

Proposal for a Council Regulation (EC) on budgetary discipline

(2000/C 21 E/07)

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(Submitted by the Commission on 16 July 1999)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 37, 279, 308 thereof and,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Court of Auditors,

not including rural development and for expenditure on rural development and the accompanying measures, in order to achieve the objective of stabilising agricultural expenditure in real terms;

(1) Whereas, at its meeting in Berlin on 24 and 25 March 1999, the European Council decided to retain and strengthen the budgetary discipline introduced by Decision 94/729/EC and confirmed that all Community expenditure should be subject to the principles of sound public finance and budgetary discipline;

(2) Whereas budget discipline is important in all policies to ensure a sustainable relationship between commitments, payments and available own resources;

(3) Whereas a new Interinstitutional Agreement including the financial perspective for 2000 to 2006 was concluded on 6 May 1999 between the European Parliament, the Council and the Commission for the purposes of implementing budgetary discipline and improving the annual budgetary procedure;

(4) Whereas, for reasons of simplification, a more recent reference base should be used for determining the agricultural guideline every year, without changing the original rules of calculation;

(5) Whereas, on the basis of the European Council's conclusions, the institutions also agreed to maintain unchanged the reference framework and the rate of increase of the agricultural guideline and to extend the guideline to all expenditure under the reformed common agricultural policy, to the new rural development measures, to veterinary and plant-health measures, to expenditure connected with the agricultural pre-accession instrument and to the amounts available for accession relating to agriculture;

(6) Whereas specific ceilings have been fixed for heading 1, i.e. for expenditure under the common agricultural policy

(7) Whereas the mechanisms for the depreciation of stocks formed during the budget year should be retained;

(8) Whereas all proposals and/or legislative decisions and proposals for appropriations for each financial year involving expenditure under the EAGGF Guarantee Section must comply with the budget ceiling laid down for heading 1;

(9) Whereas, as a result, savings may have to be made; whereas, in the absence of a decision by the Council, acting on a proposal from the Commission, measures could be taken during a special Council meeting held as part of the budget discussions before 15 September;

(10) Whereas urgent measures must be taken to safeguard the Union's financial interests; whereas, as a result, the Commission's management powers must be increased;

(11) Whereas, with regard to this objective, it is essential that consideration be given to proposing appropriate measures in the medium term;

(12) Whereas savings may have to be made in the very short term to achieve the objective of ensuring compliance with the ceiling laid down for heading 1; whereas the parties interested should be informed of this aspect so that they can adjust their expectations accordingly; whereas, in taking these measures, the need for legal security must be taken into account as far as possible;

(13) Whereas expenditure on the accompanying measures and on the new rural development measures is multiannual in nature and is therefore specially monitored;

(14) Whereas a monetary reserve should be entered in the budget up to 2002 in the form of provisional appropriations in order to deal with the financial consequences of movements in the euro/dollar market rate;

(15) Whereas, with the gradual implementation of the reform of the common agricultural policy, expenditure is likely to be less sensitive to changes in the euro/dollar rate; whereas the monetary reserve can be gradually phased out;

- (16) Whereas provision should be made for the possibility of reducing or temporarily suspending the monthly advances when the information communicated by the Member States does not enable the Commission to confirm that the Community rules applicable have been observed or indicates a clear misuse of Community funds;
- (17) Whereas the institutions have agreed that a reserve relating to Community loans and loan guarantees to non-member countries and in those countries must be entered in the budget in the form of provisional appropriations so that the Guarantee Fund set up by Council Regulation (EC, Euratom) No 2728/94 of 31 October 1994 establishing a guarantee fund for external actions, as amended by Council Regulation (EC, Euratom) No 1149/1999, may be funded and any calls on guarantees exceeding the amount available under the Fund may be met;
- (18) Whereas the institutions have agreed that a reserve should be entered in the budget in the form of provisional appropriations to permit a rapid response to specific emergency aid requirements in non-member countries resulting from unforeseeable events, with priority being given to humanitarian operations;
- (19) Whereas the institutions have agreed that the conditions for calling in and mobilising funds should be the same for the monetary reserve, the reserve relating to loan guarantees and the reserve for emergency aid; whereas the detailed rules for using the reserve for emergency aid are those defined in the Interinstitutional Agreement;
- (20) Whereas, for reasons of clarity, Decision 94/729/EC should be repealed and replaced by this Regulation,

HAS DECIDED AS FOLLOWS.

Article 1

Budgetary discipline shall apply to all expenditure. Such discipline shall be applied, as appropriate, by the Financial Regulation, this Regulation and the Interinstitutional Agreement of 6 May 1999.

I. EAGGF GUARANTEE SECTION EXPENDITURE

Article 2

The agricultural guideline, which constitutes for each budget year the ceiling on agricultural expenditure as defined in Article 4, must be respected each year. For each budget year, the Commission shall determine the agricultural guideline when presenting the preliminary draft budget.

Article 3

1. The reference base from which the agricultural guideline is to be calculated shall be equal to EUR 36 394 million for 1995, i.e. the total corresponding to the calculation made on the previous base for 1988.

2. The agricultural guideline for a given year shall be equal to the reference base laid down in paragraph 1 plus:

- 74 % of the rate of increase in GNP between 1995 (base year) and the year in question,
- the GNP deflator estimated by the Commission for the same period,
- forecasts of expenditure in the year in question on disposal of ACP sugar, food aid refunds, payments by producers in respect of levies provided for by the common organisation of the sugar market and any other revenue raised from the agricultural sector in the future.

3. The statistical base for GNP shall be as defined in Council Directive 89/130/EEC, Euratom, of 13 February 1989 on the harmonisation on the compilation of gross national product at market prices.

Article 4

1. The agricultural guideline shall cover expenditure chargeable to Titles 1 to 4 of Subsection B1 of Section III of the budget in the nomenclature adopted for the 2000 budget, the expenditure connected with the agricultural pre-accession instrument under heading 7 of the financial perspective and the amounts relating to agriculture which are available for accession under the financial perspective.

2. Each year Titles 1 and 2 (heading 1) of the financial perspective shall contain the appropriations necessary for financing all costs relating to the depreciation of stocks formed during the budget year.

Article 5

1. All the legislative measures proposed by the Commission or adopted by the Council or the Commission under the common agricultural policy shall comply with the amounts laid down in the financial perspective under the subheading for expenditure on the CAP ('subheading 1a') and under the subheading for rural development and accompanying measures ('subheading 1b').

2. The Commission shall examine the medium-term budget situation when the preliminary draft budget is established for a given year. If it appears that there is a risk of subheadings 1a and 1b of the financial perspective being exceeded for that year and the following financial year, the Commission shall propose appropriate measures to the Council to ensure that these amounts are respected.

3. In the preliminary draft budget for a given year, the appropriations for Titles 1 to 3 must fall within the amount fixed for subheading 1a. The appropriations for Title 4 must fall within the amount fixed for subheading 1b.

4. If, when the preliminary draft budget is established, it appears that the appropriations required for the financial year in question exceed the amounts referred to in paragraph 3, the Commission shall take appropriate measures to remedy the situation under the management powers at its disposal. If this is not possible, or if the measures taken prove insufficient, the Commission shall propose other measures, where applicable as part of the prices package and related measures, to ensure that these amounts are observed. The Council shall take a decision on these measures by 1 July of the year preceding the financial year covered by the preliminary draft budget in question.

5. In the absence of a Council Decision before the deadline referred to in paragraph 4, or if the Commission considers that the outcome of the Council's discussions on these proposals is likely to exceed the costs put forward in its original proposals, the Council shall take a decision on the measures required at a special meeting held as part of its budget discussions before 15 September of the year preceding the financial year covered by the preliminary draft budget in question.

6. The European Parliament is invited to deliver its opinion within six weeks of receiving any Commission proposal to ensure compliance with the amounts referred to in paragraph 3.

7. If, on establishment of the letter of amendment to the preliminary draft budget for a given year, it appears that the amount fixed for subheading 1a cannot be respected, the Commission shall, as a precautionary measure, reduce the amount for reimbursement of direct aid to farmers for the financial year covered by the letter of amendment. If a positive margin emerges during implementation of the budget for that financial year or the following year, the amount of reimbursement of direct aid shall be adjusted accordingly. The Commission shall take the measures which are necessary as a result of this adjustment, in particular proposals for transfers. At all events, the financial costs undertaken by the Member States shall be repaid from the Community budget by, as a priority and entirely during the financial year following the year covered by the letter of amendment.

8. For the implementation of this Article, the support measures and institutional prices provided for under the common agricultural policy shall apply without prejudice to the adoption, whenever appropriate, of measures to ensure compliance with the amounts referred to in paragraph 3.

Article 6

1. The Commission shall implement a monthly early-warning and monitoring system for each chapter involving expenditure of the type referred to in Titles 1 to 4 of Subsection B1 of the budget.

2. For this purpose, the Commission shall define profiles of monthly expenditure for each budget chapter based, where appropriate, on the average monthly expenditure of the three preceding years.

3. To monitor expenditure under Title 4 of Subsection B1, the Commission shall also carry out a special control to ensure compliance with the amount referred to in Article 5(3), as defined in Commission Regulation (EC) No [...] laying down provisions for the implementation of Council Regulation (EC) No 1257/1999⁽¹⁾ on support for rural development from the European Agricultural Guidance and Guarantee Fund.

4. The statements of expenditure presented to the Commission by the Member States every month in accordance with Article 3(3) of Commission Regulation (EC) No 296/96⁽²⁾ shall be sent to the European Parliament and to the Council for information.

The Commission shall submit monthly reports thereafter to the European Parliament and the Council on the development of actual expenditure in relation to the profiles, including where appropriate an evaluation of foreseeable implementation at the end of the financial year.

5. If it concludes from the examination that there is a risk of the appropriations for subheading 1a being exceeded at the end of the year, the Commission shall take action to remedy the situation, using the management powers at its disposal. If these measures prove to be insufficient, the Commission shall evaluate the impact of the measures to be proposed to the Council with respect to both the savings which they are likely to produce and the time required for them to have their first economic and budgetary effects. The budgetary authority shall be informed of this evaluation. If effective measures are found to control expenditure, the Commission shall propose them to the Council. The European Parliament is invited to deliver its opinion within six weeks and the Council shall act within two months of receiving the Commission's proposal in order to bring expenditure back into line with the allocation provided.

6. If it proves impossible to remedy the situation before the end of the budget year or if the Council does not take a decision within the time limit laid down, the Commission shall, as a precaution, suspend the payment of the monthly advances made to the Member States under the EAGGF Guarantee Section. This suspension shall be in proportion to the total overrun for the subheading concerned. The amounts suspended shall be charged as a priority and entirely to the budget for the following year.

Article 7

The euro/dollar rate used to draw up the budget estimates of the expenditure under Titles 1 to 3 (heading 1) for any given year shall be the average market rate over the three months preceding the month in which the Commission presents a preliminary draft budget, a preliminary draft supplementary and amending budget or a letter of amendment to the same.

⁽¹⁾ OJ L 155, 22.6.1999, p. 29.

⁽²⁾ OJ L 39, 17.2.1996, p. 5.

Article 8

EUR 500 million shall be entered in a reserve in the general budget of the European Communities, as a provision to cover the developments caused by movements in the euro/dollar market rate in relation to the rate used in the budget referred to in Article 10.

In 2002 the reserve shall be reduced to EUR 250 million. The monetary reserve shall be abolished with effect from 2003. These appropriations shall not be included in the agricultural guideline.

Article 9

By no later than the end of October each year, the Commission shall report to the budgetary authority on the impact of movements in the average euro/dollar rate on expenditure under Titles 1 to 3 (heading 1).

Article 10

1. Savings or additional costs resulting from movements in the euro/dollar rate shall be treated in symmetrical fashion. Where the dollar strengthens against the euro compared with the rate used in the budget, savings in the Guarantee Section of up to EUR 500 million in 2000 and 2001 and EUR 250 million in 2002 shall be transferred to the monetary reserve. Where additional budgetary costs are engendered by a fall in the dollar against the euro compared with the budget rate, the monetary reserve shall be drawn on and transfers shall be made to the EAGGF Guarantee Section headings affected by the fall in the dollar. Where necessary, these transfers shall be proposed at the same time as the report referred to in Article 9.

2. There shall be a neutral margin of EUR 200 million. Savings or additional costs below this amount arising from the movements referred to in paragraph 1 will not necessitate transfers to or from the monetary reserve. Savings or additional costs above this amount shall be paid into, or met from, the monetary reserve. The neutral margin shall be reduced to EUR 100 million from 2002.

Article 11

1. Funds shall be taken from the reserve only if the additional costs cannot be met from the budget appropriations intended to cover the expenditure referred to in Article 4(1) for the year in question.

2. The necessary own resources shall be called up, in accordance with Decision .../EEC, Euratom and the provisions adopted pursuant thereto, to finance the corresponding expenditure.

3. Any savings made in the EAGGF Guarantee Section which have been transferred to the monetary reserve in accordance with Article 10(1) and which remain in the

monetary reserve at the end of the financial year shall be cancelled and entered as a revenue item in the budget for the coming year by means of a letter of amendment to the preliminary draft budget for the following year.

Article 12

Articles 8 to 11 shall apply up to and including the financial year 2002.

Article 13

1. Payment of the monthly EAGGF Guarantee Section advances by the Commission shall be effected on the basis of the information supplied by the Member States in regard to expenditure in each chapter.

2. If the declarations of expenditure or the information submitted by a Member State do not enable the Commission to establish whether the commitment of funds is in conformity with the relevant Community rules, the Commission shall request the Member State to supply further information within a period which it shall determine according to the seriousness of the problem.

In the event of a reply which is deemed unsatisfactory or which indicates manifest non-compliance with the rules and/or a clear misuse of Community funds, the Commission may reduce or temporarily suspend the monthly advances to the Member State.

Such reductions and suspensions shall be without prejudice to the decisions which will be taken in connection with the clearance of accounts.

3. The Commission shall inform the Member State concerned before taking its decision. The Member State shall make its position known within 10 days.

The Commission's decision, stating the reasons on which it is based, shall be taken after the EAGGF Committee has been consulted and must be in keeping with the principle of proportionality.

II. RESERVES FOR EXTERNAL OPERATIONS

1. Reserve relating to loans and loan guarantees

Article 14

Each year a reserve intended to cover

a) the requirements of the Guarantee Fund set up by Regulation (EC, Euratom) No 2728/94, as amended by Council Regulation (EC, Euratom) No 1149/1999,

and

- b) where necessary, activated guarantees exceeding the amount available in the Fund so that these amounts may be charged to the budget

shall be entered in the general budget of the European Communities as a provision.

The amount of that reserve shall be the same as that in the financial perspective that forms part of the Interinstitutional Agreement. The arrangements for using this reserve are those set out in the Interinstitutional Agreement.

2. Reserve for emergency aid

Article 15

A reserve for emergency aid to non-member countries shall be entered each year in the general budget of the European Communities as a provision. The purpose of this reserve shall be to permit a rapid response to specific emergency aid requirements in non-member countries resulting from unforeseeable events, with priority being given to humanitarian operations.

The amount of that reserve shall be the same as that adopted in the financial perspective contained in the Interinstitutional Agreement.

The detailed rules for the use of the reserve shall be as laid down in the Interinstitutional Agreement.

3. Common provisions

Article 16

The reserves shall be used by means of transfers to the budget headings concerned in accordance with the provisions of the Financial Regulation.

Article 17

The own resources necessary for financing the reserves shall not be called in from the Member States until the reserves are used in accordance with Article 16.

The own resources necessary shall be made available as provided in Regulation (EEC, Euratom) No 1552/89.

III. OTHER PROVISION

Article 18

No act adopted under the co-decision procedure by the European Parliament and the Council nor any act adopted by the Council which involves exceeding the appropriations available in the budget or the allocations available in the financial perspective may be implemented in financial terms until the budget has been amended and, if necessary, the financial perspective has been appropriately revised in accordance with the relevant procedure for each of these cases.

IV. FINAL PROVISIONS

Article 19

Decision 94/729/EC is hereby repealed.

Article 20

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

It shall apply from . . .

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