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COMMISSION DECISION

of 20 March 1997

laying down the arrangements for the transmission of information to the Commission by the Member States under the Communities' own resources system

(97/245/EC, Euratom)

(OJ L 97, 12.4.1997, p. 12)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Commission Decision 2002/235/EC of 13 March 2002	L 79	61	22.3.2002
►**M2**	Commission Decision 2006/246/EC, Euratom of 21 March 2006	L 89	46	28.3.2006
►**M3**	Commission Decision 2009/504/EC, Euratom of 28 May 2009	L 171	37	1.7.2009

NB: This consolidated version contains references to the European unit of account and/or the ecu, which from 1 January 1999 should be understood as references to the euro — Council Regulation (EEC) No 3308/80 (OJ L 345, 20.12.1980, p. 1) and Council Regulation (EC) No 1103/97 (OJ L 162, 19.6.1997, p. 1).

▼B

COMMISSION DECISION

of 20 March 1997

laying down the arrangements for the transmission of information to the Commission by the Member States under the Communities' own resources system

(97/245/EC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 94/728/EC, Euratom of 31 October 1994 on the system of the European Communities' own resources [1], and in particular Article 8 (2) thereof,

Having regard to Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources [2], as last amended by Regulation (Euratom, EC) No 1355/96 [3], and in particular Articles 6 and 17 thereof,

Having consulted the Advisory Committee on Own Resources,

Whereas, in Regulation (Euratom, EC) No 1355/96, the Council adopted provisions designed to improve certain parts of the arrangements for Member States to report to the Commission about action they have taken to recover own resources, in particular where fraud and irregularities are involved;

Whereas these improvements mainly concern the production of monthly and quarterly statements of accounts of own resources, the description of cases of fraud and irregularities already detected involving entitlements in excess of ECU 10 000 and the content of the annual report;

Whereas the details of these reporting procedures are to be laid down by the Commission after the Advisory Committee on Own Resources has been consulted;

Whereas the Member States must be allowed a suitable length of time to apply the reporting procedures,

HAS ADOPTED THIS DECISION:

Article 1

1. Member States shall use the models contained in Annexes I, II and III to draw up the monthly and quarterly statements of their accounts of own resources referred to ►**M3** in Article 6(4), first subparagraph, points (a) and (b) of Council Regulation (EC, Euratom) No 1150/2000 ◄

2. The first such statements to be produced using the models referred to in paragraph 1 shall be those for April 1997 for the monthly statement and for the second quarter of 1997 for the quarterly statement.

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[1] OJ No L 293, 12. 11. 1994, p. 9.
[2] OJ No L 155, 7. 6. 1989, p. 1.
[3] OJ No L 175, 13. 7. 1996, p. 3.

▼B

Article 2

1. Member States shall use the model fraud form and update form in Annexes IV and V for the descriptions of cases of fraud and irregularities detected involving entitlements of over ECU 10 000 and details of the position concerning cases of fraud and irregularities already reported to the Commission where recovery, cancellation or non-recovery has not been indicated earlier, as referred to ►M3 in Article 6(5) of Regulation (EC, Euratom) No 1150/2000. ◄

2. The first fraud forms and updates to be produced using the models referred to in paragraph 1 shall be sent in April 1997.

▼M3

Article 3

1. Member States shall use the model set out in Annex VI for the annual report referred to in Article 17(5) of Regulation (EC, Euratom) No 1150/2000.

2. Member States shall transmit by electronic means the reports referred to in the third subparagraph of Article 17(3) of Regulation (EC, Euratom) No 1150/2000 using the electronic management and information system.

3. Annex VII lays down the form of the reports referred to in the third subparagraph of Article 17(3) of Regulation (EC, Euratom) No 1150/2000.

▼B

Article 4

Member States shall inform the Commission by 31 March 1997 of the departments or agencies responsible for producing the statements, forms and reports covered by this decision.

Article 5

This Decision is addressed to the Member States.

▼M3

ANNEX I

'A' ACCOUNT OF OWN RESOURCES OF THE EUROPEAN COMMUNITIES

Statement of established entitlements (*)

Member State:

Month/year:

(national currency)

	NATURE OF RESOURCE	Member State's reference (optional)	Accounts established during month (1) (1)	Amounts recovered from separate account (2)	Corrections to earlier establishments (2)		Gross amounts (5) = (1) + (2) + (3) – (4)	Net amounts (6)
					+ (3)	– (4)		
1210	Customs duties (excluding countervailing and anti-dumping duties)							
1230	Countervailing and anti-dumping duties on products							
1240	Countervailing and anti-dumping duties on services							
12	CUSTOMS DUTIES							
1100	Production levies related to the marketing year 2005/2006 and previous years							
1110	Sugar storage levies							
1130	Charges levied on C sugar, isoglucose and inulin not exported, and charges levied on substitute C sugar and isoglucose							
1170	Production charge							
1180	One-off amounts on additional sugar quota and supplementary isoglucose quota							
1190	Surplus amount							
11	SUGAR LEVIES							
	Total 12 + 11							
					— 25 % collection costs — 10 % collection costs (3)			
					Total to be paid to EC			

(1) Including accounting corrections.
(2) Corrections to initial establishments, in particular cases of post-clearance recovery and repayment. For sugar, corrections relating to earlier years must mention the year concerned.
(3) The 10 % deduction rate is to be applied to amounts which, in accordance with Community rules, should have been made available before 28 February 2001.

(*) Including entitlements established as a result of inspections and detected cases of fraud and irregularities.

▼M2

ANNEX II

Annex to the Statement of the 'A' account of the own resources of the European Communities

Monitoring of recovery of amounts which relate to cases of irregularities or delays (Article 18(2)(b) of Regulation (EC, Euratom) No 1150/2000)

Month/year

(national currency)

Gross amount of own resources recovered	References to irregularities or delays in the establishment, entry in the accounts and making available of own resource noted as a result of inspections (1) (2)	Comments	Rate of deduction to be applied (3)		Amount included under the heading 'Total to be paid to EC' (3)	
			10 %	25 %	Yes	No
Total						

(1) If necessary, references to payments pursuant to Article 17(2) are also shown in this column.
(2) If necessary, references to Commission letters are also to be mentioned in this column.
(3) Mark with an X.

▼M3

ANNEX III

OWN RESOURCES OF THE EUROPEAN COMMUNITIES — SEPARATE ACCOUNT (*)

Statement of established entitlements not included in 'A' account

Member State:

Month/Year:

(national currency)

	NATURE OF RESOURCE	Outstanding from previous quarter (1)	Established entitlements for current quarter (2)	Corrections of establishments (Article 8) [1] (3)	Amounts which cannot be made available (Article 17(2)) [2] (4)	Total (1 + 2 ± 3 – 4) (5)	Amounts recovered during quarter [3] (6)	Outstanding at end of current quarter (7) = (5) – (6)
1210	Customs duties (excluding countervailing and anti-dumping duties)							
1230	Countervailing and anti-dumping duties on products							
1240	Countervailing and anti-dumping duties on services							
12	CUSTOMS DUTIES							
1100	Production levies related to the marketing year 2005/2006 and previous years							
1110	Sugar storage levies							
1130	Charges levied on non-exported C sugar, C isoglucose and C inulin syrup production, and on substituted C sugar and C isoglucose							
1170	Production charge							
1180	One-off amounts on additional sugar quota and supplementary isoglucose quota							
1190	Surplus amount							
11	SUGAR LEVIES							
	Total 12 + 11							
						Estimate of amounts established for which recovery is uncertain [4]		

([1]) Correction of establishments should be understood to mean corrections, including cancellations resulting from a revision of the initial establishment arising from previous quarters. They differ by nature from those entered in column (4).

([2]) All the cases are to be set out in Annex IIIa which is to be returned at the same time as this quarterly statement. The total for this column (4) and the total for Annex IIIa should be the same.

([3]) The total for this column should be the same as the total given in column (2) of the statement of the 'A' account for the three months concerned.

([4]) Compulsory for the final quarter of each year. If the estimate comes to zero, the word 'nil' should be entered.

(*) 'B' account kept pursuant to Article 6(3)(b) of Regulation (EC, Euratom) No 1150/2000, including entitlements established as a result of inspections or and deleted cases of fraud and irregularities.

▼M2

ANNEX IIIa

Annex to the statement of the separate account of the own resources of the European Communities

List of amounts in the 'B' account declared or deemed irrecoverable [1]

Quarter/Year

(national currency)

Gross amount of own resources	Reference to national decision
TOTAL:	

[1] Article 17(2) of Regulation No 1150/2000, as amended by Council Regulation (EC, Euratom) No 2028/2004 of 16.11.2004.

▼B

ANNEX IV

FRAUD FORM

Information form to be sent to the Commission (DG XIX) giving a description of cases of fraud and irregularities already detected, involving entitlements in excess of ECU 10 000

IDENTIFICATION OF BASIC FORM

0 Member State:

0.0 Serial number of the case ([1]):

0.1 Quarter reference period:

0.2 Date of transmission:

0.3 Department or agency which made the establishment:

DESCRIPTION OF CASE

1 Goods involved:

1.0 Commercial description:

1.1. Tariff heading ([2]):

1.1.1 declared:

1.1.2 established:

1.1.3 presumed:

1.2 Origin:

1.2.1 declared:

1.2.2 established:

1.2.3 presumed:

1.3 Coming from:

1.3.1 declared:

1.3.2 established:

1.3.3 presumed:

1.4 Quantity:

1.4.1 declared:

1.4.2 established:

1.4.3 presumed:

1.5 Value:

1.5.1 declared:

1.5.2 established:

1.5.3 presumed:

2 Type of fraud and/or irregularity:

2.1 Designation:

2.2 Customs procedure or treatment concerned:

3 Concise description of fraud mechanism:

4 Presumed order of magnitude of own resources evaded or exact amount:

4.1 estimated:

([1]) Cases are numbered by Member States in an annual sequence in accordance with the following format: OR/MS/99/999999/0. For Member States which do not produce a single annual sequence but sequences for regional departments, the first two of the six digits identify the regional department concerned.

([2]) In accordance with the combined nomenclature provided for by Regulation (EEC) No 2658/87 (OJ No L 256, 7. 9. 1987).

▼B

4.2 established:

4.3 recovered:

5 Type of check that led to discovery:

5.1 method:

5.2 remarks:

6 Stage reached in procedure and, where appropriate, details of establishment:

— date of establishment:

— administrative code:

— financial code:

7 Case already notified under mutual assistance arrangements (Regulations (EEC) No 1468/81 and (EEC) No 945/87):

MA reference:

8 Measures taken or planned to prevent the recurrence of cases of fraud and irregularities already detected:

9 9.1 Member States involved:

9.2 Operators concerned (optional):

10 Other information:

10.1 Free:

10.2 Reserved:

▼B

ANNEX V

FORM UPDATING BASIC FORM (1)

11 (2)	12	13	14	15	16	17	18	19	20	21	22	Remarks
Basic form reference	Change in estimate	Date of establishment	Date of entry in 'B' account	Entitlements established: Balance previous quarter	Correction to base (±)	Written off	Amounts to be recovered (15 ± 16 - 17)	Amounts recovered	Entitlements established: end-of-quarter balance (18 - 19)	Administrative or judicial code	Financial code	

(1) Fields 11 to 22 of the updating form update fields 4 and 6 of the basic form.

(2) The updating form is given the same serial number as the basic form to which it relates; where there is more than one updating form, the numbering should be 1 to x in the following format: OR/MS/99/999999/1 to x.

▼M3

ANNEX VI

ANNUAL REPORT

referred to in Article 17(5) of Regulation (EC, Euratom) No 1150/2000

20…

Member State: … .....

1. **Inspection by Member States**

Inspection Activities	Number
Customs declarations accepted (customs arrangements or customs use concerned)	
Customs declarations checked after clearance, customs arrangements or customs use concerned (post-clearance inspections)	
Total number of staff in customs departments at national level ([1])	
Total number of staff assigned to post-clearance checks at national level	

([1]) Total number of customs staff (expressed in persons per year).

2. **Questions of principle**

List of the most important points relating to the establishment, entry in the accounts and making available of the entitlements which have been encountered in the application of Regulation (EC, Euratom) No 1150/2000, including those raised in matters in dispute.

… .....

… .....

… .....

… .....

… .....

(where necessary, continue in an annex, referring to this item.)

▼M3

ANNEX VII

Form of the report referred to in the third subparagraph of Article 17(3) of Regulation (EC, Euratom) No 1150/2000

Unless otherwise stated, all information must be provided if available and relevant. All amounts are to be indicated in the currency of the respective Member State at the time of reporting.

1. GENERAL DATA

Member State: ….....

Reference of the report: … .....

(*the Member State's code/year of reporting/serial number of the year of reporting*)

..... Reference to a related information form sent beforehand pursuant to Article 6(5) of Regulation (EC, Euratom) No 1150/2000: …

Justification of absence of a reference to the aforementioned information form: … .....

Case related to a Community inspection (Yes/No)

Reference to a related Community inspection: … .....

Total amount irrecoverable: … .....

Authority that declared or deemed the amount irrecoverable: ….....

National reference of the administrative decision of irrecoverability: ….....

(*See second column of Annex IIIa to Decision 97/245/EC as amended by Commission Decision 2006/246/EC, Euratom* ([1]))

Date of the administrative decision on irrecoverability: … .....

Date on which the amount was deemed irrecoverable: … .....

2. DEBT INCURRED

Date or period during which the debt was incurred: … .....

Legal basis for the incurrence of the debt: ….....

(*Legal bases preceding Council Regulation (EEC) No 2913/92* ([2])*are to be indicated by using the relevant article of Regulation (EEC) No 2913/92*)

Customs situation: ….....

(*Customs procedure in force, situation of the goods or customs-approved treatment at the time of the customs debt being incurred*)

Additional details to be indicated in the case of transit regimes: ….....

— Date(s) of acceptance of the customs declaration: … .....

— Member State(s) of departure or entry into the Community (ISO Code): …

— Member State(s) of destination or exit from the Community (ISO Code): … .....

— TIR carnet number(s): … .....

Type of check that led to the establishment of the entitlement: ….....

— Checks not related to the acceptance of a customs declaration: … .....

— Checks during clearance of a customs declaration including sample taking: … .....

— Checks after clearance but before discharge of the customs procedure: …

— Checks after discharge of the customs procedure for the goods: … .....

— Checks after clearance and release for free circulation: ….....

Date(s) of discharge to be communicated in the case of customs situations involving suspensive arrangements: ….....

([1]) OJ L 89, 28.3.2006, p. 46.
([2]) OJ L 302, 19.10.1992, p. 1.

▼M3

… .....

Concise description of events leading to the establishment of the entitlement: … .....

3. MUTUAL ASSISTANCE

Case related to Mutual assistance (MA) within the meaning of Council Regulation (EC) No 515/97 ([1]) involving Commission departments (Yes/No)

Reference of the MA communication: … .....

Date of receipt: … .....

Comments (optional): … .....

4. ESTABLISHMENT OF THE ENTITLEMENT

Office of establishment: … .....

Date of establishment: … .....

Accounting reference of establishment (optional): ….....

.Date of entry in the B account (Article 6 of Regulation (EC, Euratom) No 1150/2000): …

Accounting reference of the B account (optional): … .....

Total amount established: ….....

Amount of customs and agricultural duties established, not including countervailing and antidumping duties: ….....

… .....

Amount of countervailing and antidumping duties established: … .....

Amount of sugar/isoglucose levies established: ….....

Corresponding established amount of national excise duties and VAT (optional): … .....

Total amount corrected (addition or deduction) after the initial establishment: … .....

Amount of customs and agricultural duties corrected (addition or deduction) after the initial establishment, not including countervailing and antidumping duties: … .....

Amount of countervailing and antidumping duties corrected (addition or deduction) after the initial establishment: … .....

… .....

Amount of sugar/isoglucose levies corrected (addition or deduction) after the initial establishment: … .....

… .....

Corresponding amount of national excise duties and VAT corrected (addition or deduction) after the initial establishment (optional): … .....

Total amount of security: … .....

(*Amount of Community own resources and if applicable national duties. It can be nil if there is a waiver or if a security is not lodged*)

Part of security to be allocated to Community own resources: … .....

Type of security (compulsory, optional, not planned): … .....

Type of compulsory security: … .....

Reason why a planned security was not lodged: ….....

Security made available to the Community: ….....

Date on which the security was made available: … .....

([1]) OJ L 82, 22.3.1997, p. 1.

▼M3

5. RECOVERY PROCESS

(*If there are several debtors for the same debt, the following information needs to be provided for each debtor:*)

Principal debtor or jointly liable debtor: ….....

Date of notification of the debt: ….....

Date(s) of payment reminders: ….....

Establishment subject to an appeal procedure within the meaning of Article 243(1) of Regulation (EEC) No 2913/92 (Yes/No)

Levels attained in appeal procedure: … .....

Date of first appeal lodged: … .....

Date on which the definitive judgment is notified: … .....

Comments (optional): … .....

Suspension of implementation within the meaning of Articles 222 and 244 of Regulation (EEC) No 2913/92 and Article 876a of Commission Regulation (EEC) No 2454/93 ([1]) (Yes/No)

Security lodged on suspension (Yes/No)

Amount of security on suspension: … .....

Reasons why no security was lodged on suspension: … .....

(*Member States need to specify whether or not a security was waived because of foreseeable economic and social difficulties and the grounds for such a decision*)

Payment facilities within the meaning of Article 229 of Regulation (EEC) No 2913/92 (no request/request rejected/request accepted)

Description of payment facility arrangements: … .....

Security lodged pursuant to payment facilities (Yes/No)

Amount of security pursuant to payment facilities: … .....

Reason why no security was lodged on payment facilities: ….....

(*Member States need to specify whether or not a security was waived because of foreseeable economic and social difficulties and the grounds for such a decision*)

Date of issue of enforcement order: ….....

Notification of enforcement order (Yes/No)

Date of notification of enforcement order: … .....

Comments on enforcement order (optional): … .....

Date of first payment: … .....

Amount of first payment: ….....

Date of last payment: … .....

Amount of last payment: … .....

Total amount paid: … .....

Date(s) of attachments: ….....

Amount obtained by way of attachment: ….....

Comments on the attachment (optional): … .....

Date of opening of bankruptcy/liquidation/insolvency proceedings: … .....

Date of declaring the claim in those proceedings: ….....

Date of closure of bankruptcy/liquidation/insolvency proceedings: ….....

Amount of own resources recovered from bankruptcy/liquidation/insolvency proceedings: ….....

([1]) OJ L 253, 11.10.1993, p. 1.

▼M3

… .....

Mutual assistance by other Member States in recovery (Council Directive 2008/55/EC ([1]) or Council Directive 76/308/EEC ([2]) (Yes/No)

Reference of Mutual assistance in recovery: … .....

Member State contacted: … .....

Date of request: … .....

Amount recovered: ….....

Date of reply: ….....

Comments on the reply (in particular if the Member State contacted has not acted on the request): … .....

… .....

6. REASONS WHY RECOVERY HAS PROVED IMPOSSIBLE FOR THE REMAINING AMOUNT

(*In this part the Member States should clearly indicate for instance all the specific enforcement measures taken and the reasons why in the case of a bankruptcy/liquidation/insolvency procedure the amount received was not sufficient to cover the debt or why it covers only a part of the debt.*)

(*Member States do not need to provide information they have already provided under points 1 to 5.*)

7. OTHER INFORMATION

([1]) OJ L 150, 10.6.2008, p. 28.
([2]) OJ L 73, 19.3.1976, p. 18.