COMMISSION

COMMISSION DECISION

of 28 May 2009

amending Decision 97/245/EC, Euratom laying down the arrangements for the transmission of information to the Commission by Member States under the Communities' own resources system

(notified under document number C(2009) 4072)

(2009/504/EC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Decision 2007/436/EC, Euratom of 7 June 2007 on the system of the European Communities' own resources [1],

Having regard to Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 2007/436/EC, Euratom on the system of the European Communities own resources [2] and in particular the third subparagraph of Article 6(4) and Article 17(3) and (5) thereof,

Having consulted the Advisory Committee on the Communities' own resources, provided for in Article 20 of Regulation (EC, Euratom) No 1150/2000,

Whereas:

(1) Commission Decision 97/245/EC, Euratom [3] laid down models for the statements of the Member States accounts for own resources to be sent to the Commission.

(2) Following the implementation in Community law of the agreements concluded during the Uruguay round there is no longer any material difference between agricultural duties and customs duties. Moreover, Decision 2007/436/EC, Euratom does not make this distinction. It is therefore appropriate to remove this distinction from the models contained in Annexes I and III to Decision 97/245/EC, Euratom.

(3) Further, Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector [4] introduced, amongst other measures, a production charge to contribute to the financing of expenditure and a levy on the surplus amount to prevent the accumulation of surpluses. Moreover, under certain conditions, one-off amounts are to be paid for additional sugar quotas and for supplementary isoglucose quotas. As these levies are own resources, the models contained in Annexes I and III to Decision 97/245/EC, Euratom must therefore be adapted.

(4) Steps should also be taken to capitalise on the experience acquired by the Member States in producing the accounting statements provided for in Article 6(3)(a) and (b) of Regulation (EC, Euratom) No 1150/2000 and to improve the presentation of the forms drawn up in line with the models contained in Annexes I and III to Decision 97/245/EC, Euratom.

(5) Decision No 97/245/EC, Euratom lays down the detailed arrangements for the transmission of information and establishes a form for reporting, in the context of the annual report, cases of irrecoverability as referred to in Article 17(2) of Regulation (EC, Euratom) No 1150/2000.

(6) Given the experience acquired in the transmission of the relevant information it is necessary to take measures to ensure that all the facts necessary for the full examination of cases of irrecoverability reported by the Member States are provided to the Commission.

(7) The arrangements for the transmission of reports and efficient management of information should be adapted to the growing number of cases of irrecoverability by introducing a new electronic management and information system which should be used by the Member States to send their reports electronically in cases where amounts are declared or deemed irrecoverable.

[1] OJ L 163, 23.6.2007, p. 17.
[2] OJ L 130, 31.5.2000, p. 1.
[3] OJ L 97, 12.4.1997, p. 12.
[4] OJ L 58, 28.2.2006, p. 1.

(8) Council Regulation (EC, Euratom) No 2028/2004 [5] introduced in Regulation (EC, Euratom) No 1150/2000 a clear distinction between reporting cases where established entitlements are declared or deemed irrecoverable, referred to in the third subparagraph of Article 17(3) of Regulation (EC, Euratom) No 1150/2000, and the annual reports referred to in Article 17(5) of Regulation (EC, Euratom) No 1150/2000. It is therefore appropriate to replace the standard form to be used for the annual reports and to lay down a standard form for reporting cases of irrecoverability.

(9) A suitable length of time should also be allowed to produce the amended statements.

(10) Decision 97/245/EC, Euratom should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 97/245/EC, Euratom is amended as follows:

1. In Article 1(1), the part of the sentence 'in Article 6(3)(a) and (b) of Regulation (EEC, Euratom) No 1552/89' is replaced by 'in Article 6(4), first subparagraph, points (a) and (b) of Council Regulation (EC, Euratom) No 1150/2000 (*).

(*) OJ L 130, 31.5.2000, p. 1.'

2. In Article 2(1), the part of the sentence 'in Article 6(4) of Regulation (EEC, Euratom) No 1552/89' is replaced by 'in Article 6(5) of Regulation (EC, Euratom) No 1150/2000'.

3. Article 3 is replaced by the following:

'*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.'

4. Annex I is replaced by the text set out in Annex I to this Decision.

5. Annex III is replaced by the text set out in Annex II to this Decision.

6. Annex VI is replaced by the text set out in Annex III to this Decision.

7. Annex VII set out in Annex IV to this Decision is added.

Article 2

The first statements to be produced using the models contained in Annexes I and III to Decision 97/245/EC, Euratom, as amended by this Decision, shall be the monthly statement for June 2009 and the quarterly statement for the second quarter of 2009.

Article 3

The electronic management and information system and the model referred to in Article 3(2) and (3) respectively of Decision 97/245/EC, Euratom, as amended by this Decision, shall be used from the date communicated by the Commission to the Member States.

Until such communication Member States shall use the model set out in Annex VI to Decision 97/245/EC, Euratom as amended by Decision 2002/235/EC, Euratom [6].

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 28 May 2009.

For the Commission
Siim KALLAS
Vice-President

[5] OJ L 352, 27.11.2004, p. 1.

[6] OJ L 79, 22.3.2002, p. 61.

ANNEX I

'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)	Amounts recovered from separate account	Corrections to earlier establishments (2)		Gross amounts	Net amounts
					+	–		
			(1)	(2)	(3)	(4)	(5) = (1) + (2) + (3) – (4)	(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 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.'

ANNEX II

'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.'

ANNEX III

'ANNEX VI

ANNUAL REPORT

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

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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.

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

ANNEX IV

'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): .....

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

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: .....

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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 ([3]) 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: .....

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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:

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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): .....

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

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: .....

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 [4] (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*)

[4] OJ L 253, 11.10.1993, p. 1.

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: .....

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Mutual assistance by other Member States in recovery (Council Directive 2008/55/EC ([5]) or Council Directive 76/308/EEC ([6]) (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

([5]) OJ L 150, 10.6.2008, p. 28.
([6]) OJ L 73, 19.3.1976, p. 18.'