Publicat în Jurnalul Oficial L nr. 130 din 31-05-2000

Abrogat(ă) de Regulamentul (UE, Euratom) nr. 609/2014 al Consiliului din 26 mai 2014

Council Regulation (EC, Euratom) No 1150/2000

of 22 May 2000

implementing Decision 94/728/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 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 (7).

(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(8) is mainly concentrated in the opening months of the year; whereas the Commission must have sufficient cash resources to make this payment.

(17) Council Decision 94/729/EC of 31 October 1994 concerning budgetary discipline(9) 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 Decision 94/728/EC, Euratom, 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(10) 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 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 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 abovementioned 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.

Article 5

The rate referred to in Article 2(1)(d) of Decision 94/728/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.

(c) VAT resources and the additional resources shall, however, be recorded in the accounts as specified in point (a) as follows:

- the twelfth referred to in Article 10(3) shall be recorded on the first working day of each month,

- the balances referred to in Article 10(4) and (7) and the adjustments referred to in Article 10(6) and (8) shall be recorded annually, except for the particular adjustments referred to in the first indend 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.

(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 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.

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 10000.

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(11),

- 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.

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.

Article 7

1. Each Member State shall draw up annually a summary account of established entitlements shown in the accounts referred to in of Article 6(3)(a) and shall send it to the Commission before 1 April of the year following the financial year in question. A remark shall be added to explain any difference between the total of the summary account and the sum of the monthly statements sent in by the Member States from January to December of the year in question. The Commission shall check that the summary account tallies with the amounts made available during the year; it shall have two months after receiving the summary accounts in which to make any observations to the Member State concerned.

2. After 31 December of the third year following a given year, no further corrections shall be made to the annual summary account referred to in paragraph 1, except on points notified before this date either by the Commission or by the Member State concerned.

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.

2. The amounts credited shall be converted by the Commission and entered in its accounts in euro in accordance with Regulation (Euratom, ECSC, EC) No 3418/93(12).

Article 10

1. After deduction of 10 % by way of collection costs in accordance with Article 2(3) of Decision 94/728/EC, Euratom, entry of the own resources referred to in Article 2(1)(a) and (b) of that Decision shall be made at the latest on the first working day following the 19th day of the second month following the month during which the entitlement was established in accordance with Article 2 of this Regulation.

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.

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

For the specific needs of paying EAGGF Gurantee 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, but excluding own resources to cover the EAGGF monetary reserve, the reserve for loan guarantees and the reserve for emergency aid.

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.

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.

The entry in respect of the EAGGF monetary reserve referred to in Article 6 of Decision 94/728/EC, the reserve relating to loans and loan guarantees and the emergency aid reserve created by Decision 94/729/EC, 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.

By way of derogation from Article 6 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities(13), hereinafter referred to as "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.

Any change in the uniform rate of VAT resources, in the correction granted to the United Kingdom and in its financing referred to in Article 5 of Decision 94/728/EC, Euratom in the rate of the additional resource and, where appropriate, in the GNP financial contributions shall require the final adoption of a supplementary or amending budget and shall give rise to readjustements 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 or supplementary budget if it is adopted before the 16th of the month. Otherwise they shall be carried out when the second entry following final adoption is made. By way of derogation from Article 6 of the Financial Regulation, these readjustments shall be entered in the accounts in respect of the financial year of the supplementary of 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, with the exception of the amounts for financing the EAGGF monetary reserve, referred to in Article 78(3) of the ECSC Treaty, Article 272(3) of the EC Treaty and Article 177(3) of the EAEC Treaty and converted into national currencies at the rates of exchange of the first day of quotation following 15 December of the calendar year preceding the budget year; the adjustment shall be made with the entry for the following month.

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

4. Each Member State shall, on the basis of the annual statement on the VAT resources base provided for in Article 7 (1) of Regulation (EEC, Euratom) No 1553/89, be debited with an amount calculated from the information contained in the said statement by applying the uniform rate adopted for the previous financial year and credited with the 12 payments made during that financial year. However each Member State's VAT own resources base to which the above rate is applied may not exceed the percentages determined by Article 2(1)(c) of Decision 94/728/EC, Euratom 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 Regulatoin on the first working day of December of the same year.

5. The Commission shall then calculate adjustments to the financial contributions so as to restore, in the light of the actual yield from VAT resources, the original distribution in the budget between the latter and the GNP financial contributions. For the calculation of these adjustments, the balances referred to in paragraph 4 shall be converted into euro at the rates of exchange applying on the first working day after 15 November preceding the entries provided for in paragraph 4. For each Member State concerned, the total of VAT balances shall be adjusted by the ratio

between the financial contributions entered in the budget and the VAT resources. The Commission shall communicate the results of this calculation to the Member States which, during the previous financial year, paid GNP financial contributions so that they can make a credit or debit entry as appropriate in the account referred to in Article 9(1) on the first working day of December of the same year.

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 Article 2(1)(c) of Decision 94/728/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.

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 Article 2 (1)(c) of Decision 94/728/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 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.

Article 11

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 at the interest rate applicable on the Member State's money market on the due date for short-term public financing operations, 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.

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.

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 seven working days of receipt, and shall send the Commission a statement of account within not more than seven working days of completing each transaction.

However, in the case of cash movement transactions, the Member States shall execute the orders within the period requested by the Commission.

TITLE V

Procedure for the application of Article 2(7) of Decision 88/376/EEC, Euratom

Article 13

1. This Article shall apply where it may be neccessary to implement the provisional derogation provided for in Article 2 (7) of Decision 88/376/EEC, Euratom.

2. The GNP at market prices shall be calculated by the Statistical Office of the European Communities, on the basis of statistics prepared according to the European System of Integrated Economic Accounts (ESA), and corresponding, for each Member State, to the arithmetic mean of the first three years of the five-year period preceding the financial year in respect of which the provisions of Article 2(7) of Decision 88/376/EEC, Euratom have been applied. No account shall be taken of any revisions of statistical data made after the final adoption of the budget.

3. The GNP for each reference year shall be calculated in terms of the euro on the basis of the average rate of the euro for the year in question.

4. For such time as the derogation provided for in Article 2(7) of Decision 88/376/EEC, Euratom applies to one or more Member States, the Commission shall, in its preliminary draft budget, fix the percentage corresponding to the financial contributions of those Member States on the basis of the proportion of their GNP to the sum total of the GNPs of the Member States, and shall determine the amount of that part of the budget to be financed by VAT resources at the uniform rate and by the GNP financial contributions.

These figures shall be approved in accordance with budgetary procedure.

Article 14

1. The definition of GNP at market prices shall be that given in Articles 1 and 2 of Directive 89/130/EEC, Euratom.

2. The figures to be used in calculating the precentage of the GNP financial contributions shall be those supplied pursuant to Article 3(2) of Directive 89/130/EEC, Euratom, and subject to Article 6 thereof. In the absence of such figures the Statistical Office of the European Communities shall use the data available.

TITLE VI

Procedure for the application of Article 7 of Decision 94/728/EC, Euratom

Article 15

For the purpose of applying Article 7 of Decision 94/728/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 Articles 7(1) and 2(b) 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 7(1) 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.

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.

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

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.

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.

2. Member States shall be free from the obligation to place at the disposal of the Commission the amounts corresponding to established entitlements soley if, for reasons of force majeure, these amounts have not been collected. In addition, Member States may disregard this obligation to make such amounts available to the Commission in specific cases if, after thorough assesment of all the relevant circumstances of the individual case, it appears that recovery is impossible in the long term for reasons which cannot be attributed to them. These cases must be mentioned in the report provided for in paragraph 3 if the amounts exceed EUR 10000, converted into national currency at the rate applying on the first working day of October of the previous calendar year; this report must contain an indication of the reasons why the Member State was unable to make available the amounts in question. The Commission has six months in which to forward, if appropriate, its comments to the Member State concerned.

3. 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 30 April of the year following the financial year in question.

A specimen of the 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.

By 30 June of the year following the financial year referred to in the second sentence of paragraph 1 the Commission shall send to the European Parliament and to the Council a summary report on the notifications by the Member States under this Article and Article 6(5).

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 Decision 94/728/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.

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);

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

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.

TITLE IX

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.

Done at Brussels, 22 May 2000.

For the Council

The President

J. Gama

(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.

(7) OJ L 49, 21.2.1989, p. 26.

(8) OJ L 181, 1.7.1992, p. 12. Regulation replaced by Regulation (EC) No 1251/1999 (OJ L 160, 26.6.1999, p. 1).

(9) OJ L 293, 12.11.1994, p. 14.

(10) 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).

(11) 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).

(12) Commission Regulation (Euratom, ECSC, EC) No 3418/93 of 9 December 1993 laying down detailed rules for the implementation of certain provisions of the Financial Regulation of 21 December 1977 (OJ L 315, 16.12.1993, p. 1). Regulation as last amended by Decision 1999/537/EC, ECSC, Euratom (OJ L 206, 5.8.1999, p. 24).

(13) OJ L 356, 31.12.1977, p. 1. Regulation as last amended by Regulation (EC, ECSC, Euratom) No 2673/1999 (OJ L 326, 18.12.1999, p. 1).

ANNEX

PART A

Correlation table

>TABLE>

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).