COUNCIL DECISION

of 31 October 1994

on budgetary discipline

(94/729/EC)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Having regard to the opinion of the Court of Auditors [3],

Whereas, at its meeting in Edinburgh on 11 and 12 December 1992, the European Council decided to retain and strengthen the budgetary discipline introduced by Decision 88/377/EEC [4] and confirmed that all Community expenditure should be subject to the principles of sound public finance and budgetary discipline;

Whereas budget discipline is important in all policies to ensure a sustainable relationship between commitments, payments and available own resources;

Whereas a new Interinstitutional Agreement including the financial perspective for 1993 to 1999 was concluded on 29 October 1993 between the European Parliament, the Council and the Commission for the purposes of implementing budgetary discipline and improving the annual budgetary procedure;

Whereas, on the basis of the European Council's conclusions, the institutions also agreed to maintain unchanged the reference base and the rate of increase of the agricultural guideline and to extend the guideline to all expenditure under the reformed common agricultural policy and to expenditure under the fisheries guarantee fund and income subsidies;

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

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

Whereas expenditure arising from application of environmental measures in the agricultural sector, the Community aid scheme for forestry measures and the aid scheme for early retirement from farming is multiannual in nature and accordingly is subject to special monitoring;

Whereas, if there is a risk of the appropriations in a given chapter being exceeded, corrective measures should be taken to remedy the situation whenever such action might be effective; whereas those measures do not necessarily have an effect on the budget during the budget year concerned and it may be necessary in such circumstances to take measures to increase appropriations;

Whereas a monetary reserve should be entered in the budget in the form of provisional appropriations in order to deal not only with the financial consequences of movements in the dollar/ecu market rate but also with those of monetary realignments within the European Monetary System;

Whereas, with the gradual implementation of the reform of the common agricultural policy, expenditure is likely to be less sensitive to changes in the dollar/ecu rate; whereas the monetary reserve can therefore be reduced from ECU 1 000 million to ECU 500 million from 1995;

Whereas provision should be made for the possibility of reducing or temporarily suspending the monthly advances when the information communicated by the Member States does not enable the Commission to confirm that the Community rules applicable have been observed or indicates a clear misuse of Community funds;

Whereas the institutions have agreed that a reserve relating to Community loans and loan guarantees to non-member countries and in those countries must be entered in the budget in the form of provisional appropriations so that the Guarantee Fund set up by Council Regulation (EC, Euratom) No 2728/94 of

(1) OJ No C 68, 11. 3. 1993, p. 8.
(2) OJ No C 329, 6. 12. 1993, p. 100.
(3) OJ No C 170, 21. 6. 1993, p. 20.
(4) OJ No L 185, 15. 7. 1988, p. 29.

31 October 1994 establishing a guarantee fund for external actions [1] may be funded and any calls on guarantees exceeding the amount available under the Fund may be met;

Whereas the institutions have agreed that a reserve should be entered in the budget in the form of provisional appropriations to permit a rapid response to specific emergency aid requirements in non-member countries resulting from unforeseeable events, with priority being given to humanitarian operations;

Whereas the institutions have agreed that the conditions for calling in and mobilizing funds should be the same for the monetary reserve, the reserve relating to loan guarantees and the reserve for emergency aid; whereas the detailed rules for using the reserve for emergency aid are those defined in the Interinstitutional Agreement;

Whereas, for reasons of clarity, Decision 88/377/EEC should be repealed and replaced by this Decision,

HAS DECIDED AS FOLLOWS:

Article 1

Budgetary discipline shall apply to all expenditure. Such discipline shall be applied, as appropriate, by the Financial Regulation, this Decision and the Interinstitutional Agreement of 29 October 1993.

I. EAGGF GUARANTEE SECTION EXPENDITURE

Article 2

The agricultural guideline, which constitutes for each budget year the ceiling on agricultural expenditure as defined in Article 4, must be respected each year. For each budget year, the Commission shall make an initial estimate of the agricultural guideline when submitting its annual price-fixing proposals and shall determine its final level when submitting the preliminary draft budget.

Article 3

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

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

— the base multiplied by 74 % of the rate of increase in GNP between 1988 (base year) and the year in question,

— the base multiplied by the GNP deflator estimated by the Commission for the same period,

— forecasts of expenditure in the year in question on disposal of ACP sugar, food aid refunds, payments by producers in respect of levies provided for by the common organization of the sugar market and any other revenue raised from the agricultural sector in the future.

3. The statistical base for GNP shall be as defined in Council Directive 89/130/EEC, Euratom, of 13 February 1989 on the harmonization of the compilation of gross national product at market prices [2].

Article 4

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

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

Article 5

1. The Commission's agricultural price proposals and any other proposals for measures involving expenditure referred to in Article 4 shall be consistent with the limit laid down by the guideline.

2. Any Council member may ask the Commission to evaluate the financial consequences of any amendment which may be made to a proposal referred to in paragraph 1 during the Council's discussions. The Commission shall provide those evaluations as quickly as possible, and in any case within two weeks. The Council shall then be obliged to postpone its decision until it is informed of the impact. The European Parliament shall be informed of evaluations made by the Commission.

3. If the Commission considers that the outcome of the Council's discussions on these proposals is likely to exceed the costs put forward in its original poposals, the final decision shall be referred to a special meeting of the Council.

[1] See page 1 of this Official Journal.

[2] OJ No L 49, 21. 2. 1989, p. 26.

Article 6

1. To ensure that the agricultural guideline is respected, the Commission shall establish a monthly early-warning and monitoring system for each chapter involving expenditure of the type referred to in Article 4.

2. Before the beginning of each budget year, the Commission shall define profiles of monthly expenditure for each budget chapter based, where appropriate, on the average monthly expenditure of the three preceding years.

3. In view of its multiannual nature, implementation of expenditure arising from application of environmental measures in the agricultural sector, the Community aid scheme for forestry measures and the Community aid scheme for early retirement from farming shall be subject to special monitoring.

4. The statements of expenditure presented by the Member States monthly in accordance with Article 3, third paragraph of Commission Regulation EEC No 2776/88 [1] shall be sent to the European Parliament and to the Council for information.

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

5. When trends in acutual expenditure under a given chapter are likely to exceed or do exceed the profile laid down, the Commission shall analyse the discrepancy in order to determine the cause and evaluate the foreseeable budgetary implications.

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

7. If it concludes from the examination that there is a risk of the appropriations for the chapter being exceeded at the end of the year, the Commission shall take action on the chapter concerned, using the management powers at its disposal, including those it has under the stabilizing measures, to remedy the situation, whenever such action might be effective. If these measures prove to be insufficient, the Commission shall submit proposals to the Council for appropriate action to control expenditure, which may include proposals for strengthening the stabilizing measures in the relevant sector. The European Parliament shall deliver its opinion within six weeks and the Council shall act within two months of receiving the Commission's proposal in order to bring expenditure back into line with the provision for the budget chapter concerned, if possible by the end of the year in question.

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

9. If it proves impossible to remedy the situation before the end of the budget year, the Commission shall propose a transfer to the budgetary authority. The Commission shall inform the budgetary authority of developments in the market situation and of the situation regarding the appropriations under the chapter concerned, in the light, in particular, of the corrective measures adopted, the foreseeable financial consequences of which shall be taken into account in the budget for the following year. If these measures prove insufficient, the Commission shall present proposals to the Council designed to strengthen their action.

Article 7

The dollar/ecu rate used to draw up the annual budget estimates of the expenditure referred to in Article 4 for any given year shall be the average market rate over the first three months of the preceding year.

Article 8

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

— the developments caused by movements in the dollar/ecu market rate in relation to the rate used in the budget referred to in Article 10, and

— where applicable, the costs arising from monetary realignments within the European Monetary System referred to in Article 11.

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

Article 9

By no later than the end of October each year, the Commission shall report to the budgetary authority on the impact on expenditure referred to in Article 4 of:

— movements in the average dollar/ecu market rate for the period 1 August of the preceding year to 31 July

[1] OJ No L 249, 8. 9. 1988, p. 9. Regulation as last amended by Regulation (EC) No 775/90 (OJ No L 83, 30. 3. 1990, p. 85).

of the current year in relation to the rate used in the budget, as defined in Article 7,

— the monetary realignments within the European Monetary System referred to in Article 11.

Article 10

1. Savings or additional costs resulting from movements in the dollar/ecu rate shall be treated in symmetrical fashion. Where the dollar strengthens against the ecu compared to the rate used in the budget, savings in the Guarantee Section of up to ECU 1 000 million (ECU 500 million from 1995) shall be transferred to the monetary reserve. Where additional budgetary costs are engendered by a fall in the dollar against the ecu compared with the budget rate, the monetary reserve shall be drawn on and transfers shall be made from the monetary reserve to the EAGGF Guarantee Section headings affected by the fall in the dollar. Where necessary, these transfers shall be proposed at the same time as the report referred to in Article 9.

2. There shall be a neutral margin of ECU 400 million. Savings or additional costs below this amount arising from the movements referred to in paragraph 1 will not necessitate transfers to or from the monetary reserve. Savings or additional costs above this amount shall be paid into, or met from, the monetary reserve. The amount shall be reduced to ECU 200 million from 1995.

Article 11

1. If it should become apparent when the budget is being implemented that the agricultural guideline cannot cover the budget cost arising diretly from monetary realignments within the European Monetary System which have taken place since 1 September 1992, the monetay reserve shall be used to the extent necessary and appropriate transfers shall be proposed without, however, compromising full application of Article 10 (1).

2. If, in the circumstances referred to in paragraph 1, the appropriations available in the monetary reserve prove inadequate, thus compromising the financing of the common agricultural policy, the Council, using a suitable legal basis, shall take appropriate steps to fund the EAGGF Guarantee Section. Any decision which results in an actual increase in EAGGF Guarantee Section financing in any one year by exceeding or raising the agricultural guideline shall be taken unanimously.

3. This Article shall apply until the end of the financial year 1997.

Article 12

1. Funds shall be taken from the reserve only if the additional costs cannot be met from the budget appropriations intended to cover the expenditure referred to in Article 4 (1), for the year in question.

2. The necessary own resources shall be called up, in accordance with Decision 88/376/EEC, Euratom [1] and the provisions adopted pursuant thereto, to finance the corresponding expenditure.

3. Any savings made in the EAGGF Guarantee Section which have been transferred to the monetary reserve in accordance with Article 10 (1) and which remain in the monetary reserve at the end of the financial year shall be cancelled and entered as a revenue item in the budget for the coming year by means of a letter of amendment to the preliminary draft budget for the following year.

Article 13

1. Payment of the monthly EAGGF Guarantee Section advances by the Commission shall be effected on the basis of the information supplied by the Member States in regard to expenditure in each chapter.

2. If the declarations of expenditure or the information submitted by a Member State do not enable the Commission to establish whether the commitment of funds is in conformity with the relevant Community rules, the Commission shall request the Member State to supply further information within a period which it shall determine according to the seriousness of the problem.

In the event of a reply which is deemed unsatisfactory or which indicates manifest non-compliance with the rules and a clear misuse of Community funds, the Commission may reduce or provisionally suspend the monthly advances to Member States.

Such reductions and suspensions shall be without prejudice to the decisions which will be taken in connection with the clearance of accounts.

3. The Commission shall inform the Member State concerned before taking its decision.

The Member State shall make its position known within 10 days.

The Commission's decision, stating the reasons on which it is based, shall be taken after the EAGGF Committee has been consulted and must be in keeping with the principle of proportionality.

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[1] OJ No L 185, 15. 7. 1988, p. 24.

II. RESERVES FOR EXTERNAL OPERATIONS

1. Reserve relating to loans and loan guarantees

Article 14

Each year a reserve intended to cover:

(a) the requirments of the Guarantee Fund set up by Regulation (EC, Euratom) No 2728/94; and

(b) where necessary, activated guarantees exceeding the amount available in the Fund so that these amounts may be charged to the budget;

shall be entered in the general budget of the European Communities as a provision.

The amount of that reserve shall be the same as that in the financial perspective that forms part of the Interinstitutional Agreement.

2. Reserve for emergency aid

Article 15

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

The amount of that reserve shall be the same as that adopted in the financial perspective contained in the Interinstitutional Agreement.

The detailed rules for the use of the reseve shall be as laid down in the Interinstitutional Agreement.

3. Common provisions

Article 16

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

Article 17

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

The own resources necessary shall be made available as provided in Regulation (EEC, Euratom) No 1552/89 [1].

III. OTHER PROVISIONS

Article 18

The financial implementation of any Council decision or of any decision of the European Parliament and of the Council exceeding the appropriations available in the budget or the amounts specified in the financial perspective may not take place until the budget and, where appropriate, the financial perspective have been suitably amended according to the procedure laid down for each of these cases.

IV. FINAL PROVISIONS

Article 19

Decision 88/377/EEC is hereby repealed.

Article 20

This Decision is addressed to the Member States.

Done at Luxembourg, 31 October 1994.

For the Council

The President

K. KINKEL

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[1] OJ No L 155, 7. 6. 1989, p. 1. Regulation as amended by Regulation (EC, Euratom) No 2729/94 (see page 5 of this Official Journal).