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►**B** **COUNCIL REGULATION (EC, EURATOM) No 1150/2000**

of 22 May 2000

implementing ►M1 Decision 2000/597/EC, Euratom ◄ on the system of the Communities' own resources

(OJ L 130, 31.5.2000, p. 1)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Regulation (EC,Euratom) No 2028/2004 of 16 November 2004	L 352	1	27.11.2004

Corrected by:

►**C1** Corrigendum, OJ L 105, 13.4.2006, p. 64 (2028/2004)

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COUNCIL REGULATION (EC, EURATOM) No 1150/2000

of 22 May 2000

implementing ►M1 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 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof,

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

Having regard to the proposal from the Commission,

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

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

Whereas:

(1) 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 [4] has been frequently and substantially amended [5]. For reasons of clarity and rationality the said Regulation should therefore be codified.

(2) The Community must have the own resources referred to in Article 2 of Decision 94/728/EC, Euratom available in the best possible conditions and accordingly arrangements must be laid down for the States to provide the Commission with the own resources allocated to the Communities.

(3) Traditional own resources are levied by the Member States in accordance with laws, regulations and administrative provisions that are, where necessary, adapted to the requirements of Community regulations. The Commission must monitor such adaptation and, where necessary, make proposals.

(4) The Council and the representatives of the Governments of the Member States, meeting within the Council, adopted a resolution on 13 November 1991 on the protection of the financial interests of the Community [6].

(5) The concept of establishment must be defined in respect of the own resources and detailed rules must be laid down for satisfying the obligation to establish the own resources referred to in Article 2(1)(a) and (b) of Decision 94/728/EC, Euratom.

(6) For own resources deriving from sugar levies, which need to be recovered in the budget year corresponding to the marketing year

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[1] OJ L 293, 12.11.1994, p. 9. Decision replacing Decision No 88/376/EC, Euratom (OJ L 185, 15.7.1988, p. 24).
[2] Opinion delivered on 18 January 2000 (not yet published in the Official Journal).
[3] OJ C 145, 9.5.1998, p. 1.
[4] OJ L 155, 7.6.1989, p. 1. Regulation as last amended by Regulation (Euratom, EC) No 1355/96 (OJ L 175, 13.7.1996, p. 3).
[5] See Annex, Part B.
[6] OJ C 328, 17.12.1991, p. 1.

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to which the expenditure relates, provision should be made for the Member States to make such levies available to the Commission during the budget year in which they are established.

(7) The transparency of the own resources system should be improved and more information supplied to the budgetary authority.

(8) The Member States must keep at the disposal of the Commission and, where necessary, forward to it the documents and information needed to allow it to exercise the power conferred upon it as regards the Communities' own resources.

(9) The national authorities responsible for the collection of own resources must be able to produce to the Commission at all times the documents substantiating the own resources collected.

(10) The arrangements whereby the Member States report to the Commission, should make it possible for the latter to monitor Member States action to recover own resources, in particular in cases of fraud and irregularities.

(11) Separate accounts should be kept for entitlements which have not been recovered. These accounts and the submission of a quarterly statement of such accounts should enable the Commission to monitor more closely the action taken by Member States to collect own resources, and particularly those compromised by fraud or irregularities.

(12) A time limit should be laid down for relations between Member States and the Commission, since new entitlements established by Member States in respect of earlier years are deemed to be establishments for the current year.

(13) Provision should be made, as regards the own resources accruing from value added tax, hereinafter called 'VAT resources', referred to in Article 2(1)(c) of Decision 94/728/EC, Euratom, for Member States to make available to the Community, in the form of constant monthly twelfths, the own resources entered in the budget and subsequently to adjust the amounts made available in accordance with the actual base of VAT resources as soon as it is fully known.

(14) This procedure is also to apply to the additional resource referred to in Article 2(1)(d) of the said Decision, hereinafter referred to as 'the additional resource', created in accordance with Council Directive 89/130/EEC, Euratom of 13 February 1989 on the harmonization of the compilation of the gross national product at market prices ([1]).

(15) The own resources must be made available in the form of an entry of the amounts due in an account opened for this purpose in the name of the Commission with the Treasury or with the body appointed by each Member State. In order to restrict the movements of funds to that which is necessary for the implementation of the budget, the Community must confine itself to drawing on the abovementioned accounts solely to cover the Commission's cash requirements.

(16) The payment of aid resulting from application of Council Regulation (EEC) No 1765/92 of 30 June 1992 establishing a support system for producers of certain arable crops ([2]) is mainly concentrated in the opening months of the year; whereas the Commission must have sufficient cash resources to make this payment.

([1]) OJ L 49, 21.2.1989, p. 26.
([2]) OJ L 181, 1.7.1992, p. 12. Regulation replaced by Regulation (EC) No 1251/1999 (OJ L 160, 26.6.1999, p. 1).

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(17) Council Decision 94/729/EC of 31 October 1994 concerning budgetary discipline [1] provides for the entry in the general budget of the European Union of a reserve relating to Community loans and loan guarantees to non-member countries and in those countries a reserve for emergency aid. Amendments need to be made to cover the entry of the own resources corresponding to these reserves.

(18) In order to ensure that the Community budget will be financed in all circumstances, the procedure for making available the contributions based on the gross national product, hereinafter referred to as the 'GNP financial contributions', referred to in Article 2(7) of Decision 88/376/EEC, Euratom should be laid down.

(19) The balance to be carried forward to the following financial year should be defined.

(20) The Member States should conduct the checks and enquiries relating to the establishment and making available of own resources. The Commission should exercise its powers in accordance with this Regulation. The powers of the Commission should be stipulated with regard to the inspection measures on the additional resource.

(21) Close collaboration between Member States and the Commission will facilitate proper application of the financial rules relating to own resources,

HAS ADOPTED THIS REGULATION:

TITLE I

General provisions

Article 1

The Community's own resources provided for in ►M1 Decision 2000/597/EC, Euratom ◄ ►M1 [2] ◄, hereinafter referred to as 'own resources' shall be made available to the Commission and inspected as specified in this Regulation, without prejudice to Regulation (EEC, Euratom) No 1553/89 [3] and Directive 89/130/EEC, Euratom.

Article 2

1. For the purpose of applying this Regulation, the Community's entitlement to the own resources referred to in Article 2(1)(a) and (b) of ►M1 Decision 94/728/EC, Euratom ◄ shall be established as soon as the conditions provided for by the customs regulations have been met concerning the entry of the entitlement in the accounts and the notification of the debtor.

2. The date of the establishment referred to in paragraph 1 shall be the date of entry in the accounting ledgers provided for by the customs regulations.

As regards the levies and other charges connected with the common organisation of the sugar market, the date of the establishment referred

[1] OJ L 293, 12.11.1994, p. 14.
[2] OJ L 130, 31.5.2000, p. 1.
[3] Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ L 155, 7.6.1989, p. 9). Regulation as amended by Regulation (EC, Euratom) No 1026/1999 (OJ L 126, 20.5.1999, p. 1).

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to in paragraph 1 shall be the date of notification under the sugar regulations.

Should that notification not be explicitly provided for, the date shall be the date of establishment by the Member States of the amounts due by the debtors, where necessary by way of advance payment or payment of balance.

3. In disputed cases, the competent administrative authorities shall be deemed, for the purposes of the establishment referred to in paragraph 1, to be in a position to calculate the amount of the entitlement not later than when the first administrative decision is taken notifying the debtor of the debt or when judicial proceedings are brought if this occurs first.

The date of the establishment referred to in paragraph 1 shall be the date of the decision or of the calculation to be made following the above-mentioned commencing of judicial proceedings.

4. Paragraph 1 shall apply when a notification must be corrected.

Article 3

Member States shall take all appropriate measures to ensure that the supporting documents concerning the establishment and making available of own resources are kept for at least three calendar years, counting from the end of the year to which these supporting documents refer.

The supporting documents relating to the statistical procedures and bases referred to in Articles 4 and 5 of Directive 89/130/EEC, Euratom shall be kept by the Member States until 30 September of the fourth year following the financial year in question. The supporting documents relating to the VAT resources base shall be kept for the same period.

If verification pursuant to Articles 18 and 19 of this Regulation or Article 11 of Regulation (EEC, Euratom) No 1553/89 of the supporting documents referred to in the first and second paragraphs shows that a correction is required, they shall be kept beyond the time limit provided for in the first paragraph for a sufficient period to permit the correction to be made and monitored.

Article 4

1. Each Member State shall inform the Commission:

(a) of the names of the departments or agencies responsible for establishing, collecting, making available and controlling own resources and the basic provisions relating to the role and operation of those departments and agencies;

(b) of the general provisions laid down by law, regulation or administrative action and those relating to accounting procedure concerning the establishment, collection, making available and control by the Commission of own resources;

(c) of the precise title of all administrative and accounting records in which are entered the established entitlements as specified in Article 2, in particular those used for drawing up the accounts provided for in Article 6.

The Commission shall be informed immediately of any change in these names or provisions.

2. The Commission shall, at the request of the other Member States, pass on to them the information referred to in paragraph 1.

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Article 5

The rate referred to in Article 2(1)(d) of ►M1 Decision 2000/597/EC, Euratom ◄ which shall be set within the budgetary procedure, shall be calculated as a percentage of the sum of the forecast of the gross national product, (hereinafter referred to as 'GNP') of the Member States in such a manner that if fully covers that part of the budget not financed from customs duties, agricultural levies, levies, and other charges connected with the common organisation of the market in the sugar sector, VAT resources, financial contributions to supplementary research and technological development programmes, other revenue and, where appropriate, GNP financial contributions.

That rate shall be expressed in the budget by a figure containing as many decimal places as is necessary to fully divide the GNP-based resource among the Member States.

TITLE II

Accounts for own resources

Article 6

1. Accounts for own resources shall be kept by the Treasury of each Member State or by the body appointed by each Member State and broken down by type of resources.

2. For own-resources accounting purposes, the month shall end no earlier than 1 p.m. on the last working day of the month during which establishment took place.

3. (a) Entitlements established in accordance with Article 2 shall, subject to point (b) of this paragraph, be entered in the accounts at the latest on the first working day aftger the 19th day of the second month following the month during which the entitlement was established.

(b) Established entitlements not entered in the accounts referred to in point (a), because they have not yet been recovered and no security has been provided shall be shown in separate accounts within the period laid down in point (a). Member States may adopt this procedure where established entitlements for which security has been provided have been challenged and might, upon settlement of the disputes which have arisen, be subject to change.

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(c) VAT resources and the additional resource, taking into account the effect on these resources of the correction granted to the United Kingdom for budgetary imbalances 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.

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(d) Established entitlements relating to levies and other charges connected with the common organization of the sugar market shall be entered in the accounts referred to in point (a). If these entitlements are not then recovered within the time

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limits set, the Member States may correct the entry and, by way of exception, enter the entitlements in the separate accounts.

4. Each Member State shall send the Commission, within the time limits specified in paragraph 3:

(a) a monthly statement of its accounts for the entitlements referred to in point (a) of paragraph 3.

Together with these monthly statements the Member States concerned shall provide details or statements of deductions from own resources based on provisions relating to special-status territories.

(b) a quarterly statement of the separate accounts referred to in point (b) of paragraph 3.

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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.

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Detailed rules for the monthly and quarterly statements referred to in the first subparagraph and duly substantiated amendments thereto shall be laid down by the Commission after consulting the Committee referred to in Article 20. They shall provide for any appropriate time limits for implementation.

5. In the two months following the end of each quarter, each Member State shall send the Commission a description of cases of fraud and irregularities detected involving entitlements of over EUR 10 000.

As far as possible, the Member State provide the following details:

— type of fraud and/or irregularity (designation, customs procedure concerned),

— amount of own resources evaded, or their presumed order of magnitude,

— goods involved (tariff heading, origin, place from which they come),

— concise description of fraud mechanism,

— type of check that led to discovery of fraud and irregularities,

— national departments or agencies which detected the fraud or irregularity,

— stage reached in procedure, including the stage of recovery, with reference to the establishment if already made,

— reference of notification of case under Council Regulation (EC) No 515/97 ([1]),

— if appropriate, the Member States involved,

— measures taken or envisaged to prevent the recurrence of the case of fraud or irregularity already detected.

Together with each quarterly statement pursuant to the first subparagraph, each Member State shall give details of the position concerning cases of fraud and irregularites already reported to the Commission whose recovery, cancellation or non-recovery was not indicated earlier.

([1]) Council Regulation (EC) No 515 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82, 22.3.1997, p. 1).

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For this purpose, each Member State shall indicate for each of the cases referred to in the first subparagraph:

— the reference to the original communication,

— the balance to be recovered during the previous quarter,

— the date of establishment,

— the date of entry in the separate accounts provided for in point (b) of paragraph 3,

— the amounts recovered during the quarter in question,

— rectifications of the base (corrections/cancellations) during the quarter in question,

— amounts written off,

— stage of adminstrative and judicial procedure reached,

— balance to be recovered at the end of the quarter in question.

Details of the above descriptions and duly substantiated amendments thereto shall be worked out by Commission after consulting the Committee referred to in Article 20. They shall provide for any appropriate time limits for implementation.

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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.

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Article 8

Corrections carried out under Article 2(4) shall be added to or subtracted from the total amount of established entitlements. They shall be recorded in the accounts as specified in Article 6(3)(a) and (b) and in the statements as specified in Article 6(4) in accordance with the date of these corrections.

Corrections in respect of cases of fraud and irregularities already notified to the Commission shall be singled out.

TITLE III

Making available own resources

Article 9

1. In accordance with the procedure laid down in Article 10, each Member State shall credit own resources to the account opened in the name of the Commission with its Treasury or the body it has appointed.

This account shall be kept free of charge.

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1a. The Commission shall receive, from the Member States or the bodies appointed by them by any appropriate means, preferably electronic ones, as a general rule on the day on which they are entered, but within three working days at the latest, a statement of account showing the entry of the own resources.

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2. The amounts credited shall be accounted for in euro in accordance with the Financial Regulation [1] applicable to the general budget of the European Communities and its implementing rules.

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Article 10

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1. After deduction of collection costs in accordance with Article 2(3) and Article 10(2)(c) of Decision 2000/597/EC, Euratom of 29 September 2000 on the system of the European Communities' own resources [2], 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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However, for entitlements shown in separate accounts under Article 6(3) (b) of the entry must be made at the latest on the first working day following the 19th day of the second month following the month in which the entitlements were recovered.

2. If necessary, Member States may be invited by the Commission to bring forward by one month the entering of resources other than VAT resources and the additional resource on the basis of the information available to them on the 15th of the same month.

Each entry brought forward shall be adjusted the following month when the entry mentioned in paragraph 1 is made. This adjustment shall entail the negative entry of an amount equal to that given in the entry brought forward.

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3. VAT resources and the additional resource, taking into account the effect on these resources of the correction granted to the United Kingdom for budgetary imbalances-excluding the reserve relating to loans and loan guarantees and to the reserve for emergency aid-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 and/or the additional resource, taking into account the effect on these resources of the correction granted to the United Kingdom for budgetary imbalances, but excluding own resources to cover the reserve for loan guarantees and the reserve for emergency aid.

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After the first quarter, the monthly entry requested may not exceed one-twelfth of VAT and GNP-based resources, while remaining within the limit of the amounts entered in the budget for that purpose.

The Commission shall notify the Member States thereof in advance, no later than two weeks before the entry requested.

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[1] Council Regulation (EC, Euratom) No 1605/2002 of the Council of 25 June 2002 relating to the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1).

[2] OJ L 253, 7.10.2000, p. 42.

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The eleventh subparagraph concerning the amount to be entered in January each year and the twelfth subparagraph applicable if the budget has not been finally adopted before the beginning of the financial year shall apply to these advance entries.

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The entry in respect of the EAGGF monetary reserve referred to in Article 6 of Decision 2000/597/EC, Euratom, the reserve relating to loans and loan guarantees and the emergency aid reserve created by Decision 94/729/EC [1], shall be made on the first working day of the month following the charging to the budget of the expenditure concerned and shall be limited to the said expenditure if charging is effected before the 16th day of the month. If such is not the case, the entry shall be made on the first working day of the second month after charging.

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By way of derogation from ►M1 Article 8 of the Financial Regulation ◄, these entries shall be taken into account in the financial year to which they relate.

However, if the situation as regards the implementation of the budget of the financial year is such that the entries relating to the EAGGF monatary reserve and the reserve for emergency aid are not necessary to achieve a balance between revenue and expenditure for the year, the Commission shall decide to dispense with these entries or part of these entries.

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

These readjustments shall be carried out when the first entry is made following the final adoption of the amending 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 budget in question.

Calculation of the twelfths for January of each financial year shall be based on the amounts provided for in the draft budget, referred to in 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.

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 resources, and the additional resource taking into account the effect on these resources of the correction granted to the United Kingdom for budgetary imbalances, 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.

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

[1] Decision repealed and replaced by Regulation (EC) No 2040/2000 (OJ L 244, 29.9.2000, p. 27).

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(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 resources base to which the above rate is applied may not exceed the percentage ►C1 determined by Article 2 (1)(c) of Decision 2000/597/EC, Euratom ◄ 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.

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►M1 6. 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 ◄ to the following adjustments to the balance referred to in paragraph 4 of this Article:

— the corrections under the first subparagraph of Article 9(1) of Regulation (EEC, Euratom) No 1553/89 made by 31 July shall give rise to a general adjustment to be entered in the account referred to in Article 9(1) of this Regulation on the first working day of December of the same year. However a particular adjustment may be entered before that date if the Member State concerned and the Commission are in agreement,

— where the measures which the Commission takes under the second subparagraph of Article 9 (1) of Regulation (EEC, Euratom) No 1553/89 to correct the base lead to an adjustment of the entries in the account referred to in Article 9 (1) of this Regulation, that adjustment shall be made on the date specified by the Commission pursuant to the said measures.

►M1 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 suparagraph 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.

The Commission shall inform the Member States of these adjustments in time for them to enter them in the account referred to in Article 9(1) on the first working day of December of the same year.

However, a particular adjustment may be entered at any time if the Member State concerned and the Commission are in agreement.

7. On the basis of figures for aggregate GNP at market prices and its components from the preceding year, supplied by the Member States in accordance with Article 3(2) of Directive 89/130/EEC, Euratom, each Member State shall be debited with an amount calculated by applying to GNP the rate adopted for the previous financial year, amended, where appropriate, in the light of any use of the EAGGF monetary reserve, of the reserve relating to loans and loan guarantees or of the reserve relating to loans and loan guarantees or of the reserve for emergency aid, and credited with the payments made during that previous financial year. 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

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Article 9(1) of this Regulation on the first working day of December of the same year.

8. Any changes to the GNP of previous financial years pursuant to Article 3(2) of Directive 89/130/EEC, Euratom, subject to Article 6 thereof, shall give rise for each Member State concerned to an adjustment to the balance established pursuant to paragraph 7. This adjustment shall be established in the manner laid down in the first subparagraph of paragraph 6. The Commission shall inform the Member States of these adjustments so that they can enter them in the account referred to in Article 9(1) of this Regulation on the first working day of December of the same year. After 30 September of the fourth year following a given financial year, any changes to GNP shall no longer be taken into account, except on points notified within this time limit either by the Commission or by the Member State.

9. The operations referred to in paragraphs 4 to 8 constitute modifications to revenue in respect of the financial year in which they occur.

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10. In conformity with Article 2(7) of Decision 2000/597/EC, Euratom, for the purposes of applying that Decision, 'GNP' shall mean GNI for the year at market prices as defined by Regulation (EC, Euratom) No 1287/2003 of 15 July 2003 on the harmonisation of gross national income at market prices [1].

Article 10a

1. Where, pursuant to the Amsterdam Treaty and its Protocols 4 and 5, 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,

— 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.

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[1] OJ L 181, 19.7.2003, p. 1.

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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 ►C1 which the European Central Bank applied to its main 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 not belonging to the Economic and Monetary Union, the rate shall be equal to the rate applied on the first day of the month in question by the Central Banks for their main refinancing operations, increased by two percentage points, or, for the Member States for which the Central Bank rate is not available, the most equivalent rate applied on the first day of the month in question on the Member State's money market, 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. For the payment of interest, referred to in paragraph 1, Article 9(2) and (3) shall apply *mutatis mutandis*.

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TITLE IV

Management of cash resources

Article 12

1. The Commission shall draw on the sums credited to the accounts referred to in Article 9(1) to the extent necessary to cover its cash resource requirements arising out of the implementation of the budget.

2. If the cash resource requirements are in excess of the assets of the accounts, the Commission may draw in excess of the total of these assets subject to the availability of appropriations in the budget and within the limit of the own resources entered in the budget. In this event, it shall inform the Member States in advance of any foreseeable excess requirements.

3. In the sole case of default under a loan contracted or guaranteed pursuant to Council regulations and decisions, in circumstances in which the Commission cannot activate other measures provided for by the financial arrangements applying to these loans in time to ensure compliance with the Community's legal obligations to the lenders, paragraphs 2 and 4 may provisionally be applied, irrespective of the conditions in paragraph 2, in order to service the Community's debts.

4. The difference between the overall assets and the cash resource requirements shall be divided among the Member States, as far as possible, in proportion to the estimated budget revenue from each of them.

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5. 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 five working days of receipt, and shall send the Commission a statement of account by any appropriate means, preferably electronic ones, within not more than

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three working days of completing each transaction. However, in the case of cash movement transaction, the Member States shall execute the orders within the period requested by the Commission.

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TITLE VI

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Procedure for the application of Article 7 of Decision 2000/597/EC, Euratom

Article 15

For the purpose of applying Article 7 of Decision 2000/597/EC, Euratom, the balance of a given financial year shall consist of the difference between:

— all the revenue collected in respect of that financial year,

and

— the amount of payments made against appropriations for that financial year increased by the amount of the appropriations for the same financial year carried over pursuant to Article 9 of the Financial Regulation. This difference shall be increased or decreased on the one hand, by the net amount of appropriations carried over from previous financial years which have been cancelled and on the other hand, by way of derogation from Article 5(1) of the Financial Regulation, by:

  — payments made in excess of non-differentiated appropriations carried over from the previous financial year under Article 9 (1) and (4) of the Financial Regulation as a result of change in euro rates,

  and

  — the balance resulting from exchange gains and losses during the financial year.

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Article 16

The Commission shall, before the end of October in each financial year, make an estimate of the own resources collected for the entire year, on the basis of the data at its disposal at that time.

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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 an amending budget for the current financial year.

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For the operations referred to in Article 10(4) to (8), the amount of revenue set out in the budget for the current financial year may be increased or reduced, by means of an amending budget, by the amount resulting from those operations.

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TITLE VII

Provisions concerning inspection measures

Article 17

1. Member States shall take all requisite measures to ensure that the amount corresponding to the entitlements established under Article 2 are made available to the Commission as specified in this Regulation.

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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 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, notified or published.

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

Amounts declared or deemed irrecoverable shall be definitively 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).

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 EUR 50 000.

This timeframe may be extended by up to three years by Member States for cases of established entitlements, which have been declared irrecoverable or deemed irrecoverable prior to 1 July 2006.

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.

4. The Commission has six months from the receipt of the report provided for in paragraph 3 to forward its comments to the Member State concerned.

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.

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

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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.

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Article 18

1. Member States shall conduct the checks and enquiries concerning the establishment and the making available of the own resources referred to in Article 2(1)(a) and (b) of ►M1 Decision 2000/597/EC, Euratom ◄. The Commission shall exercise its powers as specified in this Article.

2. In pursuance of paragraph 1, Member States shall:

(a) carry out additional inspection measures at the Commission's request. In its request the Commission shall state the reasons for the additional inspection,

(b) associate the Commission, at its request, with the inspection measures which they carry out.

Member States take all steps required to facilitate these inspection measures. Where the Commission is associated with these measures, Member States shall place at its disposal the supporting documents referred to in Article 3.

In order to restrict additional inspection measures to the minimum:

(a) the Commission may, in specific cases, request that certain documents be forwarded to it;

(b) in the monthly statement of accounts referred to in Article 6(4), the amounts entered in the accounts which relate to irregularities or delays in the establishment, entry in the accounts and making available of own resources, discovered during the inspections referred to above, must be identified by means of appropriate notes.

3. Without prejudice to paragraphs 1 and 2, the Commission may itself carry out inspection measures on the spot. The agents authorised by the Commission for such inspection measures shall have access, in so far as the correct application of this Regulation so requires, to the supporting documents referred to in Article 3 and to any other appropriate document connected with those supporting documents. In a duly substantiated communication, the Commission shall give notice of this inspection in good time to the Member State in which the inspection measure is to take place. Agents of the Member State concerned shall participate in such inspection measures.

4. The inspection measures referred to in paragraphs 1, 2 and 3 shall not prejudice:

(a) the inspection measures undertaken by Member States in accordance with their own provisions laid down by law, regulation or administrative action;

(b) the measures provided for in Articles 246, 247, 248 and 276 of the EC Treaty and Articles 160a, 160b, 160c and 180b of the EAEC Treaty;

(c) the inspection arrangements made pursuant to Article 279(c) of the EC Treaty and Article 183(c) of the EAEC Treaty.

5. The Commission shall report every three years to the European Parliament and to the Council on the functioning of the inspection arrangements.

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Article 19

Together with the Member State concerned, the Commission shall each year inspect the aggregates provided for errors in compilation, especially in cases nofified by the GNP management committee. In doing so it may, in individual cases, also examine calculations and basic statistics, apart from information about individual companies or persons, where no proper assessment would otherwise be possible. The Commission shall respect national legal provisions on the preservation of the confidentiality of statistics.

TITLE VIII

Provisions relating to the Advisory Committee on the Communities' Own Resources

Article 20

1. An Advisory Committee on the Communities' own resources, hereinafter called the committee, is hereby set up.

2. The committee shall consist of representatives of the Member States and of the Commission. Each Member State shall be represented on the committee by not more than five officials.

The chairman of the committee shall be a representative of the Commission. The secretariat services for the committee shall be provided by the Commission.

3. The committee shall adopt its own rules of procedure.

Article 21

1. The committee shall examine the questions raised by its chairman on his initiative or at the request of the representative of a Member State which concern the application of this Regulation, especially as regards:

(a) the information and reports referred to in Articles 4(1)(b), 6, 7 and 17(3);

(b) the cases of *force majeure* referred to in Article 17(2);

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

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The committee shall also examine estimates of own resources.

2. At the request of the chairman, the committee shall deliver its opinion within a time limit which the chairman may lay down accordning to the urgency of the matter in hand, if necessary by taking a vote. The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in these minutes. The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

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TITLE IX

Transitional provisions

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Article 21a

The rate provided for in Article 11 of this Regulation in its version before the entry into force of Council Regulation (EC, Euratom) No 2028/2004 of 16 November 2004 amending Regulation (EC, Euratom) No 1150/2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources [1] 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 the said Regulation (EC, Euratom) No 2028/2004 enters into force.

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TITLE ►M1 X ◄

Final provisions

Article 22

Regulation (EEC, Euratom) No 1552/89 shall be repealed.

References to the said Regulation shall be construed as references to this Regulation and should be read in accordance with the correlation table set out in Part A of the Annex.

Article 23

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

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

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

▼B

ANNEX

PART A

Correlation table

Regulation (EEC, Euratom) No 1552/89	This Regulation
Article 1	Article 1
Article 2(1)	Article 2(1)
Article 2(1a)	Article 2(2)
Article 2(1b)	Article 2(3)
Article 2(2)	Article 2(4)
Article 3	Article 3
Article 4	Article 4
Article 5	Article 5
Article 6(1)	Article 6(1)
Article 6(1a)	Article 6(2)
Article 6(2)(a)	Article 6(3)(a)
Article 6(2)(b)	Article 6(3)(b)
Article 6(2)(c)	Article 6(3)(c)
Article 6(2)(d)	Article 6(3)(d)
Article 6(3), point (a)	Article 6(4), first subparagraph, point (a)
Article 6(3), point (b), first subparagraph	Article 6(4), first subparagraph, point (b)
Article 6(3), point (b), second subparagraph	Article 6(4), second subparagraph
Article 6(4)	Article 6(5)
Article 7	Article 7
Article 8	Article 8
Article 9	Article 9
Article 10	Article 10
Article 11	Article 11
Article 12	Article 12
Article 13	Article 13
Article 14	Article 14
Article 15	Article 15
Article 16	Article 16
Article 17	Article 17
Article 18(1)	Article 18(1)
Article 18(2), first subparagraph, first indent	Article 18(2), first subparagraph, point (a)
Article 18(2), first subparagraph, second indent	Article 18(2), first subparagraph, point (b)
Article 18(2), second subparagraph	Article 18(2), second subparagraph
Article 18(2), third subparagraph	Article 18(2), third subparagraph
Article 18(3)	Article 18(3)
Article 18(4)	Article 18(4)

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Regulation (EEC, Euratom) No 1552/89	This Regulation
Article 18(5)	Article 18(5)
Article 19	Article 19
Article 20	Article 20
Article 21	Article 21
Article 22	—
Article 23	—
—	Article 22
—	Article 23
—	Annex

PART B

Amending Regulations to Regulation (EEC, Euratom) No 1552/89

Council Regulation (Euratom, EC) No 3464/93 of 10 December 1993 (OJ L 317, 18.12.1993, p. 1).

Council Regulation (EC, Euratom) No 2729/94 of 31 October 1994 (OJ L 293, 12.11.1994, p. 5).

Council Regulation (Euratom, EC) No 1355/96 of 8 July 1996 (OJ L 175, 13.7.1996, p. 3).