

Cercle 3  
Working document 11

**NOTE**

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| from :    | Chairman of the discussion circle on own resources                             |
| to :      | Members of the circle  |
| Subject : | <b>Conclusions of the debate at the meeting of Cercle III on 25 April 2003</b> |

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1. At its meeting on 25 April 2003, the discussion circle on own resources examined the issues covered by its mandate in the light of questionnaire WD 8, which had been submitted by its Chairman. The conclusions of that debate could form the basis of the report which the Chairman of the circle will present to the Praesidium.
2. The circle's debate showed that there were **three levels** that had to be taken into account when broaching the question of the Union's financial resources. The constitutional level, the level of the law establishing the system of resources and the level of the annual budgetary law.
3. Nearly all the members of the circle thought that an article should be devoted to own resources in Part One of the Constitution. Such an article should provide for the decision-making procedure and the principles on which the system of resources is based.
4. Regarding **the principles** which should govern the financing of the Union, several ideas were put forward, in particular:

- The principle of transparency in financing the Union: citizens must be aware of the cost of the Union and must understand how it is financed. Some members of the circle stressed the importance of increasing democratic control over the actual results of expenditure with reference to the objectives fixed in advance.
- The principle of taxation by consent: the system for financing the Union must be subject to approval and control by citizens' parliamentary representatives.
- The principle of necessary means: the financing system must enable the Union to attain its objectives. This is the budgetary aspect of the principle already enshrined in Article 6(4) of the TEU: "The Union shall provide itself with the means necessary to attain its objectives and carry through its policies".
- The principle of fiscal equity between citizens and between Member States: some members of the circle referred in this connection to the principle of economic and social cohesion as defined in the Protocol on cohesion.

5. Regarding the **decision-making procedure**, Article 269 of the TEC currently provides that:

"The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, shall lay down provisions relating to the system of own resources of the Community, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements."

6. This article provides for the unanimous adoption of provisions relating to the system of own resources of the Union. But these are not compulsory provisions, as the Council simply has to recommend that Member States ratify them. This is a very unwieldy decision-making procedure. Most members of the circle wondered whether such a procedure was conducive to guaranteeing future adoption of the measures necessary for financing the Union's policies, in view of "the weight of numbers".

7. A fair number of members of the circle proposed that the article in Part One of the Constitution that dealt with 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, which would be governed by the more cumbersome procedure under the Constitution, in principle the current procedure of adoption by the Council acting unanimously, followed by national ratification.
  - The other for defining the resources themselves and the practical procedures for financing the Union, which could be governed by a more streamlined procedure: adoption by the Council by a qualified majority [or superqualified majority if such a voting procedure were provided for in the Constitution] with the assent of the European Parliament. National ratification would no longer be required; parliamentary representation would be through the European Parliament.
8. Most members of the circle felt that Part One of the Constitution should also address the issue of the **hierarchical relationship** to be established between **the Union's system of resources**, and in particular the ceiling for those resources, and the **multiannual financial framework**.
9. The discussion circle on the budgetary procedure has recommended that the financial perspective should be incorporated into the Constitution. It would thus become legally binding. In that circle's view, the Constitution should include the principle that the "financial framework" determines the binding amounts of the annual ceilings for commitment appropriations for each heading within the limit of the Union's own resources, and the amount of the annual ceiling for payment appropriations, which must in any event comply with the own resources ceiling. The legal relationship between those various ceilings and the relevant acts of secondary legislation (the law on the financial framework and the law on own resources) should thus be clearly established. In turn, the annual budget should comply with the financial framework.
10. The Union's financing system itself, the nature of the resources and the procedures relating to them were matters for secondary legislation and would be governed by the law adopted on the legal basis laid down in the Constitution.

11. The members of the circle continue to hold differing views on the desirable evolution of the resources system :

(a) Some wish to see the Union system move towards tax-based revenue. In their view, the stability and transparency of the system would be best secured by European taxes.

Members of the circle who support this development are themselves split between :

- those who consider that this type of resource should be established by secondary law and that it would be possible even now on the basis of established law to decide to create a European tax or participation in national taxes. They maintain that the Union already commands this type of resource: the traditional resources are fiscal in nature as is the VAT resource;
- those members who argue that the possibility to foresee in the legal basis of the Constitution resources fiscal in nature must be explicitly opened.

(b) Other members believe that the current system of resources is sufficiently fair and sound. Some of them would like the GNP resource to gain even further ground in the system. They were against any explicit provision for tax resources being made in the legal basis in Part One of the Constitution.

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