and 5 of the Decision on own resources, the United Kingdom receives a correction for budgetary imbalances which is financed by the other Member States, although Germany, Austria, the Netherlands and Sweden are granted adjustments to their financial contributions. Although this mechanism is already set out in detail in that decision, the correction should still be mentioned in the provisions which take it into account.

### **Annual report under Article 17(5)**

Member States inform the Commission of their inspection activities concerning the collection of traditional own resources in an annual report.<sup>5</sup> The Commission makes a summary of those national annual reports for the budgetary authority.

In 1999, with a view to improving the information given to Parliament and the Council, the Commission adopted a new approach by drawing up an overview of the situation based on facts obtained from the Member States. It considered it appropriate in those circumstances to incorporate the summary of annual activity reports in the report on the protection of the Union's financial interests and the fight against fraud (provided for by Article 280(5) of the Treaty).

For timetabling reasons, the Member States' annual reports must be sent to the Commission by 1 March of the year following the financial year concerned.

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<sup>5</sup> This report also gives an account of inspection findings and the questions of principle concerning the most important problems arising out of the application of this Regulation and, in particular, matters in dispute.

Proposal for a

**COUNCIL REGULATION**

**amending Regulation (EC, Euratom) No 1150/2000 implementing Decision 2000/597/EC, Euratom on the system of the 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 2000/597/EC, Euratom of 29 September 2000 on the system of the Communities' own resources,<sup>6</sup> and in particular Article 8(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,<sup>7</sup>

Having regard to the opinion of the Court of Auditors,<sup>8</sup>

Whereas:

- (1) The Berlin European Council of 24 and 25 March 1999 issued a number of conclusions concerning the system of the Communities' own resources which led to the adoption of Decision 2000/597/EC, Euratom on 29 September 2000.
- (2) Under Article 2(3) of Decision 2000/597/EC, Euratom, the percentage retained by Member States by way of collection costs should be set at 25% of the amounts referred to in paragraphs 1(a) and (b) of that Article which are established after 31 December 2000 with the exception of those amounts that to comply with own resources regulations should have been made available to the Communities before 28 February 2001 for which the rate of 10% will continue to apply.

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<sup>6</sup> OJ L 253, 7.10.2000, p. 42.

<sup>7</sup> OJ -- , , p. .

<sup>8</sup> OJ -- , , p. .

- (3) The Berlin European Council decided that, in sharing out the financial burden borne by the other Member States for the correction for budgetary imbalances in favour of the United Kingdom, the shares of Austria, Germany, the Netherlands and Sweden should be adjusted so that their financial contribution is limited to one quarter of their normal contribution.
- (4) In accordance with the Amsterdam Treaty and Protocols 4 and 5 attached thereto, Denmark, the United Kingdom and Ireland need not participate in measures falling under Title IV of the EC Treaty (visas, asylum, immigration and other policies linked with the free movement of persons) and are not therefore obliged to bear the financial consequences as a result of measures taken, other than the administrative costs. They can therefore obtain an adjustment to the own resources paid for each year in which they do not participate.
- (5) Given that the Member States are under an equal obligation to pay interest in the event of delays in entering own resources in the accounts and that difficulties are currently being encountered in the determination of the interest rates to be applied which, in practice, lead to differences between the rates notified by the Member States participating in the Economic and Monetary Union which are difficult to justify, the reference rate for these States must be standardised on the basis of the rate used by the European Central Bank for its refinancing operations, which is comparable to those proposed as reference rates for Member States outside the euro area.
- (6) The dual account system introduced in 1989 was set up to distinguish between recovered and outstanding duties. This system has only partly met its objectives. Audits by the European Court of Auditors and the Commission have highlighted recurrent anomalies in the keeping of the separate account which prevent the account from reflecting the real situation as regards recovery. The separate account should be cleansed of those amounts where recovery is unlikely and the retention of which gives an inaccurate balance. In addition, from the cost-effectiveness angle, Member States will no longer incur the administrative costs involved in monitoring these amounts.
- (7) In response to a request of the Court of Auditors and in order to ensure that the separate account provides a better picture of the actual budgetary situation, the Member States are to send the Commission, together with the final quarterly statement for a given year, an estimate of the total amount of entitlements contained in the separate account for which recovery is unlikely,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC, Euratom) No 1150/2000 is hereby amended as follows:

1. In Article 1:

The reference to "Decision 94/728/EC, Euratom" is replaced by "Decision 2000/597/EC, Euratom".

2. In Article 2:

The reference to "Decision 94/728/EC, Euratom" is replaced by "Decision 2000/597/EC, Euratom".

3. In Article 5:

The reference to "Decision 94/728/EC, Euratom" is replaced by "Decision 2000/597/EC, Euratom".

4. In Article 6:

4.1. Paragraph 3(c) is replaced by the following:

"(c) VAT resources, the financing of the correction for budgetary imbalances and the additional resources shall, however, be recorded in the accounts as specified in point (a) as follows:

- the twelfth referred to in Article 10(3) shall be recorded on the first working day of each month,
- the balances referred to in Article 10(4) and (7) and the adjustments referred to in Article 10(6) and (8) shall be recorded annually, except for the particular adjustments referred to in the first indent of Article 10(6), which shall be recorded in the accounts on the first working day of the month following agreement between the Member State concerned and the Commission."

4.2. The following is added at the end of paragraph 4(b):

"Together with the final quarterly statement for a given year, Member States shall forward an estimate of the total amount of entitlements contained in the separate account at 31 December of that year for which recovery has become unlikely."

5. The first paragraph of Article 7 is deleted and the second paragraph is replaced by the following:

"Article 7

After 31 December of the third year following a given year, no further corrections shall be made to the sum of the monthly statements sent in by Member States under Article 6(4)(a) for the year in question, except on points notified before this date either by the Commission or by the Member State concerned. "

6. In Article 9:

- 6.1. The following new paragraph 2 is inserted after the first paragraph:

"2. The Commission shall receive, by electronic means, on the day on which they are entered, a statement of account showing the entry of the own resources".

- 6.2. The present paragraph 2 becomes paragraph 3 and reads:

"3. The amounts credited shall be accounted for in euro in accordance with Article 16 of the Financial Regulation dated 25<sup>th</sup> June 2002<sup>9</sup> applicable to the general budget of the European Communities and the implementing rules, named "Financial Regulation." "

7. In Article 10:

- 7.1. The first subparagraph of paragraph 1 is replaced by the following:

"1. After deduction of 25% by way of collection costs in accordance with Article 2(3) of Decision 2000/597/EC, Euratom, entry of the own resources referred to in Article 2(1)(a) and (b) of that Decision shall be made at the latest on the first working day following the 19th day of the second month following the month during which the entitlement was established in accordance with Article 2 of this Regulation. "

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<sup>9</sup> OJ L 248, 16.09.02, p. 1

7.2. The first and second subparagraphs of paragraph 3 are replaced by the following:

"3. VAT resources, the financing of the correction for budgetary imbalances, the additional resource - excluding an amount corresponding to the EAGGF (European Agricultural Guidance and Guarantee Fund) monetary reserve, to the reserve relating to loans and loan guarantees and to the reserve for emergency aid - and, where appropriate, GNP financial contributions shall be credited on the first working day of each month, the amounts being one-twelfth of the relevant totals in the budget, converted into national currencies at the rates of exchange of the last day of quotation of the calendar year preceding the budget year, as published in the Official Journal of the European Union, "C" Series.

For the specific needs of paying EAGGF Guarantee Section expenditure, pursuant to Regulation (EEC) No 1765/92 and depending on the Community's cash position, Member States may be invited by the Commission to bring forward by one or two months in the first quarter of the financial year the entry of one-twelfth or a fraction of one-twelfth of the amounts in the budget for VAT resources, the financing of the correction for budgetary imbalances and/or the additional resource, but excluding own resources to cover the EAGGF monetary reserve, the reserve for loan guarantees and the reserve for emergency aid."

7.3. In the sixth subparagraph of paragraph 3, the reference to "Decision 94/728/EC, Euratom" is replaced by "Decision 2000/597/EC, Euratom" the following is added after the reference to Decision 94/729/EC: "repealed and replaced by Council Regulation (EC) No 2040/2000 of 26 September 2000<sup>10</sup>".

7.4. In the seventh subparagraph of paragraph 3, the text "article 6 of the Financial Regulation of 21<sup>st</sup> December 1977 applicable to the general budget of the European Communities (13), hereafter named "Financial Regulation" is replaced by "Article 8 of the Financial Regulation"

7.5. The ninth subparagraph of paragraph 3 is replaced by the following:

"Any change in the uniform rate of VAT resources, in the correction for budgetary imbalances and in its financing referred to in Articles 4 and 5 of Decision 2000/597/EC, Euratom, in the rate of the additional resource and, where appropriate, in the GNP financial contributions shall require the final adoption of an ~~a supplementary~~ amending budget and shall give rise to readjustments of the twelfths which have been entered since the beginning of the financial year."

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<sup>10</sup> OJ L 244, 29.9.2000 p. 27.

7.6. The tenth subparagraph of paragraph 3 is replaced by the following:

"These readjustments shall be carried out when the first entry is made following the final adoption of the amending or ~~supplementary~~ budget, if it is adopted before the 16th of the month. Otherwise they shall be carried out when the second entry following final adoption is made. By way of derogation from Article 8 of the Financial Regulation, these readjustments shall be entered in the accounts in respect of the financial year of the amending or ~~supplementary~~ budget in question. "

7.7. The eleventh subparagraph of paragraph 3 is replaced by the following:

"Calculation of the twelfths for January of each financial year shall be based on the amounts provided for in the draft budget, with the exception of the amounts for financing the EAGGF monetary reserve, referred to in ~~Article 78(3) of the ECSC Treaty,~~ Article 272(3) of the EC Treaty and Article 177(3) of the EAEC Treaty and converted into national currencies at the rates of exchange of the first day of quotation following 15 December of the calendar year preceding the budget year; the adjustment shall be made with the entry for the following month."

7.8. The twelfth subparagraph of paragraph 3 is replaced by the following:

"If the budget has not been finally adopted before the beginning of the financial year, the Member States shall enter on the first working day of each month, including January, one-twelfth of the amount of VAT own resources, of the financing of the correction for budgetary imbalances, of the additional resource, with the exception of the amounts for financing the EAGGF monetary reserve, and, where appropriate, of the GNP financial contributions entered in the last budget finally adopted; the adjustment shall be made on the first due date following final adoption of the budget if it is adopted before the 16th of the month. Otherwise, the adjustment shall be made on the second due date following final adoption of the budget."

7.9. Paragraph 4 is replaced by the following:

"4. Each Member State shall, on the basis of the annual statement on the VAT resources base provided for in Article 7(1) of Regulation (EEC, Euratom) No 1553/89, be debited with an amount calculated from the information contained in the said statement by applying the uniform rate adopted for the previous financial year and credited with the 12 payments made during that financial year. However each Member State's VAT own resources base to which the above rate is applied may not exceed 50% of its GNP, as referred to in the first sentence of paragraph 7 of this Article. The Commission shall work out the balance and shall inform the Member States in time for them to enter it in the account referred to in Article 9(1) of this Regulation on the first working day of December of the same year. "

7.10. The first subparagraph of paragraph 6 is replaced by the following:

"Any corrections to the VAT resources base under Article 9(1) of Regulation (EEC, Euratom) No 1553/89 shall give rise for each Member State concerned whose base, allowing for these corrections, does not exceed the percentages determined by Articles 2(1)(c) and 10(2)(b) of Decision 2000/597/EC, Euratom..." (*remainder unchanged*)

7.11. The second subparagraph of paragraph 6 is replaced by the following:

"The changes to GNP referred to in paragraph 8 of this Article shall also give rise to an adjustment of the balance of any Member State whose base, allowing for those corrections, is capped at the percentages determined by Articles 2(1)(c) and 10(2)(b) of Decision 2000/597/EC, Euratom. The adjustments to be made to the VAT balances by the first working day of December of each year under the first subparagraph of this paragraph shall also give rise to the calculation by the Commission of further adjustments to the GNP financial contributions. The exchange rates to be employed in calculating these further adjustments shall be those used for the initial calculation referred to in paragraph 5. "

8. A new Article 10a is inserted as follows:

"Article 10a

1. Where, pursuant to the Treaty, a Member State does not take part in the financing of a specific Union action or policy, it shall be entitled to an adjustment, calculated in accordance with paragraph 2, of the amount it has paid in own resources in respect of each year in which it has not taken part. This adjustment shall be made only once and it shall be final in the event of subsequent modification of the GNP figure.

2. The Commission shall calculate the adjustment during the year following the financial year concerned, at the same time as it determines the GNP balances provided for in Article 10 of this Regulation.

The calculation shall be made on the basis of the figures relating to the financial year in question:

- aggregate GNP at market prices and its components, as supplied by the Member States in accordance with Article 3(2) of Directive 89/130/EEC/Euratom;
- the budgetary outturn of operational expenditure corresponding to the measure or policy in question.

The adjustment shall be equal to the product of multiplying the total amount of the expenditure in question, with the exception of that financed by participating third countries, by the percentage that the GNP of the Member State entitled to the adjustment represents of the GNP of all Member States. The adjustment shall be financed by the participating Member States according to a scale determined by dividing their respective GNP by the GNP of all the participating Member States. For the purposes of calculating the adjustment, amounts shall be converted between the national currency and the euro at the exchange rate on the last day of quotation of the calendar year preceding the budget year concerned.

There shall be no subsequent revision of this adjustment in the event of subsequent modification of the GNP figure.

3. The Commission shall inform the Member States in good time of the amount of the adjustment so that they can credit it to the account referred to in Article 9(1) of this Regulation on the first working day of December."

9. Article 11 is replaced by the following:

"Article 11

1. Any delay in making the entry in the account referred to in Article 9(1) shall give rise to the payment of interest by the Member State concerned.

2. In the case of Member States belonging to the Economic and Monetary Union, the interest rate shall be equal to the rate as published in the *Official Journal of the European Union*, C series which the European Central Bank applied to its refinancing operations, on the first day of the month in which the due date fell, increased by two percentage points. This rate shall be increased by 0.25 of a percentage point for each month of delay. The increased rate shall be applied to the entire period of delay.

3. In the case of Member States which do not belong to the Economic and Monetary Union, the rate shall be equal to the rate applied for three-month public financing operations in the national currency on the money market of the Member State concerned, on the final working day of the month preceding the due date, increased by two percentage points. This rate shall be increased by 0.25 of a percentage point for each month of delay. The increased rate shall be applied to the entire period of delay.

4. Article 9(2) and (3) shall apply *mutatis mutandis*."

10. Article 12(5) is replaced by the following:

"The Member States, or the body designated by them in accordance with Article 9(1), shall execute the Commission's payment orders as quickly as possible, and within not more than three working days of receipt, and shall send the Commission a statement of account by electronic means within not more than three working days of completing each transaction. "

*Remainder of the paragraph unchanged*

11. In Title VI and in Article 15:

In the first subparagraph, the reference of the « decision 94/728/CE, Euratom » is replaced by « decision 2000/597/CE, Euratom » and that of article 7, paragraph 1 and paragraph 2, point b, of the Financial Regulation by Article 9 of the Financial Regulation ».

In the second subparagraph, the reference in Article 7, paragraph 1, of the Financial Regulation is replaced by « Article 9, paragraphs 2 and 4 of the Financial Regulation »".

12. In Article 16:

12.1. The second subparagraph is replaced by the following:

"Any appreciable differences in relation to original estimates may give rise to a letter of amendment to the preliminary draft budget for the following financial year or a ~~supplementary and~~ an amending budget for the current financial year."

13. In Article 17:

13.1. Paragraph 2 is replaced by the following:

"2. Member States shall be released from the obligation to place at the disposal of the Commission the amounts corresponding to established entitlements which prove irrecoverable either:

(a) for reasons of force majeure; or

(b) for other reasons which cannot be attributed to them.

Amounts of established entitlements shall be declared irrecoverable by a substantiated decision of the competent administrative authority finding that they cannot be recovered.

Amounts of established entitlements shall be deemed irrecoverable, at the latest, after a period of five years from the date on which the amount has been established in accordance with Article 2 or, in the event of an administrative or judicial appeal, the final decision has been given/published.

If part payment or payments have been received, the period of five years shall start from the date of the last payment made where this does not clear the debt.

Amounts declared or deemed irrecoverable shall be removed from the separate account referred to in Article 6(3)(b). They shall be shown in an annex to the quarterly statement referred to in Article 6(4)(b) and, where applicable, in the quarterly statement referred to in Article 6(5). This statement shall differentiate between those amounts removed because they have been declared irrecoverable and those deemed irrecoverable. "

13.2. The following new paragraph 3 is inserted with the following text:

"3. Within three months of the administrative decision mentioned in paragraph 2 or in accordance with the time limits referred to in that paragraph, Member States shall provide the Commission with information on those cases where paragraph 2 has been applied provided the established entitlements involved exceed €50 000.

This report, which shall be made on a form to be produced by the Commission after consulting the committee referred to in Article 20, shall include all the facts necessary for a full examination of the reasons referred to in paragraph 2 a) and b) which prevented the Member State concerned from making available the amounts in question and the recovery measures the Member State took in the case or cases in question."

13.3. The following new paragraph 4 is inserted with the following text:

"4. The Commission must decide within six months of receipt of the report provided for in paragraph 3 whether it considers that the conditions set out in the first subparagraph of paragraph 2 have not been met and that the Member State has not shown all due diligence in seeking to recover the entitlements. In such instances, the Member State concerned shall be obliged to enter in the account referred to in Article 6(3)(a) an amount corresponding to the unrecovered entitlements and to make that amount available to the Commission no later than the first working day after the 19th day of the second month following the month during which the Member State in question was notified of the decision.

When it considers that the conditions set out in the first subparagraph of paragraph 2 have been met, the Commission shall notify the Member State concerned of its agreement that the requirement to make available the amounts in question be waived.

Where the Commission finds it necessary to request additional information, the six-month time-limit shall run from the date of receipt of the requested supplementary information."

13.4. Paragraph 3 becomes paragraph 5 and reads as follows:

"5. Member States shall inform the Commission, by means of annual reports, of the details and results of their inspections and of the overall data and questions of principle concerning the most important problems arising out of the application of this Regulation and, in particular, matters in dispute. The reports shall be sent to the Commission by 1 March of the year following the financial year in question. The summary report on the notifications by Member States under this Article shall be contained in the Commission report referred to in Article 280(5) of the Treaty.

A report and duly substantiated amendments thereto shall be drawn up by the Commission after consulting the Committee referred to in Article 20. Any appropriate time limits for implementation shall be provided for."

14. In Article 18:

14.1. In paragraph 1 the reference to "Decision 94/728/EC, Euratom" is replaced by "Decision 2000/597/EC, Euratom".

15. In Article 21:

15.1. Paragraph 1(c) is replaced by the following:

"the inspection measures and controls laid down in Article 18(2) and (3)."

16. A new Title IX is inserted as follows:

"TITLE IX

Transitional provisions:

Article 21a

The rate provided for in Article 11 of Regulation No 1150/2000/EC, Euratom shall continue to apply for the calculation of interest for late payment where the due date falls before the end of the month in which this Regulation enters into force."

*Article 2*

The provisions of Regulation (EC, Euratom) No 1150/2000 shall remain in force insofar as they are not specifically amended by this Regulation.

*Article 3*

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 Decision 2000/597/EC, Euratom.

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

Done at Brussels,

*For the Council*  
*The President*

<b>FINANCIAL STATEMENT</b>			[...]	
			DATE: [...]	
1.	BUDGET HEADING: 1000 – 1100 - 1200	APPROPRIATIONS: [...]		
2.	TITLE: Proposal for a regulation amending Regulation (EC, Euratom) No 1150/2000 implementing Decision 2000/597/EC, Euratom on the system of the Communities' own resources			
3.	LEGAL BASIS: Council Decision 2000/597/EC, Euratom of 29 September 2000 on the system of the Communities' own resources			
4.	AIMS: 1) The first objective is to incorporate certain provisions included in the Council Decision 2000/597/EC, Euratom (and particularly, the new rate corresponding to the collection expenses for own resources that Member States can retain namely 25% of the amounts established instead of the previous 10%). This measure involves a loss of traditional own resources but this will be compensated for by an increase in the payments made in the framework of the fourth resource. This situation was taken into account when adopting the own resources Decision. 2) The second objective is to enable Member States to write-off amounts not recovered by a specific deadline (5 years) following the date on which the demand for payment became definitively enforceable. Moreover, amounts written-off in excess of €50,000 should be communicated to the Commission in order for it to check whether the Member State in question had been diligent with regard to recovery. The impact of such a measure is not easily calculable ; but, even though a theoretical loss could result from this measure, the examination of the diligence displayed by Member States could well increase resources.			
5.	FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR [n] (EUR million)	FOLLOWING FINANCIAL YEAR [n+1] (EUR million)
5.0	EXPENDITURE - CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER	[...]	[...]	[...]
5.1	REVENUE - OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES) - NATIONAL	P.M.	P.M.	P.M.
		[n+2]	[n+3]	[n+4]
5.0.1	ESTIMATED EXPENDITURE	[...]	[...]	[...]
5.1.1	ESTIMATED REVENUE	[...]	[...]	[...]
5.2	METHOD OF CALCULATION: [...]			
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?			NO
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?			NO
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?			NO
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?			NO
OBSERVATIONS: [...]				