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2011/0183 (CNS)

Proposal for a

**COUNCIL DECISION**

**on the system of own resources of the European Union**

**(//EC, Euratom)**  
{SEC(2011) 876 final}

## EXPLANATORY MEMORANDUM

### 1. INTRODUCTION – WHY REFORM IS NEEDED

#### 1.1. The EU financing system is outdated

The EU financing system has evolved considerably since 1957. It relied first mainly on contributions from Member States. From 1970, a system of own resources ensuring the autonomy of EU finances was put in place. This was initially based primarily on traditional own resources linked to EU policies but the progressive development of the VAT- and GNI-based own resources marked a shift towards a financing mainly based on statistical aggregates, which display no link to EU policy priorities.

In parallel to the evolution in the composition of own resources, a number of correction mechanisms were introduced based on principles set out at the Fontainebleau European Summit in June 1984. In particular "*any member State sustaining a budgetary burden which is excessive in relation to its relative prosperity may benefit from a correction at the appropriate time*". These mechanisms are a collection of diverse measures, resulting from successive negotiations which have tended to add new measures to the body of existing corrections.

The report on the operation of the own resources system<sup>1</sup> demonstrates that the current financing system performs poorly with regard to most assessment criteria. The financing system is opaque and so complex that only a handful of specialists fully understand how it works. This limits democratic oversight of the system. Moreover, many Member States perceive the system to be unfair. Large contributors to the budget consider that their net contributions are too high, whereas a number of Member States benefitting from redistributive policies, such as cohesion, face increased contributions to the EU budget to finance correction mechanisms.

More importantly perhaps, the way the EU budget is financed – with contributions from Member States to the EU being seen solely as expenditures by many national politicians – inevitably creates a tension which poisons every debate about the EU Budget. The progressive development of correction mechanisms is just one symptom of this problem. The pressure to pre-determine national allocations is another. The increasing focus on a narrow accounting approach with the main objective of maximising returns not only colours public debates about the value of EU spending. It also leads some people to question the benefits of EU membership itself.

The difficulties encountered in achieving agreements on budgetary matters in the EU in the 21<sup>st</sup> century partly result from an inadequate organisation of EU public finances. For many years, EU financing has primarily been treated as an accounting mechanism with two main objectives: ensuring sufficient financing of EU expenditures and incorporating the increasing number of correcting mechanisms. As explained above, this approach has reached its limits. It is now time to envisage a different approach to EU financing.

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<sup>1</sup> Commission Staff Working Paper "Financing the EU budget: Report on the operation of the own resources system", SEC(2011) 876 final of 29.06.2011.

## 1.2. A new paradigm for EU financing

Considerable challenges in the area of public finance and emerging priorities affect deeply embedded notions related to the EU budget. A new paradigm for EU financing is emerging, based on two pillars.

Firstly, the EU financing system could play a substantial role in the Union-wide budgetary consolidation efforts. By 2010, following the global economic and financial crisis, the total yearly deficit of the EU-27 Member States amounted to an estimated EUR 826.9 billion<sup>2</sup>. Public deficits in several of the largest Member States were actually bigger than the size of the entire EU budget. Recent months have highlighted persistent difficulties faced by a number of Member States. Budgetary consolidation efforts will be compounded by the cost of ageing populations<sup>3</sup> and other challenges, such as climate change. In this context, five heads of States or governments stressed that "the next multiannual financial framework will come as Member States make extraordinary efforts to clean up public finances"<sup>4</sup>.

Further reinforcing budgetary discipline at EU level will affect all aspects of the EU budget – not only EU expenditures, but also EU revenues. Developing the own resources system will contribute to the wider budgetary consolidation efforts undertaken by Member States. The progressive introduction of new resources opens the door for other resources to be reduced, phased-out or dropped. As a result Member States contributions to the EU budget will diminish and Member States will have an additional degree of freedom in managing scarce national resources. As indicated in the EU Budget Review, introducing new own resources "is not an argument about the size of the budget – it is a debate about the right mix of resources"<sup>5</sup>.

Second, except for the traditional own resources (mainly customs duties originating from the customs union), the EU resources currently display almost no link to - nor do they support - EU policy objectives. Yet, as indicated in the EU Budget Review, the introduction of new own resources could "mirror the progressive shift of the budget structure towards policies closer to EU citizens and aiming at delivering European public goods and a higher EU added value. It could support – and be closely linked to – the achievement of important EU or international policy objectives, for instance in relation to development, climate change or the financial markets".

New revenue streams can be developed taking advantage of a supranational approach and the critical mass that can be achieved at EU level. Where the mobility of some tax bases is too high to allow effective action by Member States acting alone, or where limited actions by some Member States but not by others create a fragmentation of the Internal market, EU action can add value. Financial sector taxation is particularly relevant in this respect. In its October 2010 communication on financial sector taxation the Commission indicated that new financial sector taxes "could help to create the conditions for more sustainable growth, as envisaged in the Europe 2020 strategy"<sup>6</sup>. The Commission has announced a legislative proposal for an EU financial transaction tax in the autumn. Moreover, further developing the

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<sup>2</sup> Source: ECFIN Spring 2011 forecasts.

<sup>3</sup> European Commission, DG Economic and Financial Affairs, "2009 Ageing Report. Economic and budgetary projections for the EU-27 Member States (2008-2060)", European Economy, 2/2009.

<sup>4</sup> Letter from David Cameron, Angela Merkel, Nicolas Sarkozy, Mark Rutte and Mari Kiviniemi to the President of the European Commission, 18 December 2010.

<sup>5</sup> COM(2010)700 of 19.10.2010.

<sup>6</sup> COM(2010)549 of 7.10.2010.

VAT system in the context of a new own resource could also reinforce the Internal market and lead to economic efficiency gains.

Reshaping the foundation of the EU financing system will generate a debate on the incidence of specific resources, away from an accounting approach limited to net balances calculations.

At the same time, important elements of the current financing system need to be preserved, such as the traditional own resources and a residual GNI-based own resource permitting budgetary stability and a balanced budget. But the latter can be achieved with a smaller, residual GNI-based own resource and with a fundamentally different mix of resources.

### **1.3. The Lisbon Treaty creates a new legal framework**

The Treaty on the Functioning of the European Union (TFEU) introduces important changes, not only for EU budgetary procedure, but also the way the EU budget is financed. Two treaty provisions deserve particular attention in this context:

- (1) Article 311(3) TFEU now provides that the Council "may establish new categories of own resources or abolish an existing category" in the context of an own resources Decision. This opens the door to reducing the number of existing own resources and to creating new ones.
- (2) Article 311(4) TFEU newly provides that the "Council, acting by means of regulations in accordance with a special legislative procedure, shall lay down implementing measures for the Union's own resources system in so far as this is provided for in the [own resources] decision". This provision introduces the possibility of defining specific implementing measures related to the own resources system in an implementing regulation within the limits set out by the own resources Decision.

The Commission proposals make full use of these new possibilities by proposing the elimination of the VAT-based own resource and the creation of new own resources, and by proposing a new organization of implementing measures for the own resources system.

The opportunity offered by this new framework has been taken to make the system sufficiently flexible within the framework and limits set out by the own resource Decision by placing all the practical arrangements for the Union's resources which should be governed by a more streamlined procedure in an implementing regulation rather than in the Decision itself. These proposals reflect the intentions of the legislator expressed in the Convention on the future of Europe and endorsed by the subsequent intergovernmental conference.

## **2. THREE PROPOSALS – ONE DECISION**

The proposed own resources Decision includes three main elements: the simplification of Member States' contributions, the introduction of new own resources and the reform of correction mechanisms. The Commission report on the operation of the own resources system highlights how each of these proposals relates to- and complement the others. Taken together these proposals constitute a balanced package which must be looked at as a whole in the context of a single decision.

## 2.1. Simplifying Member States' contributions

The Commission proposes that the VAT-based own resource be eliminated in parallel with the introduction of new own resources. This is in line with the views expressed by most Member States and the EU institutions in the consultations linked to the Budget Review.

The existing VAT-based own resource is complex, requires much administrative work to arrive at a harmonized base, and offers little or no added value compared to the GNI-based own resource. Its removal will considerably simplify the national contributions and reduce the administrative burden for both the Commission and Member States.

Considering the administrative complexities related to this own resource and the low call rates currently in place, phasing it out step-by-step would be less efficient than a fully-fledged elimination on a given date. It is therefore proposed to abolish this resource on 31 December 2013. Should the Decision enter into force at a later date, this provision will be enacted on retroactive basis, following a common practice in past revisions of the own resources decisions. Using 31 December as an end point will avoid calculating the resource for a fraction of a given year.

Following the ending of the VAT-based own resource, further activity will be required: managing the annual VAT statements for the year preceding the ending of the resource, undertaking the annual VAT balance exercise, making controls to give assurance on the accuracy of the calculations, completing the supervision cycle, managing outstanding reservations, infringements, corrections and accounting reconciliations. Final extinction of all VAT-based own resource related activities will take several years.

## 2.2. Introducing new own resources

The Commission identified six potential candidates as own resources in the EU Budget Review. These were subject to a thorough analysis, particularly featuring the assessment criteria set out in the Budget Review.

This analysis highlighted the following key elements:

- (1) Financial transaction taxation (FTT) could constitute a new revenue stream, which could reduce the existing Member State contributions, give national governments extra room for manoeuvre and contribute to the general budgetary consolidation effort. Although some form of financial transaction taxation already exists in a limited number of Member States, the analysis also made it clear that action at EU level could prove both more effective and efficient than uncoordinated action by Member States given the level of cross-border activity and high mobility of the tax bases. Furthermore, it could play a role in reducing the existing fragmentation of the Internal market. The Commission will therefore present a proposal for an EU financial transaction tax in the autumn of 2011. A financial transaction tax that could be collected at EU level would reduce the *juste retour* problems observed in the current system. The EU initiative will constitute a first step towards the application of a FTT at global level.
- (2) The development of a new VAT resource would bring a new impetus to the development of the Internal market by reinforcing harmonization of national VAT systems. The new VAT resource would be one facet of a markedly revised VAT

system in the EU in the wake of the Green Paper on the future of VAT. The new initiative will include the elimination of a number of exemptions or exceptions which are detrimental to the proper functioning of the Internal market and the measures to reduce VAT fraud in the EU.

- (3) The analysis showed that these own resources could be introduced at EU level during the 2014-2020 period following a suitable period of technical preparation. Combining these own resources would bring additional advantages compared to introducing only one new own resource. It would ensure a fair distribution of impact across the various Member States and the critical mass necessary to substantially reduce the existing Member States contributions to the EU budget.

On the basis of its analysis, the Commission proposes the introduction of a financial transaction tax own resource from 1 January 2018 at the latest and a new VAT resource from 1 January 2018 at the latest. The timing of introduction of these new own resources reflects the time needed for completing the legal framework, and adopting and implementing the relevant legislation. The Commission will present the relevant detailed regulations or amendments to existing legal acts as well as the related implementing regulations pursuant to Article 322(2) TFEU by the end of 2011.

The resulting estimated impact on the structure of own resources is summarized in the table below. It shows the shift from the existing national contributions towards the new own resources. The new own resources would finance around 40% of EU expenditures. Traditional own resources would account for close to 20% of the total. The GNI-based own resource would remain the single most important resource financing about 40% of the budget.

#### Estimated evolution of the structure of EU financing (2012-2020)

	Draft budget 2012		2020	
	EUR billion	% of own resources	EUR billion	% of own resources
<b>Traditional own resources</b>	<b>19.3</b>	<b>14.7</b>	<b>30.7</b>	<b>18.9</b>
<b>Existing national contributions</b>	<b>111.8</b>	<b>85.3</b>	<b>65.6</b>	<b>40.3</b>
of which				
VAT-based own resource	14.5	11.1	-	-
GNI-based own resource	97.3	74.2	65.6	40.3
<b>New own resources</b>	<b>-</b>	<b>-</b>	<b>66.3</b>	<b>40.8</b>
of which				
New VAT resource	-	-	29.4	18.1
EU financial transaction tax	-	-	37.0	22.7
<b>Total own resources</b>	<b>131.1</b>	<b>100.0</b>	<b>162.7</b>	<b>100.0</b>

### 2.3. Reforming the correction mechanisms

The 1984 Fontainebleau European Council set out important guiding principles to ensure fairness in the EU budget. It indicated in particular that "expenditure policy is ultimately the essential means of resolving the question of budgetary imbalances". It acknowledged, nevertheless, that "any member State sustaining a budgetary burden which is excessive in relation to its relative prosperity may benefit from a correction at the appropriate time".

These principles have been confirmed and consistently applied in successive own resources Decisions. Today, temporary mechanisms of correction are granted to four Member States but they will end in 2013. The correction granted to the United Kingdom (UK) and rebates on its financing for four Member States (Germany, the Netherlands, Austria and Sweden), as well as the hidden correction consisting in the retention, by way of collection costs, of 25% of the amounts collected by the Member States for traditional own resources, will continue to apply until a new own resources Decision enters into force. In the context of this in-depth revision of the EU financing, a fresh look at these correction mechanisms is necessary.

Two important lessons emerge from the analysis of the current system:

Firstly, the objective situation of a number of Member States has evolved strongly over time. This must be properly reflected in the corrections system.

On the basis of the Fontainebleau principles, the UK correction was fully justified when it was set up in 1984. At the time, the UK, one of the poorest Member States, was one of the largest net contributors to an EU budget consisting mainly of agriculture expenditure. It contributed a relatively large amount to an EU financing system heavily reliant on the VAT-based own resource, the base for which was particularly large in the UK.

The objective conditions underpinning the current correction mechanisms have evolved considerably since 1984. The share of the CAP in the EU budget and VAT-based financing decreased considerably. Most importantly, the UK is now one of the more affluent EU Member States. On the basis of these elements and an assessment of the UK's budgetary burden and relative prosperity compared to that of other Member States, the UK correction should be re-assessed.

### Evolution of key parameters (1984-2011)

	<b>1984</b>	<b>2005</b>	<b>2011</b>
<b>Share of CAP in budget (% of total)</b>	69%	50%	44%
<b>VAT-based contribution (% of total)</b>	57%	16%	11%
<b>UK prosperity (GNI per capita PPS)</b>	93% of EU-10	117% of EU-25	111% of EU-27

*Source: European Commission, DG Budget*

On the basis of the financial framework 2014-2020 proposed by the Commission<sup>7</sup> and even allowing for the full cost of enlargement to be fairly distributed among the richer Member States, it would appear that a limited number of Member States, including the United Kingdom, will still be faced with a budgetary burden that might be considered excessive when compared to their relative prosperity.

This Decision therefore proposes the inclusion of temporary corrections in favour of Germany the Netherlands, Sweden and the United Kingdom from 2014. These corrections must reflect, inter alia, the important developments in the financing of the EU set out in this Decision, the evolution of expenditure proposed in the financial framework including the completion of the phasing-in of expenditure in those Member States which acceded to the EU in 2004 and 2007, and the high level of prosperity achieved by the above-mentioned Member States.

Secondly, the new system of correction must be transparent and simple, genuinely open to public and parliamentary scrutiny, predictable and efficient. It must also ensure an equal treatment of the Member States.

As it is calculated today, the UK correction is a hugely complex mechanism. It incorporates intrinsically perverse economic incentives, not least the automatic cancelling out (via a decrease in the correction) of EU aid paid to the UK for example when catastrophes, such as flooding, occur. It is also the basis of rebates on the financing of the UK correction for Germany, the Netherlands, Austria and Sweden. With the elimination of the VAT-based own resource, some data essential for calculating the UK correction will no longer be available, which adds a technical argument in favour of an in-depth revision of the mechanism.

The Commission therefore proposes a new system of lump sums to replace all pre-existing correction mechanisms as of 1 January 2014. Transforming the current corrections into a lump sum gross reduction on GNI payments offers clear advantages compared to any alternative formula, including a generalised correction mechanism as the Commission proposed back in 2004<sup>8</sup>. The amounts of the lump sums are based on current assumptions independent of the introduction of new own resources.

<sup>7</sup> COM(2011) 398 final of 29.06.2011.

<sup>8</sup> COM(2004)505 final of 14 July 2004.

The updates for the UK corrections of 2010, 2011 and 2012 will be treated under the old system for reasons of coherence and continuity, but the UK correction for 2013, which was to be budgeted in 2014, will be replaced by the new system of lump sum corrections. These corrections will be financed in a fair and transparent manner whereby each Member State contributes in proportion of its relative prosperity (defined by its GNI at market price).

In the same spirit of transparency and fairness, the Commission proposes the elimination of the hidden correction consisting in the retention, by way of collection costs, of 25% of the amounts collected by the Member States for traditional own resources. In view of the proposal to incorporate the corrections into lump sums, the retention should be restricted to 10%, in line with the system in place until 2000.

### **3. THE OWN RESOURCES PACKAGE**

#### **3.1. The legal instruments**

The Treaty on the Functioning of the European Union (hereinafter "TFEU") contains the provisions underpinning the EU financing system and, in particular, its own resources. It confirms the key role of the own resources Decision, which should include the main elements of the system.

The TFEU also includes two provisions regarding the implementation of the own resources Decisions instead of one only in the previous Treaty on the European Community:

- (1) Article 311(4) TFEU newly provides that the "Council, acting by means of regulations in accordance with a special legislative procedure, shall lay down implementing measures for the Union's own resources system in so far as this is provided for in the [own resources] decision. The Council shall act after obtaining the consent of the European Parliament".
- (2) Article 322(2) TFEU provides that the "Council, acting on a proposal from the Commission and after consulting the European Parliament and the Court of Auditors, shall determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the Union's own resources shall be made available to the Commission, and determine the measures to be applied, if need be, to meet cash requirements".

The implementing measures for the own resources system thus stem from two articles of the TFEU and have different adoption procedures: consent of the European Parliament is necessary for the adoption of measures under Article 311(4) TFEU and it is consulted for measures under Article 322(2). The implementing measures under Article 311(4) TFEU need to be provided for in the own resources Decision, whereas Article 322(2) TFEU defines that measures must be made for making EU budget revenue available and, if need be, to meet cash requirements.

This poses the question of which elements should be defined in the own resources Decision itself and which implementing measures should be included in which regulations. When the treaty was drafted the intention of the legislator was that "the system of resources should distinguish between two legal bases, each with its separate procedure. One for setting the ceiling of own resources and hence the size of the Union's budget and for creating new resources, which would be governed by the more cumbersome procedure under the [Treaty]

[...]; The other concerning the practical procedures for the Union's resources, which would be governed by a more streamlined procedure: adoption by the Council by a qualified majority [...] with the assent of the European Parliament"<sup>9</sup>.

The proposed organisation of the legislative framework for the own resources system closely follows this logic by setting out the system in the own resources Decision and providing for all the practical aspects in the relevant implementing regulations.

### **3.2. Key role of the own resources Decision**

As the key legal instrument underlying the entire own resources system, the own resources Decision will continue to include the main elements of the system. In the context set out by the TFEU, it should not necessarily be revised with each new financial framework. It should rather constitute a solid, stable, and long-lasting foundation on which the own resources system is built. Its unanimous approval and ratification by the Member States permit a full parliamentary scrutiny and ensure that national sovereignty is respected.

The proposal essentially maintains the structure of the current own resources Decision and contains many of the existing provisions. However, some substantial modifications are also included:

- (1) the ending of the VAT-based own resources on 31 December 2013 and the inclusion of a provision dealing with its phasing-out in the final provisions.
- (2) a list of new own resources, including the timing of their introduction and relevant limits to their application. In particular, the Decision contains a maximum limit to the tax rates applicable to the new own resources, whereas the implementing regulation pursuant to Article 311(4) presents specific rates. This arrangement provides for both the necessary control of tax rates by the Member States and their respective parliaments and for some flexibility under the democratic oversight of the European Parliament. This flexibility will be particularly useful at early stages of the implementation of the new own resources, when uncertainties as to their precise impacts will be highest. The specific rates for financial transaction taxation will be proposed together with the concrete legislative proposal in the autumn;
- (3) the provisions related to the correction mechanisms and the ending of the current UK correction. The Decision defines the lump sum reduction on GNI payments attributed to each of the Member States concerned for every year. The Decision includes an article on the financing of these corrections, which would be based on the relative prosperity of all Member States;
- (4) the removal of provisions dealing with the definition of GNI for own resources purposes and the recalculation of own resources ceilings in case of significant changes to GNI. This is a technical issue, which is addressed in the implementing regulation under Article 311(4) TFEU;

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<sup>9</sup> See in particular the "Final report of the discussion circle on own resources" to the European Convention, CONV 730/03, 08/05/2003.

- (5) the introduction of a new article detailing the elements to be included in implementing regulations pursuant to Article 311(4) TFEU and Article 322(2) TFEU.

Compared to the own resources Decision 2007/436/EC, the proposed new own resource Decision is more transparent and can be easily understood by EU citizens and members of the EU and national parliaments.

### **3.3. Implementing regulation**

The new implementing regulation pursuant to Article 311(4) TFEU, contains all those practical arrangements for the Union's resources which should be governed by a more streamlined procedure in order to make the system sufficiently flexible within the framework and limits set out by the own resource Decision, with the exception of those aspects of the own resources system that relate to the making own resources available and to meeting cash requirements (see section 3.4 below).

Provisions of a general nature, applicable to all types of own resources and for which appropriate parliamentary oversight is particularly important have also been included in this implementing regulation. This means in particular aspects of control and supervision of revenues and the related powers of Commission inspectors.

Accordingly, the following provisions, set out in accordance with the list drawn in the own resources Decision, can be found in this implementing regulation:

- (1) the tax rates and the rates of call applicable for each of the own resources established in the Decision. This allows limited flexibility within the limits set out in the own resources Decision. In the absence of such flexibility, the ability to make necessary and timely adjustments to own resources would be impaired by the onerous and lengthy procedure foreseen for the adoption of own resources Decisions;
- (2) the reference Gross National Income (GNI) pursuant to the European system of national and regional accounts (ESA) and the provisions in case of significant changes thereto (the refinement of GNI measurements in the context of revisions to the ESA can impact upon the own resources ceilings);
- (3) the adjustment for the annual budgetary balance. Whereas the general principle of surplus carry-over is set out in the Decision, the implementation measures are set out in this regulation;
- (4) the provisions concerning control and supervision, including supplementary reporting requirements.

A number of these measures are currently included in Regulation 1150/2000 namely point (3) and certain elements of point (4) relating notably to the reporting of entitlements, frauds and irregularities and the arrangements for the Advisory Committee on Own Resources (ACOR). As these items are not directly related to making own resources available nor to cash requirements, these items logically find their place in this implementing Regulation. The opportunity has also been taken to simplify the current legal framework by taking over and update the provisions related to the powers and obligations of Commission inspectors

previously included in Council Regulation 1026/99, which is thus to be repealed following the adoption of this Regulation.

Combined with the own resources Decision, this implementing regulation ensures that any technical adjustment to the system has been subject not only to approval by the national legislatures, but also to the consent of the European Parliament.

### **3.4. Making own resources available**

As a complement to the own resources Decision and the implementing regulation pursuant to Article 311(4) TFEU, regulations pursuant to Article 322(2) TFEU should comprise the elements concerning making own resources available and the measures to meet cash requirements.

The Commission proposes a two-steps approach.

First, as part of this own resources package, it proposes to include in a new Council Regulation pursuant to Article 322(2) TFEU the provisions necessary to determine the methods and procedure whereby Member States make available to the Commission the traditional own resources (TOR) and the GNI-based own resource. This document also includes the measures to be applied, if need be, to meet cash requirements.

These practical arrangements implement the system set out in the own resources Decision in respect of the establishment of TOR, conservation of supporting documents, administrative cooperation, accounts to be kept for own resources, the timing for making them available and for making adjustments and, where necessary, provisions concerning cash management and irrecoverable amounts.

In practice, the proposal incorporates the provisions of Council Regulation (EC, Euratom) No 1150/2000<sup>10</sup> with the exception of those not strictly related to the making available of TOR and the GNI-based own resource or to cash requirements. For reasons of clarity and rationality, and in the context of the own resources package, Regulation No 1150/2000 should therefore be recast. This does not entail material changes in the existing provisions. A very small number of substantive amendments are however needed to reflect recent experience in the management of TOR and the GNI-based own resource by the Commission.

Second, provisions will be needed to take account of the proposed new own resources. These could include the definition of the chargeable event; the tax point to tie the chargeable event to an accounting entry; the form and frequency of the declaration or statement to be made to the Commission; the setting out the mechanisms by which payment is to be made or the resources made available; the applicable sanctions; the circumstances in which corrections can be made and instructions concerning the time limits for conserving supporting documentation.

Provisions covering the relevant topics will be needed for the proposed new own resource and will be included in separate Regulations, as appropriate.

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<sup>10</sup> OJ L 130, 31.5.2000, p.1.

Proposal for a

**COUNCIL DECISION**

**on the system of own resources of the European Union**

**(//EC, Euratom)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the third paragraph of Article 311 thereof, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Parliament<sup>11</sup>,

Having regard to the opinion of the Court of Auditors<sup>12</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>13</sup>,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) The own resources system of the Union must ensure adequate resources for the orderly development of the policies of the Union, subject to the need for strict budgetary discipline. The development of the own resources system can and should also contribute to wider budgetary consolidation efforts undertaken in Member States and participate, to the greatest extent possible, in the development of the policies of the Union.
- (2) The public consultation launched to prepare the EU Budget Review generated many contributions related to the functioning of the Union's financing system. These indicated a high degree of satisfaction with traditional own resources and with the existence of a residual resource to ensure budgetary stability and balanced budgets. However, a large number of respondents identified a need to eliminate all correction mechanisms and to end the own resource based on Value Added Tax (VAT). The consultation also highlighted a wide range of views on introducing new own resources.

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<sup>11</sup> Opinion delivered on XX.6.2011

<sup>12</sup> OJ C

<sup>13</sup> OJ C

- (3) In the communication of 19 October 2010 on the EU Budget Review<sup>14</sup> the Commission noted that the introduction of a new phase in the evolution of the Union's financing could include three closely linked dimensions – the simplification of Member States' contributions, the introduction of one or several new own resources and the progressive phasing-out of all correction mechanisms. As changes were phased in, essential elements of the Union's financing system should be retained: a stable and sufficient financing of the Union's annual budget, respect for budgetary discipline and a mechanism to ensure a balanced budget.
- (4) The own resources system should, as far as possible rely on autonomous own resources in the spirit of the Treaty, rather than on financial contributions from Member States which they widely perceive as national expenditures.
- (5) The Lisbon Treaty introduced changes to the provisions related to the own resources system, which enable reducing the number of existing resources and to creating new own resources.
- (6) The own resources Decision can only enter into force once it has been approved by all Member States in accordance with their respective constitutional requirements, thus fully respecting national sovereignty.
- (7) Compared to the own resource based on Gross National Income (GNI), the current VAT-based own resource has little added value. It results from a complex mathematical calculation thus contributing to the opacity of Member States' contributions to the budget. The calculation of a harmonised base and the existing of a capping mechanism make that there is no direct link between the actual VAT basis in a Member State and its contribution to the Union's annual budget. Ending the VAT-based own resource in its current form as of 1 January 2014 should simplify the system of contributions.
- (8) In order to better align Union's financing instruments with the policy priorities of the Union, to reduce Member States' contributions to the Union's annual budget and to participate in their budgetary consolidation efforts, this Decision should include new own resources – a financial transaction tax and a new VAT resource.
- (9) The key principles, variables and dates for the adaptation of the legal framework of the Union for the purposes of the new own resources from a financial transaction tax and a new VAT resource should be set out in this Decision.
- (10) The 1984 Fontainebleau European Council indicated that expenditure policy is ultimately the essential means of resolving the question of budgetary imbalances. It acknowledged, nevertheless, that any Member State sustaining a budgetary burden which is excessive in relation to its relative prosperity may benefit from a correction at the appropriate time. Those principles should be confirmed and consistently applied.
- (11) Any correction mechanism should be closely related to the expenditure policy enshrined in the multiannual financial framework provided for in Article 312 of the

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<sup>14</sup> COM(2010)700 of 19.10.2010.

Treaty. Past or current existence of a correction mechanism does not, by itself, constitute a justification for maintaining it in the future. A correction should be transparent and easy to understand, and last only as long as it serves its purpose, as defined by the Fontainebleau principles. It should avoid creating any incentive not to spend Union funds properly. These objectives can best be achieved through a system of lump sum reductions in the GNI-based own resource payments.

- (12) The objective conditions underpinning correction mechanisms have evolved considerably over time. Nevertheless, a limited number of Member States are still faced with a budgetary burden that might be currently considered excessive when compared to their relative prosperity. This Decision should therefore include temporary corrections in favour of Germany the Netherlands, Sweden and the United Kingdom. These corrections should reflect, inter alia, the important developments in the financing of the Union set out in this Decision, the evolution of expenditures proposed in the financial framework, including the completion of the phasing-in of expenditure in those Member States which acceded to the Union in 2004 and 2007, and take account of the high levels of prosperity achieved by Germany the Netherlands, Sweden and the United Kingdom.
- (13) In order to ensure the necessary parallelism between the multiannual financial framework and the implementation of correction mechanisms, the new system of lump sums should replace all pre-existing correction mechanisms as of 1 January 2014.
- (14) The retention, by way of collection costs, of 25% of the amounts collected by the Member States for traditional own resources constitutes a hidden correction mechanism. In view of the proposal to incorporate the correction mechanisms into lump sums, the retention should be restricted to 10%, in line with the system in place until 2000.
- (15) In order to ensure strict budgetary discipline, and taking into account the Commission Communication of 16 April 2010 on the adaptation of the ceiling of own resources and of the ceiling for appropriations for commitments following the decision to apply FISIM for own resources purposes<sup>15</sup>, the ceiling of own resources should be equal to 1.23 % of the sum of the Member States' GNIs at market prices for appropriations for payments and the ceiling of 1.29 % of the sum of the Member States' GNIs should be set for appropriations for commitments. In order to maintain unchanged the amount of financial resources put at the disposal of the Union, it is appropriate to adapt these ceilings expressed in percentages of GNI where amendments to Regulation of the European Parliament and of the Council of [...] on the European system of national and regional accounts in the European Union<sup>16</sup> entail a significant change in the level of GNI. Such an adaptation should be made under the procedure set out under the fourth paragraph of Article 311 of the Treaty.
- (16) In order to implement this Decision, it is necessary to provide for the adoption of specific implementing measures. Accordingly, provisions of a general nature, applicable to all types of own resources and for which appropriate parliamentary

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<sup>15</sup> COM(2010)162 final.

<sup>16</sup> OJ ...

oversight is particularly important should be included in a separate implementing regulation. This means in particular the procedure for calculating and budgeting the annual budgetary balance and aspects of control and supervision of revenues. That regulation should also include the tax rates and the rates of call for each of the own resources established in the Decision and technical issues related to GNI, to allow limited flexibility within the limits set out in this Decision.

- (17) For reasons of coherence, continuity and legal certainty, provisions must be laid down to cover the changeover from the system introduced by Decision 2007/436/EC, Euratom of 7 June 2007 on the system of the European Communities' own resources<sup>17</sup> to that arising from this Decision. Accordingly, following the ending of the VAT-based own resource, Decision 2007/436/EC, Euratom should continue to apply for the calculation and adjustment of revenue accruing from the application of a rate of call to the VAT base, the procedures for making it available and the arrangements for inspection, depending on the relevant years. In addition, the calculation of the correction of budgetary imbalances granted to the United Kingdom for the years until 2012 should be treated in accordance with the provisions laid down in Decision 2007/436/EC, Euratom. The correction granted to the United Kingdom for 2013, to be budgeted in 2014, should be replaced by a lump sum gross reduction in 2014.
- (18) Decision 2007/436/EC, Euratom should be repealed.
- (19) For the purposes of this Decision, all monetary amounts should be expressed in euros and in current prices.
- (20) In order to ensure transition to the new system of own resources and to coincide with the financial year this Decision should apply from 1 January 2014,

HAS ADOPTED THIS DECISION:

### *Article 1*

#### *Subject matter*

This Decision lays down rules on the allocation of own resources of the Union in order to ensure the financing of the Union's annual budget.

### *Article 2*

#### *Categories of own resources*

1. Revenue from the following shall constitute own resources entered in the budget of the Union:

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<sup>17</sup> OJ L 163, 23.6.2007, p. 17

(a) traditional own resources consisting of levies, premiums, additional or compensatory amounts, additional amounts or factors, Common Customs Tariff duties and other duties established or to be established by the institutions of the Union in respect of trade with non-member countries, customs duties on products under the expired Treaty establishing the European Coal and Steel Community as well as contributions and other duties provided for within the framework of the common organisation of the markets in sugar;

(b) a financial transaction tax in accordance with [legislative act] (EU) No [.../...], with the applicable tax rates not exceeding ...%.

(c) a share of the Value Added Tax (VAT) on supplies of goods and services, intra-Community acquisitions of goods and importation of goods subject to a standard rate of VAT in every Member State pursuant to Council Directive 2006/112/EC<sup>18</sup>, with the rate applicable in accordance with Regulation (EU) No .../... not exceeding two percentage points of the standard rate.

(d) the application of a uniform rate, to be determined pursuant to the budgetary procedure in the light of the total of all other revenue, to the sum of Gross National Income (GNI) of all the Member States.

2. Revenue deriving from any new charges introduced within the framework of a common policy, in accordance with the Treaty, provided that the procedure laid down in Article 311 of the Treaty has been followed, shall also constitute own resources entered in the budget of the Union.

3. Member States shall retain, by way of collection costs, 10% of the amounts referred to in point (a) of paragraph 1.

4. If, at the beginning of the financial year, the budget has not been adopted, the previous GNI rates of call shall remain applicable until the entry into force of the new rates.

### *Article 3*

#### *Own resources ceiling*

1. The total amount of own resources allocated to the Union to cover annual appropriations for payments shall not exceed 1.23 % of the sum of all the Member States' GNIs.

2. The total annual amount of appropriations for commitments entered in the Union's budget shall not exceed 1.29 % of the sum of all the Member States' GNIs.

An orderly ratio between appropriations for commitments and appropriations for payments shall be maintained to guarantee their compatibility and to enable the ceiling pursuant to paragraph 1 to be respected in subsequent years.

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<sup>18</sup> OJ L 347, 11.12.2006, p. 1.

## *Article 4*

### *Correction mechanisms*

1. The uniform rate fixed under Article 2(1)(d) shall apply to the GNI of each Member State.
2. For the period of 2014–2020, a gross reduction in annual GNI contributions shall be granted to the following Member States:
  - EUR 2500 million for Germany,
  - EUR 1050 million for the Netherlands,
  - EUR 350 million for Sweden,
  - EUR 3600 million for the United-Kingdom.

## *Article 5*

### *Financing the correction mechanisms*

The cost of the corrections set out in Article 4 shall be borne by the Member States in proportion to each Member State's share of the payments referred to in Article 2(1)(d).

## *Article 6*

### *Universality principle*

The revenue referred to in Article 2 shall be used without distinction to finance all expenditure entered in the Union's annual budget.

## *Article 7*

### *Surplus carry-over*

Any surplus of the Union's revenue over total actual expenditure during a financial year shall be carried over to the following financial year.

## *Article 8*

### *Collecting own resources and making them available or paying them to the Commission*

1. The Union's own resources referred to in Article 2(1)(a) and, from 1 January 2018 at the latest, those referred to in Article 2(1)(c), shall be collected by the Member States in

accordance with the national provisions imposed by law, regulation or administrative action, which shall, where appropriate, be adapted to meet the requirements of Union rules.

The Commission shall examine the relevant national provisions communicated to it by Member States, transmit to Member States the adjustments it deems necessary in order to ensure that they comply with Union rules and report, if necessary, to the budgetary authority.

2. The Union's own resources referred to in Article 2(1)(b) shall be collected from 1 January 2018 at the latest in accordance with the relevant Union legislation supplemented, where necessary, by the national provisions imposed by law, regulation or administrative action. These national provisions shall, where appropriate, be adapted to meet the requirements of Union rules.

The Commission shall examine the relevant national provisions communicated to it by Member States, transmit to Member States the adjustments it deems necessary in order to ensure that they comply with Union rules and report, if necessary, to the budgetary authority.

3. Member States shall make the resources provided for in Article 2(1)(a), (c) and (d) available to the Commission, in accordance with the regulation adopted under Article 322(2) of the Treaty.

The resources provided for in Article 2(1)(b) shall be made available or paid to the Commission in accordance with the regulation adopted under Article 322(2) of the Treaty.

## *Article 9*

### *Implementing measures*

The Council shall, in accordance with the procedure set out in the fourth paragraph of Article 311 of the Treaty, lay down implementing measures as regards the following elements of the own resources system:

(a) the tax rates of the own resources established under Articles 2(1)(b) and (c) and the rate of call of the own resource established under Article 2(1)(d);

(b) the reference GNI, the provisions to adjust GNI and the provisions to recalculate the ceilings for payments and commitments in case of significant changes to GNI, for the purposes of applying Articles 2(1)(d) and 3;

(c) the procedure for calculating and budgeting the annual budgetary balance as set out in Article 7;

(d) the provisions and arrangements necessary for controlling and supervising the revenue referred to in Article 2, including any supplementary reporting requirements.

## Article 10

### *Final and transitional provisions*

1. Subject to paragraph 2, Decision 2007/436/EC, Euratom is repealed. Any references to the Council Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources<sup>19</sup>, to Council Decision 85/257/EEC, Euratom of 7 May 1985 on the Communities' system of own resources<sup>20</sup>, to Council Decision 88/376/EEC, Euratom of 24 June 1988 on the system of the Communities' own resources<sup>21</sup>, to Council Decision 94/728/EC, Euratom of 31 October 1994 on the system of the Communities' own resources<sup>22</sup>, to Council Decision 2000/597/EC, Euratom of 29 September 2000 on the system of the Communities' own resources<sup>23</sup> or to Decision 2007/436/EC, Euratom shall be construed as references to this Decision and shall be read in accordance with the correlation table set out in the Annex to this Decision.

2. Articles 2, 4, 5 and 8(2) of Decisions 94/728/EC, Euratom, 2000/597/EC, Euratom and 2007/436/EC, Euratom shall continue to apply to the calculation and adjustment of revenue accruing from the application of a rate of call to the VAT base determined in a uniform manner and limited to between 50 % and 55 % of the GNP or GNI of each Member State, the procedures for making it available and the arrangements for inspection, depending on the relevant year, and to the calculation of the correction of budgetary imbalances granted to the United Kingdom for the years until 2012.

3. Member States shall continue to retain, by way of collection costs, 10 % of the amounts referred to in Article 2(1)(a) which should have been made available by the Member States before 28 February 2001 in accordance with the applicable Union rules.

Member States shall continue to retain, by way of collection costs, 25 % of the amounts referred to in Article 2(1)(a) which should have been made available by the Member States between 1 March 2001 and 28 February 2014 in accordance with the applicable Union rules.

4. For the purposes of this Decision, all monetary amounts shall be expressed in euros and in current prices.

## Article 11

### *Entry into force*

Member States shall be notified of this Decision by the Secretary-General of the Council.

Member States shall notify the Secretary-General of the Council without delay of the completion of the procedures for the adoption of this Decision in accordance with their respective constitutional requirements.

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<sup>19</sup> OJ L 94, 28.4.1970, p. 19.

<sup>20</sup> OJ L 128, 14.5.1985, p. 15.

<sup>21</sup> OJ L 185, 15.7.1988, p. 24.

<sup>22</sup> OJ L 293, 12.11.1994, p. 9.

<sup>23</sup> OJ L 253, 7.10.2000, p. 42.

This Decision shall enter into force on the first day of the month following receipt of the last of the notifications referred to in the second paragraph.

It shall apply from 1 January 2014.

*Article 12*

*Publication*

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council*  
*The President*

ANNEX

**Correlation table**

Decision 2007/436/EC	This Decision
Article 1	Article 1
Article 2(1)(a)	Article 2(1)(a)
Article 2(1)(b)	-
Article 2(1)(c)	Article 2(1)(c)
Article 2(2)	Article 2(2)
Article 2(3)	Article 2(3)
Article 2(4)	-
Article 2(5)	Article 4(1)
Article 2(6)	Article 2(4)
Article 2(7)	
Article 3(1)	Article 3(1)
Article 3(2)	Article 3(2)
Article 3(3)	-
Article 4	-
Article 5(1)	Article 5(1)
Article 5(2)	-
Article 5(3)	-
Article 5(4)	-
Article 6	Article 6
Article 7	Article 7
Article 8(1)	Article 8
Article 8(2)	-
Article 9	-
Article 10(1)	Article 10(1)
Article 10(2)	Article 10(2)
Article 10(3)	Article 10(3)
Article 11	Article 11
Article 12	Article 12