EDUARDO MARIA PICCIRILLI

TOBIN TAX
FROM ITS ORIGINS
TO ENHANCED COOPERATION
AN IDEA OF EUROPEAN TAX

EDITORE

ACADEMY SCHOOL

ISBN

9788890564437

2015 september by I.U.M. Academy School s.r.l.
80138 Napoli, Piazza N. Amore 6

I.U.M. Academy School s.r.l.
80138 Napoli - Piazza N. Amore, 6
www.universita-mediazione.com
email.info@universita-mediazione.com

“Dedicated to my loving wife Nunzia Angelone”

“The crisis is the greatest blessing for people and nations,
because brings progress”.

Albert Einstein

INDICE

INTRODUCTION

We are going through a period that is unprecedented in history, perhaps for the strong globalization, resulting in the contraction of the State control over their monetary policies; perhaps because of the strong pressure on the bankers involved in politics resulting in a shift in policy from the real economy to the monetary economy; perhaps for the large gap created between rich and poor as a result of the lack of political attention to the real economy.

We cannot forget the consequences that occurred in the aftermath of the great crisis of 1929: the failure of the world economy and the rise of dictatorial regimes, Nazism, fascism and communism, and the oil of the seventies, which caused a strong currency instability.

Following the crisis of the European Monetary System in 1992-93 and after the collapse of the Mexican peso in 1994, the International Monetary Fund, recognized the urgent need for measures to curb speculation. So, in 1995, during the G7 in Halifax, the then President Mitterand of France, proposed the introduction of a tax on financial transactions, the so-called "Tobin tax". With the financial crisis of 1998, which hit the Asian markets, the Tobin tax went from the academic rooms straight to the government rooms.

But it was the greatest failure of 15 September 2008, which triggered a deeper crisis of the "Great Depression" of progress made with the collapse of Lehman Brothers (an investment bank in New York with over 150 years of history, officially asked to make use of chapter 11 of the Bankruptcy Code, the US bankruptcy proceedings), so as to lead many states to consider a comprehensive reform of the financial market, which decreed the introduction of financial transaction tax in many European countries, including Italy, thanks to the so-called enhanced cooperation. However, the financial transaction tax, was already being talked about in the aftermath of the Great Depression. But it was only as a result of the oil crisis that James Tobin made it his own and through which he earned the Nobel

Prize in 1978. Indeed, a part of the academic world has always thought that the Tobin tax could help solve the financial crisis and the problems of real economy. In fact, the proposed Tobin comes out whenever changes are responsible for the international monetary and economic turmoil.

Tobin, with his proposal did not want to do anything but throw a little sand on the too many oiled financial markets, likely to generate large speculation, especially in the short term. The objectives were to improve the efficiency of the foreign exchange market, discouraging speculative flows in the short term that were disruptive to the market, and provide greater flexibility for the economic policies of governments that, due to the capital liberalization process, lose some of their power to the market.

The Loch Ness Monster, as the tax was renamed, due to its continuous intermittently resurfacing on the international economic scene, owes its renewed interest to the greats of the world, the ability to generate new sources of funding for international organizations , called to address the increasingly complex problems created by globalization without having the necessary funds for this purpose. The Tobin tax is also a possible source of income for the individual national states that, so that they can recover some of the tax ability on capital they have lost due to the high mobility of the same. At times, these considerations are found in an immediate way, as evidenced by the high level of interest from the revenue that could come from the Tobin tax, which could be used to remedy, even though minimally, the dramatic widening of the gap of wealth between nations and within the same (as defined by the Commission's initial proposal -0.1% on shares and 0.01% on derivatives included a tax revenue of around 57 billion euro calculated from all EU countries, with the sole participation of the eleven countries that have joined the enhanced cooperation, would reach 35 billion, without considering changes in tax rates or the exclusion of the derivatives, which could thin the yield up to 6 billion).

Proponents of ethical finance have always felt that a tax of this kind would not generate a source of income which would finance in developing countries, but it is a way of taking money from the financial world that is increasingly replacing the real economy, in addition to the important brake that could give more markedly speculative financial movements, and simultaneously the possibility of finding resources for counter cycle investments restore growth, retrieving them from the same places where the crisis was generated.

To date, despite the efforts that some countries are making, there are yet many resistances, especially by those countries that are by definition the cradle of financial speculation.

The financial market crisis that has occurred in recent times, in almost every decade, has prompted governments to take serious measures to stem them. One of these is certainly the Tobin tax that, at least in Europe, has started its journey through the so-called enhanced cooperation, which was also the subject of appeal to the Court of Justice, demonstrating that they is still strong resistance even within the European Union itself.

The book opens with a historical analysis of the tax on financial transactions from the origins then fully evolving to the detailed pros and cons, because the tax through its long academic journey first, and practical application after, has been subject to much criticism, both positive and negative, although the dualism that has been created by nature seems more ideological and empirical.

We then tried to frame the tax in the European context, starting with the directive that gave the possibility to Member States, through the so-called enhanced cooperation, strongly contested mainly by the UK, to introduce the tax itself into national legislation. Also trying to explain the effects of a possible introduction of the benevolent at Union level, which, in addition to producing the benefits already provided by Tobin (according to the author it would be desirable to introduce the tax in the world, or at least in a continent, because only doing so the same could produce the desired effect: less speculation and windfalls), could be considered as a European tax able to finance the Community budget making it independent in respect to Member of the States.

Eduardo Maria Piccirilli

Special thanks go to Professor Leena Salomone and her assistant Dott.ssa. Gabriella Carfagno or their collaboration in translating the present work.

CHAPTER I

"HISTORICAL FRAMEWORK OF TOBIN TAX"

1.THE ORIGINS

Financial crises have a history almost as old as that of financial institutions. In 33 A.D. Emperor Tiberius was forced to inject gold coins into the Roman financial markets to jump-start the economy.[1].

The crises of 1929 caused a long depression, it stimulated a series of studies on business cycles and led to the development of economic policy instruments capable of containing the disruptive effects of the crisis. The most prominent product of this analysis was the "General Theory of Employment, Interest and Money" in 1936 by John Maynard Keynes, which opened new paths[2] to the possibility of state intervention, but also restrict-

---

1 Tiberius constituted a sort of state bank, managed by senators, from which were distributed loans of 100 million sestezi without interest for three years; if we consider the amount of work done and among other things the vast construction of roads in the provinces, you can picture the work accomplished by the Tiberius empire: good administration without any major problems and only with a certain tendency to reinforce peripheral and central organs of the imperial administration before the Senate "(VA Mom, Tiberius, Encyclopedia Treccani www.treccani.it).

2 "We can not expect that things will change if we keep doing the same things. The crisis is the greatest blessing for people and nations, because the crisis brings progress. Creativity comes from anxiety as the day comes from the dark night.It is from a crisis that arises inventiveness, discoveries and great strategies. He who overcomes a crisis, overcomes himself. He who blames the crisis for his failures and hardships violates his own talent and gives more value to the problems than to the solutions. The real crisis is the crisis of incompetence. The inconvenience of people and nations is the laziness in finding solutions and ways out. Without a crisis there are no challenges, without challenges life is a routine, a slow agony, without a crisis there is no merit. It is from a

ing the speculative movements of the capital market.[3] Keynes, in fact, as early as 1936 revealed that a financial transaction tax could strengthen the weight of the long-term fundamentals in the pricing of the stock markets, acting against the predictions of those who speculate on short-term behavior of the other operators.. Keynes argued that financial markets function like those beauty contests where you win if you foresee the candidate that will be the most voted by the audience of bettors. In that case, each bettor will seek to predict the choices of the other bettors to conform to them, rather than choosing according to their evaluation criteria. "Keynes's beauty contest idea applies because speculators focus on how the markets will respond to the news, rather than on economic indicators or fundamental events "[4].

---

crisis that the best in each of us emerges, because without a crisis winds are only mild breezes. Speaking of a crisis means increasing it, while keeping silent in the crisis is to exalt conformism. Instead, let's work hard. Let us stop, once and for all with the only dangerous crisis, which is the tragedy of not being willing to overcome it "(A. Einstein, The World as I see it, 1931).

3 Keynes argued that "The fact that casinos should, in public interest, be inaccessible and expensive is usually accepted . And perhaps, the same applies to the stock exchanges. (...) The introduction of a significant state tax on all transactions would reppresent the most useful and effective reform to m itigatethe predominance of speculation on manufacturing company interests in the United States "(JM Keynes, Occupation interest and money- general Theory, Turin (1978), p. 320 and 321). The idea of such a tax was taken up by other scholars (A. Artoni, Lessons of Financial Science, Bologna, 1999, p. 200 et seq.)

4 J. Tobin, Tobin tax- - Why a tax on financial transactions, Mimesis heterotopias, 2012, p. 29. The Keynesian thought opposes neoliberal one according to which, only a market free from political interference is a good one, able to regulate itself and impose appropriate discipline both for private operators and governments. To improve the functioning of financial markets, there is no need of rules or taxes, but of greater fluidity and transparency of information that maximizes the benefits of liberalization while minimizing the risks.

The abandoning of the gold exchange standard[5] [6]in 1971 by the United States of America which put an end to the system of exchange rates pegged to the dollar, which in turn was pegged to gold, gave rise to a strong currency instability leading scholars and economists to conduct analysis and to seek an instrument capable of curbing fluctuations in the foreign exchange market..

Throughout the postwar period up to the seventies, the debate among economists as to which exchange rate system was better was very lively, because there were those who saw the fall of Bretton Woods as a worsening of the world economic situation[7].

5 The "gold exchange standard" also called Bretton Wood is the regulation system of international trade. In July 1944, a Monetary and Financial Conference attended by 44 states took place, which had as its stated aim to define the rules that were to govern future international economic and financial relations to prevent the world economy to fall back into the same difficulties that preceded the war (De Grauwe P., International Monetary Economics, Il Mulino, Bologna, 1996, p. 99-101). These difficulties depended largely on the poor cooperation between the states, because of the widespread adoption of protectionist policies and the competitive devaluations of exchange rates. It is generally accepted that they were among the main factors that led to World War II. Given this legacy, in Bretton Woods the modality and the rules able to lead the world economy towards a progressive liberalization of trade in the context of monetary and financial stability have to be identified. The agreement was reached on the basis of a new plan, presented by the American economist JH Williams, which reflected more closely the balance of power between the participating nations, relationships that saw the US as an economic power and financial hegemony. In fact, during the Conference, the idea of creating an international currency was abandoned, assigning the US dollar with a central role in the new system. The centrality of the dollar resulted from the fact that it was the only currency convertible into gold on the basis of a fixed parity ($ 35 per ounce of gold). For foreigners the convertibility of the dollars into gold was granted only to the Central Banks of the member countries of the Bretton Woods system (Garber PM, Issues of Enforcement and Tax Evasion in to on Foreign Exchange Transactions., In The Tobin Tax: Coping with Financial Volatility, ed. New York, London: Oxford University Press, 1996, p. 129-130).

6 In August 1971, the substance of the agreement was in fact breeched, when the US President Richard Nixon announced that the US dollar would no longer be automatically convertible into gold, and the value of world currencies began to float freely on international markets. In 1976 the founding of the IMF Articles were officially amended to facilitate the floating exchange rate regime, which developed after 1971 (JO Grabbe, International Financial Markets, Prentice-Hall, Englewood Cliffs, 1963, p. 3, with the devaluation of the dollar, paved the way for the establishment, in 1973, the current regime in floating exchange rates (G. Carchedi, Keynesian policies, financial crises and wars, Proteus 2002 n.2).

7 "The widening effect of inequality has been, in fact, facilitated by important historical events dating back in time, not necessarily referable to the liberal theories, the most important of which was the suspension of convertibility of the dollar into gold, that is, the 'abandonment of the so called "Monetary constitution". This constitution represented in effect a definite obstacle to egalitarian policies not because it was based on the stability of exchange rates and controls on capital movements, namely on two rules that assumed the character of a public decision of fixing

The problem to be addressed, was therefore excessive international mobility, or rather between currencies of private financial capital, seen that, in each currency regime, the exchange of currency causes unrest that originates from the international financial markets, and that economies and national governments are unable to cope. In fact, the massive movements of funds triggered by international trade, cause considerable damage to the real economy significantly sacrificing objectives of national economic policy, such as employment, production and inflation.

In particular, the mobility of financial capital limits the possible differences between domestic interest rates and thus drastically reduces the ability of central banks and governments to pursue specific fiscal and monetary policies.

Speculation acts on exchange rates in the same way, which has serious and often painful consequences on the real domestic economies, relatively powerless to oppose and cancel such phenomena.

The difficulties to the national economies that this situation creates, cannot be avoided by opting for one currency regime or another, providing more or different international liquidity, but what it needs is surely, to establish new rules that discourage such behavior.[8]

It was therefore necessary to create a system able to absorb the repercussions that could have risen in the context of the international economy in a more stable way.

It is in this context that James Tobin at a conference in 1972, held at Princeton University, relaunched Keynes's idea of a tax able to contain or mitigate short-term financial speculation. His proposal, later formalized in

---

the exchange rate and the nature of the supranational currency. The lack of it has, therefore, produced two distinct effects: the privatization and nationalization of foreign exchange currencies. The worldwide liberalization of the capital market and that of financial products that has, in turn, triggered the mechanism of progressive financialization of the economy, with the development of the financial market to unthinkable levels and the massive, accelerated transfer of income and wealth from the bottom up "(F. Gallo, Still on the subject of equality of taxation, Riv. Dir. Fin., and Sc. of Fin., fasc.4, 2013, p. 321).

8 According to the translation by Anna Maria Variato of Tobin's writings concerning the "Proposal for the reform of the international monetary system" section in the book by R. E. Bellofiore- Brancaccio, The grain of sand, the pros and cons of the Tobin tax, Feltrinelli, Milan, 2002, we read on page 51, that Tobin "does not intended to declare that these issues are irrelevant or that these reforms of any aspects of the international monetary system cannot be useful. For example, I think that the flexible transformations represent a substantial improvement compared to the Bretton Woods system. So I think that the most of the problems that we must solve, require other types of interventions".

an essay[9], included a tax to be adopted worldwide, or at least by almost all countries, to be applied to all on the spot currency transactions and proportional to the magnitude of the transaction, with a uniform, low entity rate .[10].

Tobin's proposal albeit commendable, as demonstrated by the award received[11], remained in the drawer of States until a few years ago.

In fact, the collapse of Lehman Brothers[12] on 15 September 2008, the greatest failure in the world, has triggered a deeper crisis than the "Great Depression"[13], so as to lead many states to consider the global reform of the

---

9 J. Tobin, A proposal for International monetary reform, Eastern Economic Journal, July-October 1978, vol. 4, 1978, pp. 153-159. Tobin has repeatedly returned on the subject over the years: "On the Efficiency of the Financial System", in Lloyds Bank Review, vol. 153, 1984, pp. 1-15; "International Currency Regimes, Capital. Mobility and Macroeconomic Policy ", in Cowless Foundation Discussion Paper, n. 993, 1991, New Haven, Yale University as well as Barry Eichengreen, James Tobin and Charles Wyplosz, "Two Cases for Sand in the Wheels of International Finance," in The Economic Journal, vol. 105, 1995, pp. 162-172

10 . It is clearly desirable to preserve some possibilities of autonomy in national or continental monetary policies and to defend them against the growing internationalization of money markets. our economies and governments are not sufficiently unified in other respects - goods, labor and capital markets, taxes and fiscal policies - to live a single area - wide monetary policy. how can some national monetary autonomy be preserved? Stronger measures are needed to drive a wedge between short term interest rates in different national markets. one possible measure would be an internationally agreed uniform tax, say 1%, on all spot conversions of one currency into another. This would mean that three months Treasury bill in pounds sterling would have to bear an interest rate eight points higher than a dollar Treasury bill before it would be worthwhile for an American who wants dollars in three months to shift (Tobin, op. cit.).

11 In 1981 James Tobin was awarded the Nobel Prize for economics in 1978 for his opera "A proposal for International monetary reform"

12 On 15 September 2008, Lehman Brothers, an investment bank in New York with over 150 years of history, asked officially to make use of chapter 11 of the Bankruptcy Code, the US bankruptcy proceedings. The bank could not cope with debts and liabilities contracted above all in the subprime mortgage industry. That day it became clear that to the entire financial world that the problems arising from these "junk mortgages" would become shortly thereafter very serious for all http://www.morningstar.it/it/news/112186/le-lezioni -of-lehman-brothers.aspx # sthash.rAKTerlj.dpuf

13 "In the autumn of 2008, the globe was hit by a <once-in-a-century credit tsunami>. What would become in the United states property market and the financial structure that was built on it. The years preceding the outbreak of the crisis had seen a housing bubble evolve, soon resulting in an explosion in house sales and property prices: <what began as a bubble was rapidly becoming a balloon>.
The catastrophic effects from the burst of the housing bubble immediately hit the financial sector, as the property and financial markets were closely entwined due to related debt and extensive securitization. Subsequently, what started at Wall Street soon spread over the world, globalization hav-

financial market[14].

As stated by the European Commission[15], in the introduction to the Proposal for a Directive concerning "a common system of financial transaction tax", the financial sector was a major contributor to the economic crisis, while governments and European citizens have borne the cost . In Europe and internationally it is generally considered that the financial sector should contribute more fairly given the costs related to the management of the crisis and the current insufficient taxation of the sector.

2. THE IDEA OF TOBIN TAX ON FINANCIAL TRANSACTION

As mentioned in the previous paragraph, James Tobin[16] feeling the

ing rendered financial markets radically expanded and interconnected. Despite extensive bailouts and fiscal stimulus measures, many countries currently struggle with prolonged recessions and deep deficits. The extreme magnitude of the crisis is particularly evident in the EU: five countries have sought international bailouts, and unemployment rates are unprecedented. The International Monetary Fund (IMF) has predicted that the Eurozone will remain in recession in 2013, and the negative outlook is reinforced by credit rating downgrades of several EU countries (J. Kaiding, The Financial Transaction Tax: the way forward for the European Union?, in Ec Tax Review n° 1/2014, pag. 31

14 It's a classic, because every time that a financial crisis arrives, or better a crisis that hits the financial markets, there is talk about reforms of this market.

15 SEC(2011) 1102 def. e SEC(2011) 1103 def.

16 Even the freedom of movement of capital is an advantage for the economy, but it could result in heavy costs for the real economy, causing sacrifices in terms of production, income and employment. When there is excessive volatility in exchange rates and interest rates, determined by sudden movements of massive capital flows, while being an instrument to promote energy, it could become a powerful boomerang. This is because the financial markets are very unpredictable, due to the speculative component that makes "bubbles" on one side and vertiginous drops on the other, representing a kind of "time bomb" on the real economy (AC Michalos, A tax right: the Tobin Tax, Gruppo Abele, 1997, p. 51 et seq.). The speed of movement of financial capital, made possible by the relatively low transaction costs, creates the conditions for a strong volatility of financial asset prices (and thus interest rates) that interferes, in turn, with the decision-making processes the real economy, hampering and distorting. Therefore, from this perspective, financial globalization requires some form of intervention by the international economies, such as the imposition of any additional cost that reduces the intensity of speculative flows. The cultural roots of the proposed Tobin tax to international flows of capital are so placeable in the Keynesian tradition of those who consider it appropriate to regulate the mar kets and in the specific case "throw sand in the gears" of the too volatile financial markets . In short, Tobin proposes the Keynesian thesis to tie investors more durably to their shares in the stock exchange and slow down speculation, this is because the market does not have the ability to ensurethe balance between supply and demand by itself . Hence, the need for public intervention to support demand, knowing that otherwise the price is excessive unemployment, and that in times of crisis, when demand decreases, it is likely that the

need to "throw a little sand in the gears" of the too "oily" international financial markets and overly efficient and in order to slow the flow of hot money in the very short term, proposed the adoption of a tax on the buying and selling of currency, applicable universally and evenly, with an equal rate of around one percent for all markets[17]. It could be applied to all purchases of securities denominated in another currency - the currency and real currency securities of various kinds. This, therefore, portends that the tax would be paid by each buyer of securities.

The tax on financial transactions as well as curbing financial speculation operating in the short term[18], without affecting the long-term investments, would have preserved and promoted the autonomy of national economic and monetary policies[19].

Tobin acknowledges that the tax would affect both the "fundamentalists" as the "speculators". However, following the Keynesian perspective, he believes that the first have horizons longer than the second, since the incidence of tax on the movement of more pronounced short-term than

reactions of economic operators to falling demand produces the conditions for further reductions in aggregate demand (JM Keynes, op. cit. p 136)

17 The proposal for a financial transaction tax was not new, as James Tobin suggested it in 1972 during the Janeway Lectures at Princeton (published in 1974 as The New Economics One Decade Older) and again reappeared in 1978 on the occasion of His Address to the Eastern Economic Association. He argued that proposal is considered whenever changes are responsible for international monetary and economic turmoil. In his inaugural speech, in fact, Tobin stated that: "the idea fell flat. If I propose it again, it is because the events that occurred later, have strengthened my belief that something must be done. The proposal consists of an uniform international tax on all conversions in the very short term of one currency into another, proportional to the magnitude of the transaction volume. The fee should act as a deterrent to the fluctuations induced by short-term financial transaction returns in other currencies. A tax of 1 per cent, for example, would affect only eight tenths of a point differential on the annual returns of government bonds or euro currency deposits denominated in dollars or marks. The differential corresponds to the maturities of one year would be two-tenths of a point. A permanent investment in another country or currency area, with regular withdrawal of performance when realized, would require a 2% advantage of marginal efficiency on domestic investment. The impact of the tax would be lower for permanent currency movements or for longer maturities "(J. Tobin, op. Cit., P 154 et seq.)

18 "Currently, the power of central banks to take action on global money markets is limited by the fact that speculators have more funds in cash to maneuver, that all the central banks in the world put together. Since central banks should not pay the tax, which would burden otherwisw speculators, the national monetary authorities would draw a double benefit. A lower volume of operations would indeed reduce the amount that a central bank would have to spend to defend its currency "(Ecumenical Coalition for Economic Justice 1995, p. 6)

19 Of the same opinion as Tobin, J. I. Kaul- Langmore, Potential uses of the revenue from a Tobin Tax, in Hag - Kaul - Grunberg, 1996, p. 192;

long-term investments, the effect would be to limit the speculative movements, thus decreasing the volatility of the exchange rate, and preserving the system from destabilizing speculation[20]. In other words, "to the extent that short-term speculative transactions have a destabilizing effect on currency markets, it would decrease the volume of such transactions thereby reducing the fluctuation of exchange rates, which would help to create a more conducive financial environment for the development of the "real" trade in goods and services. The tax would, therefore, constitute a kind of buffer between fiscal economic systems: a government which would be in the need to increase interest rates in the short to defend the exchange rate of its currency could ultimately make a less extensive maneuver than that which would instead be required in the absence of the tax. The recessionary effects of the increase in interest rates would be therefore reduced, to the benefit of growth and employment"[21].

Tobin says that the economies and national governments are unable to cope with the massive movement of funds triggered by international trade, without causing damage to the real economy or significantly sacrificing objectives of national economic policy, such as employment, production and inflation. The possible differences between domestic interest rates, are limited by the strong mobility of financial capital and this causes the central banks and governments to have a reduced ability to pursue the specific fiscal and monetary policies[22] .

So, the problem, is to make sure that governments, in addition to preserving a degree of autonomy over monetary policy, are unified with respect to the markets of goods, labor, capital and fiscal policies. This would

20 The Tobin Tax contains, among other things, some very specific objectives: a) reduction in the volatility of the exchange rate; b) increase the freedom of action of governments and central banks regarding the fiscal and monetary policies; c) achievement of a significant source of income for national and international purposes.

21 G. Altana, Social Affairs International, n. 4, 2000, p. 170. The aim would then be to ensure that capital flows are induced only by differences in real interest rates that reflect a substantial difference in the marginal efficiency of capital. The decline in the exchange rate risk in this way would encourage the transfer of financial resources on a permanent basis or for assets with longer periods of maturity, which are carried out on the basis of preferences of the portfolio and profit opportunities taking into account the fundamental values of the economies (M. Matteuzzi- A. Simonazzi, the Public Debt, Bologna, Il Mulino, 1988, p. 35-39)

22 "Speculation on exchange rate acts the same was, which has serious and often painful consequences on the real domestic economies, by substantial shifts in official activities and due to wide fluctuations in exchange rates themselves. Internal policies are relatively powerless to counteract and reverse these phenomena "(J. Tobin, op. Cit., P. 154)

be useful to implement a single monetary policy.

Therefore, a possible measure could be an internationally accepted uniform tax of around 1%, on all on the spot foreign exchange from one currency to another. This would mean that a three-month sterling Treasury Bill should have an interest rate of eight points higher than a dollar Treasury Bill for it to be convenient for an American who wants to get his dollars back within three months[23].

The idea of the Nobel Prize is that the increase in the volume of international capital flows, pandered by the absence of adequate institutional constraints and a supranational authority with inhibiting powers that can act as lender of last resorts, has exacerbated the overall fragility of the system. In this way, the decentralized decisions of economic policies lead to inefficient results[24] due to the externalities created by interdependence. The high mobility of private financial capital as opposed to low speed of adjustment in the goods and labor that follow the signals of relative prices, slowly adapting to the imbalances between supply and demand, is the fundamental cause of financial instability. To solve this problem Tobin proposed either the adoption of a common currency to coordinate fiscal and monetary policies in a context of economic integration, or the possibility of a wider financial segmentation between countries and currency areas.

With deletions of the different currencies, it would solve both the problems of exchange rate risk, and that of speculative capital movements, originated indeed by expectations of changes in currency prices. But being clearly "utopian", at least in the near future, should not be considered an option to be adopted, because it could be achieved only within limited geographical areas, certainly not on a planetary scale.

The other hypothesis, instead, regarded as the best solution, allows individual public authorities greater decision-making autonomy of the policies adopted for specific internal situations in respect to structured policies for economic institutions and for specific objectives. The means to achieve it would be a tax on international currency transactions[25]. As in global eco-

23 J. Tobin, the Tobin tax why a tax on financial transactions, publication. Mimesisi Heterotopias 2012, p. 60

24 R. Sau, Financial and Real Investments: Some Notes on the Tobin Tax., In Econ. Intern., Vol. XLIX, n. 1, February 1996, p 97-99.

25 According to his proponents of the tax, J. Tobin, op. cit., p 15, since the withdrawal would be commensurated with the amount of currency converted and the expected gain from the transaction currency, if transactions depended on a long-term investment, a tribute like that would represent a negligible extra cost, while in the case of speculative short-term (involving buying

nomic integration, the private financial sector has been the fastest to become globalized, it is necessary to impose some degree of segmentation for inter exchange financial markets .

It must, however, be observe that the noble intentions of introducing a tax on financial speculation can hold[26] (because the important thing is not so much revenue, but the reduction of the base tax), even though right in its intuition, has never been brought to a full feasibility by international institutions, due not only to technical obstacles, but also to vested interests and ideological resistance.

3. THE PROS AND CONS OF THE FINANCIAL TRANSACTION TAX

There is no doubt that there are powerful financial interests against the introduction of the Tobin Tax , such as the great lobbies linked to the major financial centers, such as the ones in New York and London, for example.

In fact, both the United States of America that Britain has always cultivated a keen interest in the search for a measure to allow them to regain more control over their monetary policy.

These countries, in particular, fiercely oppose each other because they fear the physical transfer of financial operations to other countries, especially offshore ones.

Since this is a tax which strongly commits the political and financial aspect of the discussion, it requires first and foremost an agreement which

---

and selling of a particular currency in a matter of minutes, hours or days) it would be contrary to a substantial financial burden (a charge of 1% represents an additional annual cost of an overnight operation of 8.000%, 180% of an operation to a week, 27% a month but only 0.2% in ten years, the calculation is drawn from Eichengreen B. & C. Wyplosz, "The Unstable Ems" in Brookings Papers on Economic Activity I, 1993, pp. 51-145).

26 "The goals that economists, politicians and activists want to assign to the Tobin tax, even beyond the original intentions, are however many. First of all, to the extent that short-term speculative transactions have a destabilizing effect on currency markets, it would decrease the volume of such transactions thereby reducing the fluctuation of exchange rates, which would help to create a more favorable financial environment the development of "real" trade in goods and services. The tax would also serve to create a kind of buffer amid the fiscal economic systems: a government which would be in the need to increase interest rates in the short to defend the exchange rate of its currency could ultimately make a less broader move than that which would instead be required in the absence of the tax. The recessionary effects of the increase in interest rates would be therefore reduced, to the benefit of growth and employment "(G. Altana, op. Cit., P. 171).

is essentially political and financial before being technical.

Also because this kind of tax opens the real possibility of evasion through migration in countries not participating in the international agreement, or the creation of new financial instruments that have the sole purpose of escaping taxation.

Well, Tobin argues that the transfer of financial operations to offshore countries or not subject to tax on financial transactions (FTT) is risky and that "There are significant costs, both fixed, and flexible, to achieve these shifts.

Otherwise, contained wages and low rents would have already offered major opportunities for savings in both expense brokerage, and in existing taxes, and would have attracted many more activities, financial markets and institutions than they have done so far."

In 1996, Tobin returned to the issue believing that this was a false problem and easily arginabile because about "80 percent of total trading in foreign exchange is carried out in seven financially important countries (...) an agreement between the seven on a 'uniform Tobin tax would be enough to keep relatively distant threats of transfer to offshore centers".

In contrast with the point of view of the powerful people in finance, there is the voting public, that by definition would never support the introduction of taxes, it would certainly not object to a levy on business, not only because it would be paid directly by the people, but also because speculators are liked by few.

Moreover, according to Summers & Summers the financial markets are not able to "fulfill their basic social functions: namely, to spread risks, direct investments with scarce capital, and transform and disseminate information held by the various operators (...) a tax on financial transactions is a natural remedy for market inefficiencies (...) encouraging long-term investment (it is hard to believe that investments made in the horizon of a few hours reveal enough socially sufficient information for a market), rather than the short-term one, a transaction tax would help to resolve the conflict, highlighted by Keynes, between investment strategies, privately and socially desirable.

Tobin tax opponents argue that among the persons affected by such a tax would be workers, because of low returns on pension investments. Since institutional investors (eg, pension plans) are used to hold a large proportion of financial stocks for a long time, there may be a slower progressivity of the Tobin Tax.

Proponents of the tax on financial affairs are of different opinion, and consider it unlikely that the mere presence of such a tax can lead to differences in the returns of pension funds.

Certainly such a tax will find resistance among bankers or among those who would be required to pay it. These will definitely oppose and perhaps even with success, given their political importance in respect to any group in the world. In fact, they exert a considerable influence on the central bankers and the heads of the monetary bodies and financial affairs.

According to a doctrine very close to bankers, the introduction of such a tax would even cause such high unemployment that it would lower the gross national product of a substantial amount, with a negative impact on the budget deficit.

As argued by other doctrine, such a study is flawed from outset because it takes no account of other information, because “To say that taxes on security transactions would depress the market, means relying on studies that do not take into account information to investors and better business performance that would result from the reduction in the volume of security transactions “

One criticism that was moved and that certainly is moved even now, among others, is that “Financial engineering would allow you to easily create financial products that allow, in turn, to avoid transactions in foreign exchange markets, and thereby bypass the tax”. It is a false problem, as any tax as well as not be digested is always susceptible to evasion and avoidance.

CHAPTER II

"FROM THE PROPOSED EU DIRECTIVE TO THE VERDICT OF THE COURT OF JUSTICE: A POLITICAL PROBLEM"

1) TOWARDS THE F.T.T.

The old continent, for better or for worse, always manages to have a pre-eminent position of originality in the international arena. It did so in the aftermath of World War II with the creation of the European Economic Community, and then with the Maastricht Treaty by introducing a common currency: the Euro, can certainly be defined as the greatest experiment in regional cooperation ever known, even though in recent years it has not had an easy life, creating a strong contrast among the Northern and Southern states, due to the consequences of the 2008[27] crisis. As the crisis persists, the Heads of State and Government of the EU do not want the collapse of the Eurozone, and consequently the EU in general, therefore they are adopting various measures to stem the crisis (which is purely financial) . One of these measures is the tax on The financial transaction tax (FTT)[28].

27 See note 15

28 The financial transaction tax (FTT) could constitute a new stream of revenue, as to reduce the present contributions of the Member States, give Member States greater room for maneuver and contribute to the overall effort of fiscal consolidation. Although some form of taxation on financial transactions already exists in some Member States, the analysis has also made it clear that action at EU level could be more effective and efficient than an operation conducted in an uncoordinated manner by the Member States , given the volume of cross-border activities and the

Indeed, the debate on the adoption of the FTT has always been very lively and has always had as its main opponent Britain.

The European Commission suggested the introduction of a form of taxation on financial transactions on the financial sector for the first time in a communication of 7 October 2010[29], inferring the opportunity in the view of:

1) improving the efficiency and stability of the financial sector, so as to discourage risky assets and establish, at the same time, a new source of revenue;

2) its equitable participation in the consolidation of public finances, in consideration of the support received by some governments as a result of the recent crisis;

3) an appropriate liability to taxation on financial transactions of business largely exempt from value added tax (art. 135, para. 1, Directive 2006/112 / EC).

Subsequently, the Commission, in its Communication on "Review of the EU budget"[30] [31] further speculated that the financial transaction tax could constitute - wholly or in part - a new resource of its own, to be introduced in the Union European budget which would gradually replace national contributions, relieving the burden on state budgets.

Before reaching a decision, the Commission[32] launched a public con-

considerable mobility of tax bases. Moreover, this tax could help reduce the current fragmentation of the internal market. This EU initiative would be a first step towards the application of a FTT at global level (1.4.3 of the financial and legislative attached to the European Council Regulation).

29 COM (2010)549 def.

30 COM (2010) 700 def. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the national parliaments, "Review of the EU budget", of 19 October 2010.

31 COM (2011) 510 def. Proposal for a Council Decision on the system of own resources of the European Union, of 29 June 2011

32 At the meeting of the European Council of 11 March 2011, the Heads of State and Government of the Euro zone agreed that "the introduction of a financial transaction tax should be examined and developed further at euro zone, EU and international level ". The next European Council of 24 and 25 March 2011 reiterated its earlier conclusion about the need to explore and further develop the opportunity of introducing a financial transaction tax.
On 10 and 25 March 2010 and 8 March 2011 the European Parliament adopted three resolutions inviting the Commission to carry out an assessment of the FTT, analyzing advantages and disadvantages.
Parliament also asked for the potential of FTT options to contribute to the EU budget to be exam-

sultation from 22 February 2010 and ended April 19, 2011 which was attended by numerous subjects also institutional ones. From the document[33], we highlight differing views of the participants: tending hostile public bodies, such as Great Britain; financial, consulting and business organizations that are clearly contrary; non-governmental organizations, trade unions and generally favorable citizens[34].

On September 28 2011, The European Commission, adopted the proposal for a Council Directive on a common system of financial transaction tax, at the conclusion of the consultation, and after laying out the pros and cons of a financial transaction tax, even in the wake of the resolutions of the European Parliament[35].

The Commission's decision was dictated by the need to recover the costs of the crisis to an industry that, indirectly benefited from the aid granted to certain financial institutions. Moreover, if we take into account the so-called principle of "he who pollutes pays", it is also justified by the request for a further contribution of the financial sector to the public budget to cover the costs of future crises that go beyond the resolution mechanisms.

2) FROM THE PROPOSAL FOR A DIRECTIVE TO THE VERDICT OF THE COURT OF JUSTICE. EUROPEAN HARMONIZATION

In the introductory part of the proposal for a directive on the introduction of a financial transaction tax, the Commission stated that "The recent economic downturn and financial crisis has had a considerable impact on the economies and public finances of Member States. The financial sector was a major contributor to the economic crisis, while governments and European citizens have borne the cost. In Europe and internationally it is generally considered that the financial sector should contribute more fairly given the costs related to the management of the crisis and the current insufficient industry sector taxation. Several EU Member States have already

---

ined and to be used as innovative financing mechanisms to help countries in the developing world to adapt to climate change and mitigate them, as well as to finance cooperation development.

33 http://ec.europa.eu/taxation_customs/common/consultations/tax/2011_02_financial_sector_taxation_en.htm

34 Among the Italian contributions were those of the Regional Council of Piemonte (favorable), the CGIL, CISL and UIL (favorable), Intesa San Paolo and the ABI (contrary).

35 COM (2011) 594 def. This is accompanied by two additional documents that provide the impact assessment: SEC 2011) 1103 def., Also available in Italian, and SEC (2011) 1102 def., In English, composed of more than 19 volumes.

taken divergent initiatives in the taxation of the financial sector"[36].

In the perspective of the Commission, the proposal aims to establish a common European approach towards the issue compatible with the internal market, in addition to greater security of financial services in order to deal with any high-risk behaviors that may occur in some segments of the financial markets and also to avoid the present problems of the past.

In its proposal the Commission raises a number of reasons (including on the basis of the resolution of the European Parliament and the European Council on impulses[37]), ranging from the ability to finance the Community budget, thus reducing the contribution of the United States, the improvement of supervision of the financial sector, the strengthening of financial institutions, the increase in the safety and transparency of financial markets and greater protection of the users of financial services.

In addition, the proposal from the Commission says, that this tax would represent a first step to:

– avoid fragmentation of the internal market for financial services, given the increasing number of uncoordinated national tax measures, currently in the launch;

– ensure a fair contribution of the financial institutions to cover the costs of the recent crisis, as well as equal conditions with other sectors in terms of tax[38];

– create appropriate disincentives for transactions that do not contribute to the efficiency of financial markets by integrating regulatory measures aimed at avoiding future crises.

The intent of the Commission first, and then of the European Council, was to avoid distortions caused by tax rules established unilaterally by Member States, given the extremely high mobility of most potentially taxable transactions.

In fact, only a unanimous initiative of the Union can avoid fragmentation of financial markets at the level of activity and ensure fair treatment of EU financial institutions, in addition to the proper functioning of the internal market.

Unfortunately, after several meetings, the Council came to the conclusion that the common system of financial transaction tax (FTT) pro-

36 COM(2011) 594 def. 28.9.2011

37 See note 40

38 Most financial and insurance services are exempt from VAT.

posed by the Commission did had not received unanimous support. So on June 29, 2012, the European Council concluded that the proposed directive would not have been adopted within a reasonable time. At the Council meeting of 10 July 2012, referring to the persistence of fundamental differences of opinion with regard to the necessity to establish a common system of FTT at Union level, confirming that the principle of a harmonized tax on financial transactions wouldn't receive an unanimous support at the Council meeting in the nearest future.

According to the request of some Member States, that announced their intention to establish the enhanced cooperation among themselves in the field of the FTT[39], in respect of the proposal of the Commission Directive of 28 September 2011, the European Council of 22 January 2013[40], authorized the request of the eleven Member States to establish enhanced cooperation amongst themselves[41] for the establishment of a financial transaction tax.

Great Britain[42] has manifested its opposition to the introduction of the

39 11 Member States such as Belgium, Germany, Estonia, Greece, Spain, France, Italy, Austria, Portugal, Slovenia and Slovakia, through letters sent to the Commission, between the 28th of September and the 23th of October 2012, expressed their intention to use a reinforced cooperation for the purposes of FTT introduction.

40 Decision of the European Council 2013/52/UE.

41 "The enhanced cooperation is a decision-making procedure governed by Article 20 of the Treaty on European Union (TEU) and Articles 326 and subsequent of the Treaty on the Functioning of the EU (TFEU). This procedure allows the Member States participating (with a minimum threshold set by the Lisbon Treaty of nine Member States) to organize stronger cooperation on certain matters that do not fall within the exclusive competence of the Community. The partnerships' aim is to strengthen the Union's integration process without damaging the internal market and economic and social cohesion. Furthermore, these, cannot constitute a barrier to or discrimination in trade between Member States, nor can it distort competition among them "(Article 326 TFEU).
Finally, cooperation is open to the participation by all Member States at the time of being established and at any time thereafter provided that the Member State wants to join it in conformity with decisions taken in the framework of enhanced cooperation.

42 In a statement to the BBC, the British Prime Minister David Cameron said: "France can do as it wants. If the French want to introduce a financial transaction tax in their country, they should be free to do it. But the idea of a new European tax, when that same tax will not be introduced in other places, in my opinion, is logical and it will be blocked "(http://www.repubblica.it/economia/2012/01/08/news/ cameron_tobin-tax-27759923 /). History teaches us that there has never been great "feeling" between Britain and France. Following the entry of Britain into the European Union which took place on January 1, 1973, the friction between these two countries continued to sharpen until the introduction of the Single European Act which occurred in 1986, thanks to the then President of the Commission, Jack Delors. Until then, the UK had strongly objected to

FTT (favorable only if the Tobin tax were to be applied universally across the world. Pure utopia) in every forum ,so as to appeal to the opposition before the Court of Justice against the decision of the Council of 22 January 2013. One of the reasons argued[43], is that the adoption of the Tobin tax has extraterritorial effect[44] by virtue of the "principle of party" and the "principle of the place of issue" and, for that reason, it does not comply with the provisions of the TFEU. The extraterritorial effects, thereafter, according to the United Kingdom, do not find justification in any tax rule permitted by international law, according to which legislation can produce extraterritorial effects " only on condition that between the facts or the subjects and the State that has responsibilities towards them there is a connecting element so narrow as to justify an encroachment on the jurisdiction of another sovereign State "[45]. According to the applicant, therefore, the Council's deci-

---

the CAP (Common Agricultural Policy) for budgetary imbalance generated by the greatest benefit conferred upon France. In particular, "At the time of its accession, in a particular situation, Britain was characterized by: on the one hand, an undeveloped agricultural economy and a consumption of agricultural food products largely oriented towards the import from the third country resulting in modest Community agricultural expenditure for the UK; on the other, by a strong contribution to the financing of the Community budget resulting in particular from the high VAT in respect to the GNP of the country "(EM Piccirilli, The financing of the EU budget, in Right of public finance by Luciana Di Renzo , ESI, 2008, p. 204 et seq.). Notorious, in this regard was a phrase by British Prime Minister, Margaret Thatcher, at the Dublin Council of 1979 who made her intentions very explicit the of her position: "I want my money back." " From 1974, this structural imbalance of the financial relationship between the Community and United Kingdom became an important element in the EU policy debate, as to be at the origin of the 1975 British referendum on membership of the United Kingdom to the Community" (L . Di Renzo, Policies and National Institute of Public Finance and the European Academy School, Naples, 2007, p. 115). The conflicting issues were resolved with the introduction of the so-called compensation mechanisms. A first mechanism was adopted by the Council of Dublin in 1975. Subsequently other mechanisms were adopted which sought to offset the distortions in prior periods. For further reference, L. Di Renzo, op. cit. p. 116 3 ss.

43 In Case C-209/13, the United Kingdom bases its action on two grounds: The first alleges infringement of Article 327 TFEU and customary international law, as the contested decision authorizes the adoption of a FTT that will produce extraterritorial effects; the second, submitted in alternative, alleges infringement of Article 332 TFEU, since that decision authorizes the adoption of a FTT that will impose costs on Member States not participating in enhanced cooperation (v. Court of Justice's judgment April 30, 2014).

44 Article 3 of this proposal, entitled 'Scope', paragraph 1 provides: 'This Directive applies to all financial transactions, provided that at least one of the parties in the transaction is established on the territory of a participating Member State and that the transaction takes part in a financial institution established in the territory of a participating Member State, acting on their own behalf or on behalf of another persons, or on behalf of a party in the transaction. "

45 M. Ingraffia, The Tobin tax that likes to eleven not be processed before birth, in Treasury

sion would allow the establishment of a FTT applicable also to corporate bodies, persons or facilities located on the territory of Member States not participating, thus causing prejudice to the powers and rights of the latter.

The Court rejected the appeal, arguing, among other things, “that the contested decision is to authorize eleven Member States to establish enhanced cooperation between themselves for the establishment of a common system of FTT, in compliance with the relevant provisions Treaties. The principles of taxation disputed by the United Kingdom, however, do not represent constituent elements of that decision. On one hand, the “principle of the counterparty” corresponds to an element of the proposal of 2011 mentioned in paragraph 6[46] of that decision, on the other hand, the “principle of the place of issue ‘was formulated for the first time in the proposal of 2013 “[47].

The Court of Justice considered that the reasons given, at this stage, are purely hypothetical elements of legislation that remains to be defined and considering the extraterritorial effects of future premature and speculative FTT it, in fact leaves the possibility that the United Kingdom[48] will repeat this action in the near future[49].

Today online magazine, May 2, 2014

46 “Given the situation, eleven Member States, namely Belgium, Germany, Estonia, Greece, Spain, France, Italy, Austria, Portugal, Slovenia and Slovakia, have provided the Commission with letters received between 28 September and 23 October 2012, requirements which manifest the intention to establish enhanced cooperation between themselves in the area of FTT. These Member States requested that the scope and objectives of the enhanced cooperation is based on the proposal of the Commission Directive of 28 September 2011. Particular reference was made to the need to avoid the possibility to evade taxation, distortions and transfers to other jurisdictions.“

47 Court of Justice sentence of 30 April 2014, Case C-209/13.

48 Indeed, Britain has also protested against the discrimination that the tax would produce, why penalize, it stated, the British companies that rely on French or German banks. The issue has been put aside for now by the Court of Justice, waiting for another round when the tax will actually be introduced in the euro zone (v. Judgment referred to in note 55).

49 “Later, it states that if the subject of the appeal was the annulment of the decision of the Council (authorizing enhanced cooperation), the Court should rule on the validity of that decision in the light of the provisions governing the cooperation in question, verifying compliance with the assumptions and procedures of authorization. That review, however, should not be confused with the one exercised against an act adopted to implement the enhanced cooperation authorized.
In the examined case, with the first complaint are disputed the effects that the application of certain principles of the future FTT could be produced outside the territories of the participating countries. In this regard, the Court states that the contested decision in fact, authorizes Member States that have requested to establish enhanced cooperation for the establishment of a common system of FTT. The principles have been challenged by the United Kingdom, however, they are not con-

Thus, despite the strong opposition of some European countries[50] and the non-application of the FTT in a very wide area, as advocated by its author, the Tobin tax is ready to go. In fact, at the Ecofin meeting of 6 May 2014, the Ministers of Economy and Finance of the member countries have a accelerated the birth of the financial transaction tax. The eleven countries that have given rise to increased cooperation, including Italy, have decided to start the tax from January 2016.

This decision came in the aftermath of the statements made by the European Commissioner for Taxation, Algirdas Semeta: "The Commission has always maintained that the enhanced cooperation on the Tobin tax was legally sound and the Court confirmed it."

stitutive elements of the contested decision, but elements of the proposal of 2011, the so-called principle of the counterparty, and the proposal of 2013, the so-called principle of the place of issue (M. Ingraffia, op. cit.).

50 Besides the United Kingdom, which as we have seen has appealed to the Court of Justice without results, serious concerns were expressed by the Netherlands and Sweden. In a statement, the British finance minister George Osborne said that "There should be no impact on the UK, otherwise we'll contrast this with legal action." The Dutch Finance Minister Jeroen Dijsselbloem explained that the Netherlands "are not in a position to sign this agreement," since it is based "on a minimum compromise and that is not clear on the timing and the exact extent of the tax." Similar words are echoed by Swedish Finance Minister Anders Borg: "It is hard to understand the logic of this tax." So the battle is yet to come.

CHAPTER III

"THE TAX TO FINANCE THE BALANCE OF E.U."

1. THE FINANCING EVOLUTION OF THE EU BUDGET

The Community budget, and in particular its funding system, is the most original aspect of the European Union: from the onset of the community to this day the financing of the budget has undergone several changes resulting in the suggestion of the establishment of a Community tax.

With the Treaty of Paris of 18 April 1951 establishing the European Coal and Steel Community, the tax community was given a real role, as the budget was financed by a levy on the production of steel. To this levy, which might rightly be defined as a first community tax entry, was added the interest received from its own funds, investments, reserves and other revenue[51].

The Messina Conference[52] of 1955, which started in a not so hap-

51 The Treaty establishing the CZECH (European Coal and Steel Community) was signed in Paris on 18 April 1951 and entered into force on 24 July 1952. The common market under the Treaty was opened February 10, 1953 for coal and iron and May 1st 1953 for steel.
The treaty had a duration of 50 years and ended on July 23, 2002. The CZECH later became the European Union. CZECH Commentary, edited by R. Paintings - R. Monaco - Trabucchi A., Milan, 1970.

52 From the 1st to June 3, 1955 the conference of foreign ministers of the European Coal and Steel (CZECH) was held in Messina (and Taormina) - convened by the Italian Foreign Minister Gaetano Martino - with which he began the procedure which blossomed with the signature in Rome on 25 March 1957 of the Treaties establishing the European Economic Community (EEC)

py climate due to the almost concomitant rejection of the EDC (European Defence Community) agreement by the French Parliament, concluded its work with a "resolution" which is known as the Declaration of Messina, through which the six countries enunciated a set of principles and intentions towards the creation of the European Atomic Energy (or Euratom) Community and of what became, in the space of two years with the signing of the Treaty of Rome in 1957, the European Common Market (MEC, then EEC and then the European Union). Given the vastness of the goals the Conference set itself, the representatives were reluctant to grant, from the outset, the financial autonomy in terms of own resources which CECA was already using[53].

The Treaty of Rome of 25 March 1957[54], establishing the European Economic Community, established that the budget had to be financed by national contributions for a transitional period, while providing for, ac-

---

and the European Atomic Energy Community (Euratom). Participants at the conference were, the foreign ministers of the six founding countries, Gaetano Martino for Italy, Jan Willem Beyen for Holland, Antoine Pinay for France, Joseph Bech for Luxembourg, Walter Hallstein for the Federal Republic of Germany and Paul-Henri Spaak for Belgium. EEC Commentary, edited by R. Paintings - R. Monaco - Trabucchi A., Milan, 1965. GP Orsello, op. cit., p. 69 et seq.

53 Art. 49 of the Treaty of Paris sets out the funding sources available to the CZECH: levies on the production of coal and steel, loans, and how much it receives free of charge. No doubt that its most important character is that it gives the High Authority the power to obtain the necessary funds to carry out its mission by itself, thus ensuring financial autonomy. The Treaty of Paris certainly has a more pronounced supranational character of the Treaties of Rome, and as evidence a taxation was adopted, considered the first Community tax. Indeed, the power of taxation would not have got to where it is, if it had not been assigned to the High Authority in the exercise of certain skills before government subjects and if it had not been given the right to intervene directly on coal and steel businesses. Without these tasks of public authority and that there were no persons to whom they applied directly to the decisions of the High Authority it would have been inconceivable to establish and collect any tax. J.P. Monnory, The power of taxation provided for by art. 49, CZECH Commentary, edited by R. Paintings - R. Monaco - Trabucchi A. Milano, 1970, Volume II, p. 654.

54 The purpose of the Treaty of Rome was to create a common market that favored the balanced development of all the member countries. It was a party to initiate negative integration, breaking down all obstacles which prevented free trade between one country and another. On the other hand if the integration process had stopped there, it would not have gone beyond the mere area of free trade, where, however, the imbalances between the regions are likely to increase due to the sudden fall of protectionist barriers. For this reason, and especially at the insistence of Italy, the measures of negative integration were accompanied by positive integration, i.e. times to actively intervene in certain sectors in order to develop a genuine internal market by ensuring a balanced development in every region. For more discussion EEC Commentary, edited by R. Paintings - R. Monaco - Trabucchi A. Milano, 1965.

cording to the original version of Article 201 of the Treaty, which "the Commission should examine the conditions under which the financial contributions of the Member States under Article. 200 could be replaced with own resources, and in particular with revenue from the Common Customs Tariff after the definitive establishment of the latter. For this purpose, the Commission presented proposals to the Council"[55].

The treaty contemplated the payment of national contributions, as well as the possibility of replacing them with their own resources. These contributions were fixed as a percentage of budget expenditure, with a different allocation between the Member States, depending on whether it concerned financing administrative spending or operating spending (at the time, it was essentially about research expenditure and social funds).

In 1965, with the Treaty[56] for the merging of executives, the EEC budget was integrated with the administrative budgets and the functioning of CECA and Euratom and the same time, trying to transfer customs duties and agricultural levies ("natural "own resources because drawn from the Community policies: customs Union and Common Agricultural Policy)[57]

55 The article proposes, without much depth, the problem of ensuring the Community's own resources to replace the contributions of Community Members. In fact, the obvious appeal to the contributions of the Member States, as a means of financing Community expenditure - certainly essential in the initial phase of life of the institutions - places, though, or can place the Community in a condition of dependence on the States and hinder its action of interstate coordination.
Precisely to avoid this, art. 49 of the Treaty establishing the CZECH foresaw that the High Authority raise the funds needed even by a levy on coal and steel. Stammati G., Financial provisions, in Commentary EEC by Paintings R. - R. Monaco - Trabucchi A. Milano, 1965, Vol. III, p. 1471 et seq.

56 On April 8, 1965 was signed the Treaty establishing a single Council and a single Commission (Merger Treaty of the Executives). Entered into force in July 1967. The three original communities - CZECH, EEC and EAEC - remain, however, distinct. 1st President of the Unified Commission Jean Rey. The Permanent Representatives Committee in the Council, COREPER was established, composed of the diplomatic representatives in the Community. F. Lauria, The European Union, Torino, 1996.

57 These two resources, known as the traditional own resources, represent the most complete expression of the acquired capacity of taxation of the Union. The decision to transfer these revenues to the community was dictated by the realization of a common internal market of goods (Art. 9 and following the EEC Treaty). The imposition of duties on imported goods passes from national responsibility to the community. The same logic is applied to agricultural levies at European level, as the EEC was going to implement a common agricultural policy and then passed withdrawals of Community competence. 'Customs duties consist of the income obtained by applying the Common Customs Tariff to products imported from third countries. Their total value depends directly on the volume of the imports and the degree of protection agreed to domestic production. The rates adopted were changed constantly over the years, with a downward trend as a result of

set out in Article 201 of the Treaty[58]. The aforementioned attempt failed due to the French opposition.

The "crisis" that followed was resolved a year later by the famous Luxembourg compromise[59], but the 1966 target date for the changeover to

negotiations under GATT and specific agreements regarding the application of tariff preferences to certain trading partners. Agricultural levies are levies on imports of agricultural products covered by the common market and which come from third countries; they allow you to make up the difference between world prices and the prices established within the CAP for different products, in accordance with the principle of Community preference. Their value is highly variable and depends on the fluctuations in world agricultural prices and the degree of subsidization granted to domestic production: the more the agricultural support tends to move from prices directly to income, the lower will be the amounts derived from agricultural levies. Customs duties and agricultural levies are assessed collected by Member States, which hold 10% of the total amount of expenses. "A. Zatti, Financing the European Union and the system of own resources, Verona, 2002, p. 9; M. Udina, Free movement of goods, in Commentary EEC by Rolando Q. - Monaco - Trabucchi A., Milan, 1965, vol. I, p. 77; M. Romoli Venturi, Customs Union, in Commentary EEC by Rolando Q. - Monaco - Trabucchi A., Milan, 1965, vol. I, p. 90; M. Panebianco, fixation of the Common Customs Tariff, in Commentary EEC by Rolando Q. - Monaco - Trabucchi A., Milan, 1965, vol. I, p. 126.

58 Article 201 of the Treaty of Rome in 1957 states: "The budget, without prejudice to other revenue, is financed wholly from own resources. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, set out provisions for autonomy, that binds certain types of entry to the EU budget. "http://europa.eu/

59 On June 30, 1965 began the French policy of the empty chair ("chaise vide"). Following the European Commission's proposals on the financing of the Common Agricultural Policy (CAP), on the creation of a system of Community own resources and the strengthening of the powers of the European Parliament, France abandoned its place in the Council, effectively blocking all decisions. On January 29, 1966 the so-called "Luxembourg compromise" was born. It ended the crisis triggered by the French policy of "Chaise vide." It was decided that the principle of unanimity would replace that of majority whenever important interests were at stake even for only one of the Member States. It was called "the agreement of disagreement." "The conduct of the Council of Ministers of 28 to 30 June was the subject of careful and interested reconstruction of the parties in conflict. For two days they confronted the opposing intransigence of, (above all)the Netherlands, Italians and Germans on one side and French on the other (while Belgium and Luxembourg, while closer n respect to the first three, maintained a less controversial profile to France). The Five wanted - beyond marginal distinctions between them - that the package of Commission proposals were examined and decided in block, while accepting the establishment of a timetable for discussions to be held the following weeks or months; the French aimed chiefly to the financing of the CAP by 30 June, and were willing to limited concessions with respect to trade policy and the inclusion of industrial tariff, but did not intend to even discuss the institutional changes related to direct revenue, which they believe were to be the subject of new negotiations after 1970. Shortly after midnight on 30 June, the Foreign Minister Couve de Murville, president, on the recommendation of the Elysée, did not agree to the possibility to stop the clock for a new 'marathon' to be held the following days (the perspective supported by Cinque and Hallstein), and declared the dissolution of the summit for the inability to reach an agreement on the financing of the CAP by 30 June. This

a system of financing that would guarantee some measure of independence and financial autonomy to the Community, was not respected.

The creation of the internal market, the implementation of common policies and the affirmation of the personality of the Autonomous Community in relation to third countries, led the precursors of the EU to implement its own financial resources independent of Member States.

With the launch of the Customs Union as of 1 July 1968[60] and later with the Hague summit in 1969, the Heads of State and Government, in

decision prevented him from addressing the proposals of Titles II and III on the EU own resources, majority voting, the strengthening of parliamentary powers and the amendment of the Treaties. It was simply not mentioned. The next day in the newspapers stood out the news that highlighted (with obviously different accents depending on the country) how the French, remained isolated in their demands for a simple refinancing of CAP for the period of the third phase of the transitional period, had imposed their will. It was a real fiasco, although no one formally spoke of a breach of community covenant, but only of a suspension of the work of the Council. However, on July 1, the French Information Minister, Alain Peyrefitte, made public a statement by the government that France, acknowledging the breech promises of the partners, drew all the consequences from the failure of the summit and that there would be other meetings of the EEC Council in July. The next day, almost in response to the French accusations, the Commission spokesman said - on the basis of precise references to Regulation No. 25 and TCEE - that in the preparation of proposals had strictly adhered to the mandate received on December 15, 1964. On July 5, Paris ordered its ministers and technical bodies to abstain from participation and the on 6 July recalled, Jean-Marc Boegner, its permanent representative to the EEC. Thus began the policy of "chaise vide," which, in fact, especially concerned the ministers and members of the Marjolin Rochereau Commission. From the surveys carried out by the Executive Secretariat emerged indeed that the French members of office, commissions and committees, especially in agricultural maters and in those in which national interests were involved, continued to be "physically present", taking the word but not casting votes. The issue of the validity of the sessions of the organs in the absence of a French representative was immediately raised, to which a definitive answer in legal terms was not given, hoping instead all the rapid return to normal. "Malandrino C., Beyond the Luxembourg compromise towards a federal Europe. Walter Hallstein and the crisis of the "empty chair", (1965-66), 2002, n. 27. http://polisunipmn.it/., P. 33 et seq.

60 18 months ahead of the deadline, Customs Union between the CEE countries came into effect. It established the Common External Tariff (TEC) or Common Customs Tariff (CCT) which is published annually in the OJ. Subsequently, a "Community Customs Code" was also formulated. The EEC Treaty abolished customs duties between States and quotas for exchanged goods. It established a common external tariff, to replace the previous rates of the various states, a sort of external frontier for products from third States. The customs union is accompanied by a common trade policy, conducted at Community level and no longer state level that differentiates the customs union by a simple association of free trade. During the transitional period the effects of the dismantling of customs and the abolition of quantitative restrictions on trade are very positive and offer substantial development of intra-Community trade and EEC trade with third countries. Udina M., op. cit., p. 77 et seq .; M. Romoli Venturi, op. cit., p. 90 et seq .; M. Panebianco, op. cit., p. 126 et seq.

the commitment to infuse new life to the Community after some years of difficulties (due to the Gaullist politics of France), decided to continue the change under the motto "enlargement / completion / depth."

The various political negotiations that arose, led Union precursors to push the community, at the Luxembourg Council of 21 April 1970, to make a decision[61] essential for financial independence.

The discipline of all aspects relating to the new financing system culminated in the Treaty of Luxembourg [62], according to which it was decided to finance the budget with own resources and to expand the powers of the European Parliament (not yet elected) that from the onset of the Treaty was invested with the power to reject the budget in its entirety. It also approved the gradual introduction of a system of own resources.

The goal was to fully finance the EU budget with the following resources: agricultural levies, contributions on the production of sugar and isoglucose[63] and customs duties levied at the external borders of the Community as well as a percentage of the taxable amount of VAT collected by States. Another temporary, degressive resource was also foreseen: direct contributions from national treasuries.

The first two resources, known under the name of traditional own resources, are the most complete expression of the acquired capability of

61 Before the own resources decision. Decision of the Luxembourg Council of 21 April 1970 n. 70/243 / CZECH, EEC, Euratom on the replacement of financial contributions from Member States by Communities own resources, in OJ L 94 of 28 April 1970.

62 The Treaty of Luxembourg, entered into force on 1 January 1971, noticeably changing the Treaty of Rome of 1957, providing for, among other things, the unification of the Commission and the Council of the three Communities (EEC and EURATOM CZECH) initially imposed and the attribution of a financial Control Assembly (primal designation, formally in force until 1986. But the Assembly appointed itself "European Parliament", without being reflected in formal legal acts, since 1962). http://europa.eu/; D. Strasser, The finances of Europe, Brussels, 1979, p. 127.

63 The sugar Levies are different in nature as they concern the companies in the sugar sector that make Contributions to cover the cost of market support (subsidies on production) or to Ensure regular sugar disposal. The Contributions to the production of isoglucose was Introduced by Regulation No. 1111/77 of 17 May 1977. They have the same function of sugar Levies (Although isoglucose is not an agricultural product); Their legality Has Been Questioned several times but after the Judgments of the Court of Justice of 30 September 1982 in Cases 108/81 and 110/81 and the adoption of Regulation No. 387/81 of 10 February 1981 Amended Regulation No 1111/77 ° , are Considered authentic samples. These Contributions finance the equalization system That Ensures the regular disposal of sugar for the Entire campaign. Again it comes to payouts closely linked to the characteristics of the intervention policy and tendency to decline the reform of the CAP. P. Schmidhuber, Public Finances in the community, Brussels, 1989, p. 58; A. Zatti, op. cit., p. 9.

taxation of the Union.

The choice of customs duties as own resource was farsighted and significant: the EEC in 1968 successfully adopted a common external tariff for the realization of a internal common goods market.

Therefore, the imposition of duties on imported goods ceased being a national responsibility and became a Community competence. The application of agricultural levies at European level was subject to the same logic. The VAT resource[64] had a marginal role, because it served to finance the part of the expenditure which was not funded by other resources. However, for its recovery at European level, , it was first necessary to wait for the harmonization of the VAT base in different Member States which was accomplished with the introduction of the Sixth (1977) VAT Directive[65]. The fourth resource was nothing more than one brought forward from the

64 VAT resource derives from the application of a uniform rate to the base tax of value added of the individual Member States, calculated on the basis of a common methodology, established by Community rules. This calculation is basically done on the basis of net revenue collected for this purpose by each country in the course of a year, divided by the pondered average rate, which represents, the pondered average of the different tax rates applicable to transactions subject to non-deductible VAT, for each Member State. Using the pondered rate allows not to weigh too heavily on those states that apply higher overall rates. It remains clear that the burden of each state, regarding Community funding, is directly linked to the real consistency of the base (depending on the value of total consumption of households), but also the efficiency of the Administration in suppressing fraud and avoiding evasion: the less skilled Countries in this are seen to be in fact attributed lower payment shares. The initial objective of the Commission (COM (88) 99 def.) To make the VAT resource a truly European resource, with an important political and psychological impact and that can provide a source of Community funding, while establishing a direct link between the European taxpayers and the Community budget, essentially failed. The method of calculation used means that, as highlighted by the European Court of Auditors, in Special Report 6/98 concerning the assessment of the system of resources based on VAT and GNP published in OJ C241 July 31, 1998, the contribution has still characteristics of a national contribution, levied directly on the member States, without a direct link with the taxpayer. A. Zatti, op. cit., p. 10.

65 The harmonization process began in 1967 with the enactment of the first two directives (No. 67/227 and No. 67/228) by the Council of the EU, containing the rules and the basic criteria to inform the common system of value added tax. Later, as the two directives did not fully govern the system of value added tax, a VI Directive (Directive No. 388 of 17 May 1977) was enacted in order to complete the harmonization process, complete the creation of the single market and succeed in abolishing tax exemption of import and export. The Sixth Directive as well as outlining the basic principles at the base of the common system, defines the precondition of the tribute and taxables, the tax base, the criteria for determining the rates, taxable transactions and special exemptions, deductions with respect to the rule of the pro-rata, obligations for the debtor and the arrangements provided for certain subjects or areas of activity. P. Filippi, the value added tax, in the Treaty of Tax Law by A. Amatucci, Padua, 1994, p. 217 et seq.

previous system[66]. The application of the provisions of the Decision of 21 April 1970 has been total since 1980. Until 1979, the financial balance of the general budget has been guaranteed by the contributions transient and decreasing of the Member States.

The legal, political and institutional balance of the financial regime of the Community reached in the mid-seventies proved inadequate in the following decade. In that period, increasingly high tensions were manifested , which gradually lead to a crisis. Between 1980 and 1988 the operation of the decision-making process on the budget became extremely difficult and there were many incidents: the Court of Justice[67] was called upon sev-

66 Council meeting in Luxembourg on 21 April 1970 Decision 70/243 / CZECH, Euratom. On the system of own resources of the Community.

67 Judgment of the Court of Justice of 27 September 1988, Case 302/87. European Parliament v Council of the European Communities. Legitimacy of the European Parliament to bring about action of annulment. Summery: 1. Parliament cannot be attributed to bring about action for annulment under Article. 173, paragraph 2, of the Treaty. Art. 173 contrasts the right of action of the institutions, governed in the 1st paragraph with the right of appeal of the individual, people and legal entities, which determines the conditions in the 2nd paragraph. Parliament, which is one of the institutions of the Community listed in art. 4 of the Treaty, is not a legal person. Apart from that, the structure of Article. 173, paragraph 2, would still be unfit for action of annulment of the Parliament. The applicants in art. 173, 2nd paragraph, should in fact be directly and individually interested in the content of the act. It is not the content that is likely to damage the Parliament, but the failure to comply with procedural rules which require its involvement. On the other hand, Article. 173, paragraph 2, refers only to a limited class of acts, i.e. individual acts, while the European Parliament seeks recognition of a right of action against acts of general application. 2. Parliament has been given, as in Article. 175, paragraph 1, of the Treaty, the right to determine the deficiency of the Commission or the Council and thus to stop the paralysis of decision-making devices that could prevent it from exercising its powers. Parliament should not be given the right for annulment. There is no necessary link between the action for annulment and the action for failure. This is presumed from the fact that the action for failure allows the Council to provoke the adoption of measures which cannot always be challenged by an action for annulment. For example, unless the Council submitteds a draft budget, the Parliament can obtain a judgment declaring the failure of the Council, while the project which is a preparatory measure cannot be challenged under Article. 173. 3. The refusal to act, albeit expressed, which will be followed by a formal notification to the Council or the Commission under Article. 175 of the Treaty, may be subjected to Court pursuant to that article, because it does not put an end to the failure. 4. The right conferred on the Parliament by art. 37 of the Statute of the Court of Justice of the EEC, to intervene in proceedings before the Court does not imply that it has the right to bring an action for annulment. There is no necessary link between the right to intervene and the possibility of appeal. First, pursuant to paragraph 2 of the above mentioned Article, the right of intervention of the individual assumes a simple 'interest in the outcome of a dispute' before the Court, whereas the admissibility of the action for annulment brought by individuals is subject to the condition that they are recipients of the Act referred seek the annulment or at least that the act affects them directly and individually. Second, under the

eral times, alternatively or in an interceptive way by the Council, the Commission or some Member States; delays in the adoption of the budget were accused of being the blame; Parliament rejected the budget; it resorted to expedient such advances or specific contributions to allow the financing of expenditure. The financial statements of 1980, 1985, 1986 and 1988 were adopted much later than the beginning of the financial year, thus making it necessary to extend to five or six months the system of provisional twelfths.

To trigger these tensions and difficulties, in addition to the conflicts between the various institutions, there was the issue of budgetary imbalances and the growing inadequacy of resources in respect to Community demand.

An issue that still concerns the Community budget deserves attention.

Britain at the time of its membership[68], was in a particular situation, characterized: on the one hand, by an underdeveloped agricultural economy and consumption of food products largely oriented towards imports from third countries resulting in modest agricultural Community expenditure for the UK; on the other, by a strong contribution to the financing of the budget of the Community resulting in particular from the high VAT base

---

1st paragraph of the same article, Parliament has the right to intervene in disputes such as those concerning the default of Members, while the initiative to bring the matter before the Court is reserved to the Commission and the Member States. 5. Although, in accordance with the Treaty, that has introduced a complete system of judicial protection against acts of the institutions which may have legal effects, the Acts of Parliament that produces such effects against third parties should be able to be the subject of an action for annulment, that does not mean that Parliament should be given the right to propose in turn that action against acts of the Council or the Commission. Given the structure of the Treaties and as shown by the comparison between Articles. 33 and 38 of the Treaty CZECH, indeed, when the acts of Parliament were subject to judicial review, Parliament itself was not thereby empowered to take the lead in an action brought against the acts of the other institutions. 6. The budgetary procedure, prepared by art. 203 of the EEC Treaty implies numerous preparatory acts issued by the two branches of the budgetary authority and the drawing up of the same, which become legally binding until the end of the procedure, that is, when the President of the Parliament, as the body of this institution, declares that the budget has been adopted. It follows that, in terms of approving the budget, the only measure which can be declared void emanates from an organ of the Parliament and must therefore be attributed to that institution itself. Consequently, Parliament cannot rely on the powers vested in terms of the budget to get the recognition of the right to bring an action for annulment of acts of the Commission and Council. 7. The current state of the current legislation does not allow the Court to recognize the Parliament to bring an action for annulment.

68 On 1 January 1973, the UK along with Ireland and Denmark joined the Community. The member countries were nine. V. Guizzi, Manual of law and policy of the European Union, Naples, 2000, p. 877.

compared to the GNP of the country.

This structural imbalance in the financial relationship between the Community and Britain became, from 1974, of significant political debate and was also at the origin of the 1975 British referendum on the preservation of the UK in the Community.

The issues of conflict with the United Kingdom were resolved with compensation mechanisms. The first compensation mechanism that was to find its application in the period 1976-1980, but actually never saw the light, was adopted in the first Council in Dublin in 1975.

It was a financial mechanism against the Community budget that intended to take into account the particular situation of an economy "subjected to an inadequate financial burden." Based on the principle of a partial refund of the contribution paid by the United Kingdom taken from its VAT, this device was supposed to set off in function of the evolution of three indicators: GDP below 85% of the Community average per capita; growth rate below 120% of the EU average; own resources payments by the United Kingdom in excess of 10% to its share in global GDP Community. This mechanism has never been applied.

A second correcting mechanism was agreed at the European Council in Dublin in November 1979 and implemented by Council Decision of 30 May 1980[69]. It foresaw compensation through the costs in the form of specific measures for the United Kingdom[70].

In the aftermath of the Dublin Council of 1975, however, agreements were not reached. Quite the contrary. On the one hand Britain which saw its deficit increase primarily due to the agricultural section of the budget, which resulted in difficult curtailment without a reform of agricultural markets, on the other, France, who did not want to comply with the demands of fundamental review of CAP regulations, which represented an irreplaceable support for the French the agricultural economy. A compromise was

69 GUCE C 158 of 27.6.1980.

70 At the Dublin Council of 1979 the British Prime Minister, Margaret Thatcher pronounced a famous line, "I want my money back" which made the intentions of the British position very explicit. Thus, the 15th European Council of 29 and 30 November 1979, held in Dublin, thoroughly examined the problem of the British contribution to the Community budget, and invited the Commission to develop proposals to implement complementary Community measures for the United Kingdom in order to promote greater economic convergence and to allow more consistent assignments concerning the distribution of Community budgetary resources in that State. D. Strasser, op. cit., p. 378.

reached in the Council of Ministers of 29 and 30 May 1980 in Brussels[71].

However, it was under the French Presidency (first half of 1984), that could have had an interest to create a deadlock to avoid the CAP reform, that there was a positive signal and turning point throughout the Union.

France realized that the CAP reform opened the way for the revival of the Community and the end of hostilities with the Iron Lady, Margaret Thatcher.

So the Fontainebleau European Council of 25 and 26 June 1984, the Heads of Government and State started the first corrections of agricultural spending and decided on some of the measures to undertake in dealing with the imbalances of the budget.

With the decision of 7 May 1985[72] the so called third compensation mechanism was put to practice which established a correction of the source, i.e. on Community revenue from the United Kingdom[73].

Despite the fact that previous negotiations and the decision made after had in some way put an end to the friction between the various States, the adoption of the mechanism of rebalancing established one of the essential points of the historical perspective of the European budget, since it introduced a type of automatic compensation (creating a situation of privilege for Great Britain: the ex British) whose effects and contradictions are still highly relevant and topical[74].

71 The conclusions of the compromise made it possible to find a solution to the problem of the British contribution to the EU budget, and led to an agreement on prices for the agricultural year 1980-1981 and on the problem of sheep meat and have set out guidelines for a global common fisheries policy. The success of this work allowed among other things to prepare the 1980 budget, thus normalizing the operation of the Community. D. Strasser, op. cit., p. 379.

72 Second own resources decision - British rebate. OJ L 128, 14.5.1985.

73 The decision involved two steps: 1) for 1985, the compensation resulted from a flat-rate reduction in the VAT contribution of the United Kingdom of 1000 million ECU (the then currency of account); 2) from 1986 the principle of rectification at source was taken up, but in different ways: a) two-thirds (66%) of the difference between the part of the United Kingdom in VAT revenue and its share of allocated Community expenditure, applied to the total allocated expenditure, returned to the UK in the form of reduction of the British VAT base; b) the reduction of the British contribution was at the expense for all other Member States in accordance with their respective percentage of VAT payments (with the exception of the Federal Republic of Germany which paid only two-thirds of its normal share, the balance was divided according to the same criteria between the other Member States). European Commission, Public Finances in the European Union, Luxembourg, 2002 p.29.

74 The UK correction continued to be present in the European budget at least until 2006. Paradoxically, however, it represented a major source of imbalance and friction among the States

Soon the system introduced by Decision 85/257, proved inadequate and insufficient to deal with a budget ever more demanding due to the entry of other countries (June 12, 1985 Spain and Portugal sign the Treaty of Accession and enter 1 January 1986)[75].

The erosion of own resources is a primary endogenous cause of inadequacy of revenue and is a result of two phenomena: a) on the one hand, decreasing the revenue of traditional own resources (customs duties and agricultural levies) which is the result: firstly, of the progress made in the area of tariff elimination (GATT); secondly, the improvement in the rate of food self-sufficiency of the Community in respect to third countries and its impact on imports of agricultural products; b) on the other hand, the relative stagnation of VAT revenue to economic activity due to the decreasing part of consumer spending in the GDP of the economies of the Community.

At the same time there has been a trend of spending growth, due to a strengthening of certain policies (in particular the ESF and ERDF), the launch of other policies (fishing and research), the difficult control of spending on agricultural policy and especially to the entry of other countries (Spain and Portugal). Spending growth has made the resources insufficient to bring the budget into balance (please refer to another part of the text for the study of spending).

Therefore since 1984, , the financing of the Community budget has entered into a phase of insecurity. And only in a passive, belated way and often resorting to expedients such as the adoption of interim solutions of finance with repayable intergovernmental loans (outreached from own resources) and non-refundable deposits that has attempted to adjust the level of the revenue requirement expenditure[76].

The increase in VAT from 1% to 1.4% (agreement of the European Council of 26 June 1984 in Fontainebleau), clearly only served to buy time, but did not solve the adequacy of financial resources to cope with the increasingly conspicuous use of the budget in a structural way.

If on the other hand, the decision of the VAT increase managed to

as part of the conditions that had prompted the introduction had ceased to exist or were no longer the sole prerogative of the United Kingdom. For this reason at the Council of Berlin of 1999 some Member States claimed (without getting) the right to the same treatment. For more discussion of the Decision 85/257 on the calculation of budgetary imbalances, see: A. Zatti, op. cit., p. 16 et seq.

75 Guizzi, op. cit, p. 881.

76 Greece (member since 1981), Spain and Portugal (members since 1986) are in fact "net beneficiaries" of the EU budget.

balance the budget on the other, it helped to raise an imbalance in favor of Great Britain, that has always been considered a "net payer"[77].

An imbalance that was bridged, as we have already said, with the so-called "correction of the standard rate" (see note 12). The system thus apart from being very precarious, was also very unbalanced in relation to other states. It was therefore necessary to give a further turn to the financial system of the community.

With the new political momentum, which began with the enlargement of the Community and which ended with the Single European Act in 1986[78], which affirmed the principle that some political and economic functions were better carried out at European level rather than national, allowed a radical reform of the EU financial system.

This reform in February of 1987 resulted in an overall proposal made by the Commission, chaired by Jack Delors, in the form of two communications (better known as "Delors I package"):

1) "Bring the Single European Act to success: a new frontier for Europe" [COM (87) 100];

2) "Report on the financing of the budget of the Community" [COM (87) 101].

"The Delors I package[79] is rightly celebrated as the real turning point of the Community's finances. It brings a new concept of budget into the European Community, which is the basis of the 1993-99 and 2000-06 budgets.

The Delors I package introduces the essential concept of the definition of long-term planning policies. The European budget ceases to be an annual exercise consisting of different ad hoc measures and is transformed

77 State that gives to the Community budget resources more than it receives.

78 Signature in Luxembourg of the Single European Act (SEA) by 9 States and 28 February in The Hague by the other three (Italy, Greece and Denmark). Coming into force on 1 July 1987. The most important objective of the SEA was the creation, by 31 December 1992 of the internal market, that is, of an area without internal frontiers in which free movement of goods, persons, services or capital. Also provided were: the search for a closer economic cohesion between countries eliminating disparities also through structural funds; improving social policy; the strengthening of monetary cooperation; the introduction of rules on environmental protection and R & D. The "European political cooperation" was institutionalized and it was given the first formal recognition from the European Council, already existent in practice. G.P. Orsello, op. cit., p. 437.

79 The European Commission chaired by Delors I should be recognized for the great merit of having been able to profit from the favorable context besetting the European community and transforming a revolutionary financial package into Council a decision.

into a planning document of the budget[80].

The Brussels European Council of 24 June 1988[81] decided that the Community should be equipped not only with adequate, sufficient, stable and secure resources in order to ensure proper operation in the period from 1988 to 1992, but also to limit the imbalances caused by resource on the rate of VAT.

In all Member States, in fact, is it possible to limit the tax base for the calculation of their debt by way of VAT resource by up to 55 percent of gross national product[82], in respect of the corrections decided by the Board of Fontainebleau for the UK alone.

But the real turning point was represented by the introduction of the fourth resource in order to finance not only the costs not covered by the traditional own resources and the VAT resource, but also to expand the size of the budget of the European Community.

The new resource is calculated based on a percentage of the GNP of various states and becomes the resource balance of the budget. It is determined annually as the difference between the sum of the proceeds of traditional own resources and VAT and the total expenditure to be financed for the implementation of policies decided at EU level.

The package "Delors I" has solved a number of issues in financial matters, on the budgetary procedure, on the spending discipline, or on discipline of revenue. The latter two, in particular, have been implemented at the expense of the financial autonomy of the Community budget. Indeed, while, the decision making process has improved, by reducing institutional clashes in the early eighties, and assured full coverage of the costs, however, Member States have depend on the EU budget contributions, making the financial policy of the EEC take a backward turn. "In a suggestive manner one could interpret the introduction of the GNP resource as a <pact with the devil> undertaken by Commission and the Member States: the Commission may spend more than its own resources would allow, but it is thanks to the direct contributions of States. It is a barter between expansion of expenses and financial autonomy. "Delors I" would be a triumph of the

80 M. Nava, op. cit., p. 33.

81 Third own resources decision - Introduction of the resource based on GNP. Decision 88/376 / EEC of 15.7.1988 in OJ L, p. 24.

82 Also, Luxembourg, which is the richest state in the Union has regularly benefited from this provision, in addition to Portugal and Spain. In 2000 they also benefited from the reduction in Spain, Ireland and the Netherlands.

Commission if new expenses had been financed through autonomous own resources rather than through the GNP resource[83].

The package "Delors I" ignored the iniquity of gross contributions, mainly due to the regressivity of the VAT resource[84], subject of the package "Delors II"[85] decided politically, and then signed into law by the Board of Edinburgh 1992 .

The spending part of the Delors II package entered into force on 1 January 1993. The revenue part, however, entered into force on 1 January 1995, as the Commission's proposal was first transformed into a decision and was subsequently ratified by every national parliament[86]. The conclusions of the Edinburgh Council in addition to establishing new limits, altered the structure of own resources to correct some aspects of the existing system taking into account the contributive ability of each Member State in the system of own resources and implement corrections to existing regressive elements for less prosperous states[87].

83 M. Nava, op. cit., p. 39.

84 The resource tax, introduced for the first time in 1979, was considered a regressive resource because it is believed that its use was inappropriate. Its financial burden is often more important than that of a financial contribution based on GDP. As part of the budget for the year 1979, the regressive effect, with a plus mark, was demonstrated by the following percentages: Ireland (+ 30.79%), the UK (+ 11.13%), Germany (+2.32 %), the Netherlands (+ 1.93%), Luxembourg (1%), Belgium (-1.14%), France (-1.18%), Denmark (-7.21%), Italy (- 18.12%). These percentages mean that there was an effect of regression in four countries, almost neutral in three (Luxembourg, Belgium and France) and progressive in two (Denmark and Italy), the effect progressively more pronounced for Italy, was due to significant tax evasion. D. Strasser, op. cit., p. 129.

85 The Delors II package was proposed by the Commission in the document entitled 'From the Single Act to Maastricht and beyond: the means to realize our ambitions, "do. COM (92) 2000 of 11 February 1992. This document was accompanied by the document "Public finances Community between now and 1997 ', Doc. COM (92) 2001 of 10 March 1992.

86 The Netherlands was the last state to ratify in June of 1996. But despite this revenue retroactively it entered into force on 1 January 1995.

87 The States considered, the least prosperous ones, are those benefiting from the Cohesion Fund: Greece, Spain, Ireland and Portugal. The Single European Act introduced the objective of economic and social cohesion, then institutionalized as policy by the Maastricht Treaty in Articles 158 to 162 of the EC Treaty. The Single European Act introduced in the original body of the Treaty of Rome a title dedicated to economic and social cohesion, then modified by the Treaties of Maastricht, Amsterdam and Nice. The Maastricht Treaty has clarified the concept of cohesion, which aimed to reduce the gap more than "between different regions" (as it was enshrined at AUE), "between the levels of development of the various regions" and added that between Community regions less favored "including rural areas". In that document the Contracting Parties confirm "the significant role" of structural funds for the pursuit of the above cohesion; agree to establish the Cohesion Fund for grants made by the Community, in favor of projects in the fields of environment

European legislators agreed that to take into account the contributive ability and thus make the withdrawal more fair, it was necessary to strengthen the fourth resource based on GNP.

Thus the Commission's proposal was endorsed, under the German Presidency, with the decision by the European Council on 31 October 1994 in two ways:

1) to reduce the maximum rate of VAT at regular intervals by 0.08%, then applying a levy of 1.4% in 1999, a levy of 1,4% in 1999. At the same time increasing the weight of the GNP resource have respected the ability to contribute to the expenses of the state;

2) for the countries benefiting from the Cohesion Fund, the balancing of the VAT threshold is reduced by 55 to 50% of GDP since 1995, and at the same pace in the period 1995-1999 for the other Member States.

Notwithstanding budgetary correction imbalances in favor of Britain[88].

Therefore, with the package "Delors II", equity of gross contributions of the Member States has improved thanks to the introduction of a strong link between income and the contributive ability[89] of each Member

and trans-European networks in European countries with a gross national product of less than 90% of the European average. The economic and social cohesion gives expression to solidarity between the Member States of the European Union and promotes the balanced development of the European territory, reducing structural disparities between EU regions, and the promotion of real equal opportunities between citizens. It takes shape through various financial measures, specifically under the Structural Funds and the Cohesion Fund. As for the Cohesion Fund, the Treaty provides for the establishment "for the provision of financial contribution to projects" in the area: the environment and trans-European transport infrastructure. The Fund is reserved for Member States whose per capita GNP is less than 90% of the Community average and who have initiated a program to meet the criteria of Article 104c of the Treaty on excessive public deficits under the coordination of economic policies and that are part of EMU. In the aid mechanism, the rate of financing shall be 80% to 85% of public expenditure on a project, depending on the type of operation to be performed. When other Community aid are added to the loan granted to a project by the Fund, the aid should not exceed 90% of the total expenditure, except for preparatory studies, which may be funded at 100%. V. Guizzi, op. cit, p. 771.

88 Fourth own resources decision - deduction of collection costs for traditional own resources. Fiscal imbalances, are unlikely to be modified as unanimous consensus is necessary in the Council and subsequent ratification by all national parliaments (Art. 269 TEC). European Council, Decision 1994/728 / EEC, EURATOM, Relative to the system of own resources of the Community.

89 The decision on own resources indicates that the system of own resources must take account of the ability of the United States; the indicator is given by the gross national product at market prices (GNP). The GNP, derived from the gross domestic product at market prices (GDP),

State, and at the same time reducing the regressive elements that arose in VAT resource. The contributions of the Member States are now more closely correlated with their GDP: this is a consequence of the own resources decision of 1988, which opted for the introduction of the GNP resource in place of an increase in the rate of VAT levy for the financial Community requirements, a choice later confirmed in 1994. Given that the best way to measure a country's ability to contribute to the EU budget is represented by its national income, converted into a common currency at current exchange rates, the increasing importance that the GNP resource is undertaking translates into improved equity in gross budget contributions in other words, the "own resources" decisions of 1988 and 1994 have introduced an element of greater equity in the determination of the gross contribution of the Member States to the EU budget, which is more aligned to the respective part of each country in the EU GNP. This improvement is a direct result of the growing importance of the fourth resource (GNP) in total budget contributions. The current system also has the advantage of providing the necessary resources for the financing of Community expenditure. Nevertheless, it has proven deficient in at least two aspects: firstly, depending largely on the transfers made by the Member States, the system does not guarantee the Union's financial autonomy; Secondly, the repeated interventions in the contributory scheme, in particular the compensation mechanism for the United Kingdom, take transparency away from the relationships between Member States and the general budget of the EU. In conclusion, the consolidation of the 1988 reforms and ultimately of the Community finances took place within a context where the Community's ambitions, expressed in the Treaty on European Union, had increased significantly. The Edinburgh agreement of December 1992 adopted the financial perspectives for the years 1993-1999, increased the overall limits of own resources from 1,20% to 1.27%, also introducing measures to further decrease the importance VAT for the financing of the budget. The system of own resources decided in Edinburgh could however enter into force, only on 1 January 1995[90]. Meanwhile we

---

was chosen as an indicator of the ability to pay as it is believed to measure the prosperity of a country, unlike GDP which measures production capacity. In the framework of the Agreement on the European Economic Area, the contribution of these countries to Community actions is nevertheless determined as a function of GDP. The Commission also uses GDP to assess the "capacity of the Member State ", in the context of the penalties provided for in Article 171 of the Treaty. G.U.C.E of 7.31.98 C 241/62.

90 On 31 October 1994 the Council adopted a new decision, the number 94/728 published in OJ L 293, 12/11/1994, on the system of own resources, to replace the previous Decision No. 88/376. The decision fixed the level of own resources available for the period 1995-1999, as well

had to face considerable difficulties in the recession of the early 90s when the initial forecasts of the budget proved too optimistic. Following successive downward revisions of economic growth in the period 1992-1994, related revisions of budget revenues were made.

In subsequent years budgetary arrangements in general were effective. In addition, since 1997, , decisions on the cautious annual budget meant that spending levels were lower than those provided for in the financial perspective. The European Union, therefore, addressed the challenges posed by enlargement to Cyprus and the countries of Central and Eastern Europe and the reform of its main policies with substantial margins available under the own resources limits[91].

The fifth decision on own resources did not change the system, however, it provided the basis for guiding the European institutions to adopt a fair, transparent and cost-efficient system for financing.

2. THE SYSTEM OF OWN RESOURCES AND THE DECISION-MAKING PROCEDURE

As we have been able to analyze in the previous pages, the institute for own resources came into force starting from 1970. Since then, with the suggestions of various treaties, the financing of the EU budget has undergone several adjustments and integrations. Currently the system of own resources is governed by art. 269 of the Treaty which established the European Economic Community, which states: “The budget, without prejudice to other revenue, is financed in its entirety from own resources.

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, contains provisions relating to the system of own resources of the community in which it recommends the adoption by the Member States, in accordance with their respective constitutional requirements. “

The second paragraph of art. 269 provides a special solemn procedure for the adoption of the provisions on own resources. There is a Community phase (Council acting unanimously on a proposal from the Commission

as the structure of the financing system of the Community; it, in particular, increased the budget limit, which reached 1.27% of EU GDP in 1999. V. Guizzi, op. cit., p. 440.

91 European Commission, Prospects for financing, forecasts and budget guarantees, Brussels, document dated 07.10.1988.

and Parliament's opinion) that results in a recommendation to the Member States; the latter, then, will have to adopt the provisions in accordance with their constitutional procedures (Intergovernmental phase).

Once adopted the provisions on own resources then comes the obligation (confirmed by Article 36 of the Financial Rule) to make the final irrevocable transfer of resources to the Community budget[92].

According to the Council Decision of 29 September 2000[93], the budget of the Communities, without prejudice to other revenue[94], is entirely financed from the following revenue:

a) levies, premiums, additional or compensatory sums, additional sums or elements and other duties established or to be established by the institutions of the Communities on trade with non-member countries in the framework of the common agricultural policy, and also contributions and other duties provided for under the common market organization for sugar;

b) the Common Customs Tariff duties and other duties established or to be established by the institutions of the Community on trade with non-member countries and customs duties on products coming under the Treaty establishing the European Coal and Steel Community;

c) the application of a standard rate valid for all Member States, to the VAT determined in a standard manner for Member States according to Community rules; However, the assessment for a Member State to be taken into account for the purposes of this decision cannot exceed 50% of GNP;

d) application of a rate to be determined in the context of the budgetary procedure, taking into account all other revenue, to the total GNP of all Member States. The ratio to GDP is determined annually as the difference between the sum of the proceeds of traditional own resources and VAT and the total expenditure to be financed for the implementation of policies

92 G. Clement, Treaties of the European Union and the European Community, edited by A. Tizzano, Milan, 2004, p. 1242.

93 Fifth own resources decision - fair, transparent, cost-effective and simple. 29 September 2000/597 / EC, Euratom as published in OJ L 130, 31.5.2000.

94 The term used in Article 269 'without prejudice to other revenue, "is explained by the need to take account of possible revenue related to the activity of the Community institutions. This revenue, which will not be subject to this treatment for their small size, are the so called specific revenue from fines, from Community administration operations, from contributions for activities in the European Economic Area, default interest, taxes from emoluments of officials of the European institutions, by income from borrowing and lending and other revenue of various kinds. These resources reach about 1% of all the resources that flow into the budget. G. Clement, op. cit., p. 1243.

decided at EU level.

The own resources theories, are divided into two categories: traditional own resources (TOR) and national contributions.

TOR, which came into force in 1970, defined as own resources in the strict sense because taken from the framework of EU policies foreseen by the Treaties regardless of the fiscal needs of the budget and do not come from the budgets of the Member States. TOR are collected directly by economic agents (citizen importer or producer of sugar) without the intermediary of the Member states if not at the time of recovery. For the recovery service, the Member States are given a percentage of the income as reimbursement of expenses.

The other two resources, which entered into force in 1979 and 1988, are contributions from the budgets of the Member States. The VAT resource is not structured as a percentage directly at the expense of the citizen, but as a contribution calculated according to statistical criteria with a maximum of 50% of GNP, which is included in the budgets of the Member States under the heading transfers. The same holds true for the fourth resource calculated, however, with a residual method to full indemnity.

The resources that make up the current system, according to the latest substantial changes occurred at the European Council in Edinburgh in December 1992, which then resulted in a political agreement at the Council in 1994, are more focused on the direct contributions of the member countries (such as the VAT resource and PNL), than on traditional own resources also due to the globalization of markets.

The revenue of the Community budget, defined as own resources, would find a more proper place in the category of derived revenue.

The an and the quantum of the first category of own resources, in fact, are not autonomous prerogatives of the Community authority, because they depend on the decisions negotiated in the WTO (World Trade Organization)[95].

They will be increasingly scarce due to the reduction of protectionist measures to products from non-EU countries. The revenue of the second category are real transfers because they derive from entries in the budgets of the Member States[96].

95 A. Carinci, the tax issue in the European Constitution, including missed opportunities and prospects for the taxpayer, in Rass. Trib., N. 2, 2005, p. 546.

96 In response to the request of the European Parliament and in agreement with the Coun-

A study done by the Commission and published in October 1998[97], has evaluated the current system of own resources through some criteria (adequacy, equity, financial autonomy, cost-efficiency ,transparency and simplicity) that has highlighted the strengths and weaknesses of the financing of the Community budget.

With the criterion of adequacy of resources it has been shown that revenues are sufficient to finance the various EU spending programs. The decline of traditional resources and of VAT has been well compensated by the GNP resource. The fairness, that is to say, the proportionality of gross contributions to income across Member States, has improved, largely due to the gradual replacement of the VAT resource with the GNP resource.

For the reasons that have been exposed, the budget suffers for lack of financial autonomy, which highlights some drawbacks of the system: a) the total dependency on intergovernmental transfers; this dependency has fueled conflicts and urged the United States to seek to reap the maximum benefits from the mistaken idea that a State can benefit from the EU budget; b) the system whereby all financing needs not covered by TOR and VAT are covered by the GNP resource proves very cost-effective, but causes changes in marginal EU expenditure is reflected in changes in national spending. In this way the problems of EU funding are intertwined with the financial and budgetary policies of the Member States, to the detriment of the visibility of EU priorities for the citizens; c) there is less inherent transparency in every democratic process, since there is no direct relationship between the citizen-taxpayers and the taxes paid to the EU budget.

It seems that Member States are more inclined to funding from the EU budget through the GNP resource, rather than to the RPT. The rea-

cil, on 10 February 2004, the Commission adopted its Communication on the financial perspectives 2007-2013. The communication identified two main elements of the current system of own resources that require greater attention: first, the lack of transparency of the system for EU citizens combined with limited financial autonomy of national treasures; secondly, the need to reform the existing mechanism for correction of negative budgetary imbalances. In line with these guidelines, the report provides an overview of the current system and its main drawbacks, proposes a generalized correction mechanism as an adjustment in the short term to address the main issue on the table and defines, for the long term, a structure of own resources to be effective, transparent and democratic. European Commission, Communication Financial Perspectives 2007-2013, July 14, 2004 [COM (2004) 487 final.]

97 European Commission Directorate-General XIX, The operation of the system of own resources, published October 7, 1998 in compliance with the Council Decision of 1994 (Decision 94/728 / EC, Euratom on the system of own resources of the European Communities - OJ L 293, 12.11.1994, Bull. 10-1994).

son lies in the fact that it is not very cost-effective. In fact, the recovery of traditional own resources is extremely laborious. Customs legislation is very elaborate: tariff entries are more than 11 000 and the Community Customs Code contains 400 articles, without forgetting the complex reality of international trade, where there are new products and new trade flows every day. It is therefore understandable that this situation constitutes a suitable ground for the proliferation of fraud, irregularities and litigation. In the current institutional system, the recovery of TOR and making it available for the European Commission is a duty to be carried out by Member States. The Commission's task is to monitor how States comply with this obligation; for this purpose, a complex mechanism, was established, in the form of a multilateral surveillance on the way Member States fulfill their obligations. Any loss of TOR in a Member State must be offset by a corresponding increase in the GNP resource: negligence of a Member State has financial consequences on all the others. Precisely for this reason the results of the control activities carried out by the Commission are made available to all Member States and all the major decisions, which are designed to relieve and not to recover duties owed, as well as cancelling amounts which have become uncollectible, are made by all Member States.

This mechanism mobilizes a massive administrative apparatus which, as indicated invariably for years by reports from the Court of Auditors, cannot do what would be desirable for better protection of EU financial interests. Furthermore, the complexity of the procedures for recovering amounts put at risk by fraud or irregularities appears to discourage almost all national administrations, which often seem unable or not willing to recover what is due.

The presence of the correction in favour of the UK helps to conceal the exact nature of the system and its consequences. Not only does this correction reduce the correlation between gross contributions and ability to pay, but its calculation methods and financing are so complex that they jeopardize the transparency and simplicity of the mechanism.

The system of own resources, with its lack of transparency, its limited financial autonomy, its complexity and its opacity, has increasingly highlighted the need for reform. The fact that the correction mechanism was applied only to the UK as early as the mid-80s has caused the demand for a generalized correction or a change in the system.

Both the European institutions that the doctrine have called for a modification of the current system of contributions, by simplifying or reducing the number of funding sources or by introducing new own resources which would add and / or replace existing ones[98].

The increase in resources related to GNP, whose role has been further strengthened after 2007, is a good example of fairness. However, there is the risk that the increase in the GNP-based contributions will strengthen the tendency to assign a decisive role to the position of net contributors.

All European institutions are unanimous in considering that the resources related to VAT and GNP, whose initial goal was to integrate the EU's own resources, have gradually become the main source of financing of the EU budget and of the application of schemes exception to the existing system of own resources has not done anything but make it more complex, less transparent and fair for the citizens, thus creating a financing system that generates unacceptable disparities between Member States.

Therefore, the European institutions, believe that it is important to measure out Europe, which widens, appropriate and proportionate financial resources to its growing political ambitions. The financial perspective is a financial framework which aims at ensuring the realization of EU priorities taking into account the budgetary discipline.

The European Economic and Social Committee, with its opinion issued on 5 July 2006 on the proposal for a Council Decision on the system of own resources of the European Communities[99], is convinced that the autonomy of the EU budget can only be guaranteed by a system of own resources, or based on common policies, or on genuine Community own resources, such as a Community tax, or a combination of the two things. From the point of view of the future of the European Union the most appropriate solution would be to appeal to the common policies as they generate resources.

With the communication of 12 September 2007 the Commission of the European Communities with the title of "Reforming the Budget, Changing Europe"[100], it should be noted once again that the current funding

98 COM (2006) 99 final. - 2006/0039 (CNS), Adoption of the proposal for a Council Decision on the system of own resources of the European Communities.

99 SEC (2007) 1188 final., Reforming the Budget, Changing Europe.

100 The European Commission with its Communication "Reforming the Budget, Changing Europe", calls on all actors at local, regional, national and European level to participate in the debate by answering the questions: a) What principles should be placed at the base of the budget revenue and how should they be incorporated in the system of own resources? b) Is the retention of correction mechanisms and compensation justified? C) What should be the relationship between citizens, policy priorities and funding of the EU budget ?. SEC (2007) 1188 final. Reforming the Budget, Changing Europe.

system fails to ensure adequate funding of the EU policies. The sources and financing mechanisms should be evaluated on the basis of agreed principles, such as efficiency, equity, stability, visibility and sufficiency. None of the funding sources of the EU budget satisfy all of these principles to the same extent and it is difficult to propose an "ideal" funding system. However, the resource structure should reflect the most important principles of finance as much as possible, while reducing to a minimum the negative effects from the point of view of the other basics. To achieve this choices on the principles and their importance need to be made. Even in the aftermath of the introduction of the various correction mechanisms[101] and of a flat deduction rate equal to 25% of traditional own resources for Member States that collect them, the simplicity and transparency of the system has been considerably reduced. Moreover, this logic, accompanied by the increasing emphasis on a purely accounting approach, whose main objective is to maximize the results, has created some tensions among the member States and the has made the public debate about the value of EU spending and the benefits of the same Union membership colorful.

In light of this scenario, the Commission proposed to revise the system by analyzing whether and to what extent the new correction mechanisms and their principles were still justified. Moreover, it also proposed to evaluate the possibility of introducing alternative own resources, taking into account the national sovereignty in tax policy. The Commission considered that the review of the EU budget could offer a real opportunity to reflect on how to use one of its most important tools, which has a direct impact on Europeans as citizens, taxpayers and consumers of EU financial services.

On the other hand, despite the strong opposition aroused by the community fund founded on the sovereignty of the budget, it is believed that to achieve the common goals there is the need to create own resources to replace the contributions based on GNP.

In adopting the own resources system care must be taken to apply the principles of transparency, efficiency, flexibility and proportionate financing.

101 The mechanisms of budget changes consist of: a) for the United Kingdom in a lump-sum refund of 66% of the difference between the GNP and VAT contributions to the budget and its revenue; b) for the Netherlands and Sweden lump-sum payments; c) for Germany, Austria, Sweden and the Netherlands reduced VAT rates. A. Zatti, op. cit., p. 37.

3. THE DISCUSSION CIRCLE ON OWN RESOURCES

After the establishment of the European Convention, which had the primary task of developing the basic charter of the Union[102], or the European constitution, was by many considered essential to consider the tax aspect of the European budget, by virtue of the fact that there was a close correlation between the costs of the rights and revenue allocated to them. Given that the European Union was characterized mainly for its proclamations of freedom (like economic or personal freedom), and given that "the guarantee of traditional rights of the liberal catalog required the use of financial resources to achieve them, if only for the guarantee of their judicial protection"[103], it was necessary to put the citizen in a position to verify the financial sacrifice.

Therefore, from all this, it was thought that the European Convention could not ignore the tax aspect that, in truth, was already present in various judgments of the Court of Justice, which, taking into account the national

102 The Treaty establishing a European Constitution prepared by the Convention for reforms chaired by former French President Valery Giscard d'Estain, was ditched in 2005 following the referendum of France and The Netherlands. The journey which began in 2005, however did not seem discontinued in December 2007 when a new treaty was signed in Lisbon. The goal of this new treaty was to deal mainly with the new challenges of the future with new rules. From the press we read that "In 50 years Europe has changed, the world has changed. Today more than ever, in a globalized world in constant change, Europe is facing new challenges. Economic globalization, demographic change, climate change, energy supply, not to mention the new threats to security, these are the major issues with which Europe of the twenty-first century must be measured. Member States are no longer able to cope alone with all these new problems that know no borders. To cope with and respond to the concerns of the citizens need a collective effort at European level. However, in order to face these challenges Europe must modernize. Must have effective and consistent tools suitable not only for the functioning of a European Union recently increased from 15 to 27 members, but also to the rapid changes of today's world. The rules of common life, established by the treaties, must therefore be renewed. This was the objective of the treaty signed in Lisbon on 13 December 2007. Taking into account the political, economic and social evolutions and wanting to respond to the aspirations of the Europeans, the Heads of State and Government made new rules that governed the scope and modality of future EU action. The Lisbon Treaty thus allowed for the adaptation of the European institutions and their working methods, to strengthen the democratic legitimacy of the Union and to consolidate the fundamental values that underlie it. The Lisbon Treaty was the result of negotiations conducted by the Member States at an Intergovernmental Conference, also attended by the Commission and the European Parliament. Before coming into force, the treaty had to be ratified by each of the 27 EU countries. It was up to them to define, in accordance with their respective constitutional requirements, how to ratify. The States were given as objective the enter into force of the Treaty on 1 January 2009, or a few months before the election of the European Parliament. "http://europa.eu/lisbon_treaty/take/index_ en.htm

103 A. Fantozzi, the Constitutional Treaty for Europe. Proposals on taxation, in Rass. Dir. Trib., N. 7-8 / 2003, p. 104 et seq.

tax systems had examined the consistency with the freedom guaranteed by the Union[104].

In the frame of mind of the men who lead the European institutions there seems to be a strong desire to put themselves in a position to finance the European budget with resource known to the citizens, and thus give the European revenue a fiscal aspect.

The debate around the tax aspect of the European budget begins to have a formal value, when Messrs Lopez Garrido and Borrel, representing the Spanish Parliament at the Convention and Mr. Carnero Spanish MEP of the Convention, proposed the establishment of a European tax. The debate was so lively that it forced the Presidium[105] to form the "Discussion circle

104 An example of a school is the ruling of the European Court of Justice (Case C-80/94) of 14 February 1995 on the case Roland Schumacher: freedom of movement is influenced by national tax rules if they do not ensure equal treatment . For more discussion: G. Maisto, 'Draft European Constitution. Work notes, in Rass. Dir. Trib., n. 7-8 / 2003, p. 124 et seq.

105 The Presidium has played a leading role for the Convention by providing the basis for the work that led it to adopt the draft Treaty establishing a constitution. The Presidium was made up of the Chairman and Vice-Chairmen of the Convention and nine members drawn from the Convention : representatives of all governments during the Convention the EU Presidency (Spain, Denmark and Greece), two representatives and national parliaments, two representatives of the European Parliament and two representatives of the Commission. The Presidium met on a regular basis, normally twice a month: before each plenary session of the Convention and once between two plenary sessions. Among its specific functions were the preparation of draft agendas of the plenary sessions and supervising of the activities and organization of the Forum. The Convention was asked to draw up proposals on three subjects: to bring citizens closer to the European design and the European institutions; organize politics and the European political area in an enlarged Union; make the Union a stabilizing factor and a point of reference in the new world order. The process that led to the drafting of a European Convention was started in December 2000 with a declaration annexed to the Treaty of Nice, called "Declaration on the future of the Union." It proposed to pursue institutional reforms beyond the results obtained in the Intergovernmental Conference 2000 (CIG 2000) based on a three-step process: the start of a debate on the future of the European Union, a Convention on institutional reform, whose implementation was decided at the Laeken European Council in December 2001 and the convening of an IGC in 2004. According to the text of the "Laeken Declaration" which is the basis of the Convention, it had to examine four key questions on the future Union: the division of powers, the simplification of the Treaties, the role of national parliaments and the status of the Charter of fundamental Rights. For this purpose, the timing of the work of the Convention had three phases: a listening phase, an analysis phase and a phase of preparation. At the conclusion of this last phase, a single text of a constitutional nature had to be proposed. The document was to serve as a starting point for the IGC negotiations conducted by the Heads of State or Government from where it belongs, in the end, any decision on the reshuffle of treaties. The inaugural meeting of the Convention was held on 28 February 2002. The work was completed July 10, 2003 after reaching an agreement on a proposed European Constitution. The implementation of the Convention was an unprecedented phenomenon in the history of the Euro-

on own

resources"[106] [107], which represented the evolution of the " Economic Governance " Group of the Convention. The latter had a general competence on matters related to monetary policy, economic policies and institutional issues. In the Final Report, published October 21, 2002 (CONV 357/02), in the part called "Taxation", it highlighted the different positions on tax matters.

In fact, "The Group recommended maintaining the Union's competences in the area of fiscal policy as defined in Articles 93, 94 and 175 TEC.

Most members of the Group agree to make some changes to the current decision-making procedures in order to facilitate progress in the area of fiscal policy. These changes should not be for the purpose of establishing unified taxes, nor should concern the areas of personal and property taxation. The goal should rather have been to provide a sufficient approximation of rates, minimum standards and tax bases in the areas of indirect taxation and business taxation, in order to ensure that the proper functioning of the single market should not be affected by harmful tax competition or serious internal trade distortion.

These members suggested that the changes consist of the following elements:

a) provide a complete list of specific types of clear and unambiguous measures, to which QMV (qualified majority voting) had to be applied or for practical and logical reasons connected with the proper functioning of the internal market, or because it related to areas that had a direct impact on fundamental freedom or where such measures could be essential for sustainable development;

b) explicitly indicate that the specific measures adopted by QMV could not have direct or indirect impact on the substance of other areas of tax policy, in particular personal and property taxation.

Some members of the Group called for increased extension of QMV in this area. Others claimed it could not accept any measure that went in

pean Union as previous IGCs had never been preceded by a phase of open debate and transparent to all stakeholders. On 18 June 2004, the Intergovernmental Conference, meeting at Heads of State or Government level, reached an agreement on the European Constitution draft prepared by the Convention. (http://europa.eu/scadplus/glossary/european_convention_it.htm).

106 Bruxelles, 11 aprile 2003 (14.04) (OR. FR) CONV 655/03 CERCLE III 01 Composizione del Circolo di discussione Sulle «Risorse proprie».

107 La copertura 357/02, Relazione finale del Gruppo VI «Governance economica

the direction of QMV and preferred to maintain unanimity in all decisions on taxation"[108].

The Spanish proposal triggered a mechanism which, as we have seen, led the Presidium to dismiss the considerations expressed by the Economic Governance Group.

The Discussion circle on own resources began work starting from the Spanish proposal.

Scholars and politicians expect much from the circle in question.

It was hoped that the European Union could face the challenges of the future with greater financial autonomy and the adoption of acts with faster decisional procedures with the abolition of the unanimity of the vote or at least prevent the ratification by Member States in accordance with its constitutional procedures[109].

Unfortunately the British position (apart from Holland, Denmark, Finland and Sweden) faded what could have been an opportunity for the Union to adopt fiscal policies designed to make the costs of financing autonomous[110]. The circle concludes its task of finding the answer to the question: if 'own resources meet the expectations of citizens in terms of fairness and transparency, "in four principles: fairness, transparency, adequacy and consent to tax.

There is no doubt that the principle of fairness as understood clashes with the principle of transparency: the budget is funded primarily from a resource that was considered fair because it is based on a percentage calculated on the wealth produced by a Member State (the so-called fourth resource: a percentage calculated on GNP), which leads us to consider non-transparent financing of the budget, because the citizen is not aware of

---

108 Article 269 TEC, in its present form, provides for the unanimous adoption of the provisions relating to the system of own resources, as well as the ratification by Member States with their constitutional procedures. The Presidium asked whether this procedure will be able to meet the necessary measures to finance the Union's policies in the future, taking into account "The effect of the number." This is to answer the question whether, in an enlarged EU, it will always be possible to ensure funding via a decision which must be adopted unanimously and ratified by all Member States. You can also ask if the current procedure would allow the Union to establish "real" own resources. It should be noted that, in any case, a change in the procedure would be to eliminate the need for national ratification, which would entail the creation of a new jurisdiction Union, which should be taken into account in Title III of the Constitution. «CONV 602/03, Les finances de l'Union: project articles 38 to 40.

109 A. Fantozzi, op. cit., p. 101 et seq

110 CONV 730/03, Final report of the discussion circle on own resources.

what it costs the Union, nor is there an approximation of budget financing to citizens.

The Circle, in contrast to what could be a guideline, thought that the financing of the budget was fair if based on ability to pay deriving from the relative wealth of the Member States expressed principally in terms of GNP, and transparent when there is greater democratic control on actual results of expenditure in relation to the objectives previously set.

With regard to the principle of adequacy of means, it is noted that the same already was reflected in Article 6, paragraph 4 of the TEU: "The Union shall provide itself with the means necessary to attain its objectives and carry out its policies ", the financing system must allow the Union to achieve its goals.

The fourth principle was the only significant novelty on the taxation: the Union's financing system should be subject to approval and control by the parliamentary representation for citizens (thus giving consent through parliamentarians who are elected by the people). It is an elementary democratic principle of the rule of law.

The parliamentary representation for the citizens, through the national parliaments or the European Parliament, must effectively participate in decision-making processes relating to resources (CONV 730/03).

Based on the principles, the Circle wondered if "The current decision-making procedure could allow a substantial change in resources"[111]. Article 269, second paragraph of the TEC, says: 'The Council, acting unanimously on a proposal from the Commission after consulting the European Parliament, contains provisions relating to the system of own resources of the Community which recommends adoption by Member States, in accordance with their respective constitutional requirements. "It is evident that programming becomes difficult in the financing of the budget, because a decision-making procedure as cumbersome as the one foreseen does not facilitate the creation of new resources, because all it needs is a negative vote even by a small country to block any proposal. The procedure, in truth, was also dealt with by the circle of own resources, which wondered whether it was appropriate to ensure the future adoption of the measures necessary for financing of EU policies, in view of '' numerical effect" today there are 28 member countries). The majority of the members of the circle proposed that the article in Part I of the Constitution on the resource system, two legal bases with two separate procedures: a) One for setting

111 A. Fantozzi, op. cit., p. 105.

the limits of own resources and, therefore, the size of the Union budget, as well as the creation of new resources, which would be subject to the more cumbersome procedure under the Constitution and, therefore, the procedure currently laid down in Article 269; b) relative to the actual procedures regarding the Union's resources, which would be subject to a less complex procedure: adoption by the Council by qualified majority [or super-qualified majority, if the Constitution provides that voting procedures] with the assent of the European Parliament. The requirement of national ratification would fail, because the parliamentary representation would be ensured by the European Parliament.

Most members of the circle felt that Part I of the Constitution should also regulate the maximum amount of resources, and the multiannual financial framework. The discussion circle on the budgetary procedure had in fact recommended to enshrine the financial perspective in the Constitutional Treaty. They thus became legally binding. This circle was of the opinion that the Constitution should include the principle (the maximum) under which the "financial framework" fixed the amounts required of the annual maximum for commitment appropriations and category within the limits of the Union's own resources, as well as the amount of the annual maximum for payment appropriations which must still respect the own resources limit. The legal relationship between those various limits and the secondary legislation that fixed them (the law relating to the financial framework and own resources) should thus be clearly established. The annual budget that determined the actual availability of resources should in turn comply with the financial framework. The circle felt that the title dedicated to finances in Part I of the Constitution should clearly establish the principle that the own resources limit was binding for the multiannual financial framework which, in turn, resulted binding for the annual budget the Members of the circle faced however, the question of the evolution of the resources system, expressing divergent positions:

a) Some wished that the Union system should evolve towards income tax. They believed that the stability and transparency of the system could be better guaranteed by European taxes that should not in any case represent an increase in the global tax levied on taxpayers. Proponents of this development, in turn, were divided between those who believed:

- that it is for the legislation to establish this kind of resources, considering not necessary any changes when deciding the creation of European taxes or participation in a national tax, if there were a political will to do so. They argued that the Union should already have had this type of resource:

the traditional resources were fiscal in nature, as were the VAT resource;

- and those who preferred to remove any uncertainty and explicitly foresee, in the legal basis of the Constitution, the possibility of establishing tax resources;

b) others believed that the current system of resources was sufficiently fair and sound. Some of them wished that the GNP, which was the fairest because based on the relative wealth of the states, had even more space in the system. They were opposed to the idea of foreseeing the explicit possibility of creating fiscal resources in the legal basis of Part I of the Constitution.

The circle concluded that, in any case, the current legal basis allowed the creation of new resources, including those of a fiscal nature.

The final report presented by the circle on 8 May 2003, it can certainly be said that "the mountain gave birth to a mouse" (A. Fantozzi 2003)[112].

4. THE FINANCIAL AUTONOMY OF THE EUROPEAN UNION REGARDING REVENUE

The present system presents a series of drawbacks in large part due to the fact that financial autonomy, fairness and efficiency are often in inverse relationship between them with respect to costs.

Most of the EU resources come from contributions from the Member States, which, while representing a limitation to the financial autonomy of the EU, can deliver a good level of equity and efficiency in relation to costs. Moreover, even if traditional own resources contribute to the financial autonomy of the Union, however, the collection and control is complicated and difficult. Moreover, even the fairness of this entry is challenged[113].

Traditional own resources currently represent the sole true own resource of the EU. Their importance for the financing of EU expenditure, however, is in sharp decline. In addition, customs duties and relative revenues arising from EU trade policy, even if officially pertaining to the

112 As we have examined in the preceding pages, it is quite clear and obvious that the gradual replacement of TOR and VAT resource with a levy based on their share of Community GDP has significantly contributed to making the system more fair: that is to make contributions of individual states in proportion to their national income. A. Zatti, op. cit., p. 44.

113 European Commission, Directorate General XIX Financial Resources \ financing, forecasts and budget guarantees, report of 07.04.1988.

Union, tend to be regarded as national contributions from Member States that collect them.

The lack of financial autonomy due to the scarcity of genuine own resources in the Community budget is considered responsible of the drawbacks of the current system, for three reasons:

First, the lack of financial autonomy has made the EU increasingly dependent on intergovernmental transfers; this dependence has fueled conflict and urged the United States to seek to reap the maximum benefits from the mistaken idea that a State can derive benefit from the EU budget;

second, the system whereby all financing needs not covered by TOR and VAT are covered by the GNP resource proves very cost-effective, but causes the changes in marginal EU expenditure to be reflected in the changes of domestic spending.

In this way the problems of EU funding are intertwined with the financial and budgetary policies of the Member States, to the detriment of the visibility of EU priorities for the citizens; thirdly, there is less inherent transparency in every democratic process, as it lacks a direct relationship between the citizen-taxpayers and the taxes paid to the EU budget[114].

The financing system has become gradually complex, generating disputes among Member States on the extent of funding of each and possible adjustment. The best known is perhaps the so-called British "discount", obtained by the then Prime Minister Margaret Thatcher to compensate for the scarce use of the contributions of the common agricultural policy. This was followed by other exceptions, such as Germany, Austria, Sweden or the Netherlands. "Year after year, there have been many countries that have received this kind of favor, leading to the system being perceived as un-

114 Statement made by French MEP Alain Lamossoure in an interview on 10 April 2007. In the same interview, the French MEP argues, among other things, that the system of financing has become gradually complex, generating disputes between Member States on the level of funding of each. To improve the system there is the need of genuine own resources for the European Union to replace the existing mechanisms, preferably with a progressive approach in two main phases. The provisional and transitional first phase, which would lead to an improvement of the current system of national contributions, based on the resource of national GDP in equal percentages between Member States (about 1%). The second phase, from 2014 would see the 'gradual introduction of a new system of own resources to replace national contributions, for example, with taxes already levied in the United States or taxes on financial transactions, transport etc ... Such a system, it should be noted, would ensure full respect of the principle of fiscal sovereignty of Member States and of fiscal neutrality, without increasing the overall public expenditure nor the tax burden on citizens. Furthermore, the EU budget does would not undergo changes of order of magnitude.

democratic and incomprehensible for citizens"[115].

Although the current system has failed to provide sufficient resources to finance the EU budget, we continue to discuss whether it is possible to improve the funding sources to better meet its principles.

In truth, the Parliament has asked the system of resources to be reformed for some time now. Indeed, in 1999, with a resolution, it asked that the EU budget revenue be simplified and be understandable to all citizens, basing the system on criteria that best express the principle of ability to pay, and avoiding use of compensation mechanisms for revenue. To also depend less and less on transfers from the budget of the United States[116].

In 2004 with a European Commission report[117] the Council was called upon to consider the reform of the financing of the Community budget. The Commission came to the conclusion by sustaining that the introduction of a new tax-based own resource replacing the current VAT resource, would overcome the main drawbacks of the current system (lack of a direct link with citizens, excessive dependence on transfers from national treasures) and would have led to a better allocation of economic resources in the EU. Although representing a smaller proportion of total own resources, the GNI-based resource would continue to play an important role and would have ensured that the system complied with reasonable extent to all the relevant criteria.

---

115 The European Parliament with a resolution of 11 March 1999,adopted the Jutta Haug report on the need to modify and reform the system of own resources of the European Union.

116 COM / 2004/0505 final., Financing the European Union.

117 The European Council meeting of 15/16 December 2005 in Brussels - The Summit of Heads of State and Government of the 25 EU countries, as well as requesting a review of the budget on the future of resources, was also characterized by the achievement of the much called for agreement on financial perspectives for 2007-2013. The "compromise" laboriously reached by 25, far from the expectations of European leaders and EU institutions, push away fears of a new crisis for the future path of the Union, after the failure of the French and Dutch referenda on the ratification of the European Constitution and the lack of agreement on the EU budget to the European Council in June 2005 under the Luxembourg presidency. The new financial perspective thus covering a period of seven years, from 2007 to 2013, and provide resources for 862.363 million euros for a Europe of 27 States, as from 2007 also Romania and Bulgaria will join the Union. The agreement was concluded, bringing the overall ceiling of 1.045% of GDP Community budget, exactly halfway between the last budget draft presented by the Luxembourg Presidency (1.06%) and the first of two British proposals (1 , 03%), but far from 1.24% required by the EU Commission. Moreover, considering the budget as a whole, the saving is only 10 billion euros compared to the previous Luxembourg proposal, but is less than 132 billion less than the Commission's proposals in February 2004 and 113 billion below the wishes by the European Parliament. European Council, Financial Perspectives 2007/2013, Brussels, Document 15915/05 CADREFIN 268, 19/12/2005.

The Commission proposed three main options for own fiscal resources:

1. a resource based on energy consumption;
2. a resource based on national VAT bases;
3. a resource based on corporate income.

The resource based on energy consumption, conceived as an EU levy on motor fuel for road transport is a sufficient and stable source of funding for the EU budget, and creates a direct link with citizens.

The tax base is already harmonized at EU level. It could be complemented by an EU levy on aviation fuel or the related emissions, thus putting a stop to the current tax exemption for jet fuel and setting a price for the environmental costs of aviation.

The harmonization of the tax base in the field of VAT would be in a fairly advanced stage and would be a sufficient and stable source of revenue.

The introduction of a VAT resource-based tax would greatly increase the visibility of EU funding for citizens and would be evolutionary, since it would entail the reform of the existing rules rather than the introduction of completely new resource. From an administrative point of view, its introduction does not present any insurmountable difficulties.

In view of the link with a common EU policy and the presence of cross-border externalities, revenue from a harmonized corporate tax base would constitute an adequate financing source for the EU budget. This alternative would require more time, on both political and administrative sides, inasmuch, before defining a minimum rate there must be a political agreement on the principle of the tax base.

The European Union is a Union of States and citizens. All the three hypotheses of tax-based own resources examined above would transpose this concept into the funding of the EU budget.

Strengthening the direct link between citizens and the budget would also help to focus the discussions of expenditures on substance rather than on budget “net positions” purely “national”.

Each new assignment of resources to the EU budget, in addition to being decided unanimously by the Council, must also be ratified by the parliaments of all member states.

The introduction of a resource based on energy or VAT would be feasible in the medium term, while the application of a fiscal resource based on corporate income is to be seen as an option in the longer term.

On this approach, the Commission invites the Council:

a) to discuss the options proposed in this report;

b) to take note of the intention of the Commission to prepare a timetable to substitute, based on a Commission proposal, the current VAT resource with a genuinely tax-based own resource by 2014.

In order to provide a short-term solution to the problem of excessive budgetary imbalances that can be operational at the beginning of the next financial perspective, the Commission proposes to introduce a generalized correction mechanism to correct excessive budgetary imbalances according to the proposed decision of the Council regarding the system of own resources, as well as its implementing the measures proposed.

Subsequently, the European Council of December 2005[118] asked to consider the reform of the current system of financing the Community budget.

Hence the debate, both in Parliament and in national parliaments.

From the various discussions that have arisen, and the feedback from the questionnaire sent by the various national parliaments and the various bilateral meetings, have emerged feelings that probably it is not yet time to introduce a genuine European tax revenue and that any changes in Union finances should not result in an increased burden on European citizens.

National parliaments with the Committee for European Parliament Budgets at a meeting on June 21, 2006, notwithstanding the emerging need to reform the current system of financing, however, the majority of parliamentarians, both national and European, have decided not to introduce a

118 At the meeting of the presidents of the Budget and Finance Committees of the National Parliaments of the European Union with the Committee on Budgets of the European Parliament of 21 June 2006 there was a debate on the reform of own resources. 19 national parliaments were represented: 14 at the level of committee chairman and 5 at the level of vice president. The speakers agreed on the need for reform, but most of them were opposed to the idea of a European tax. It the importance of the involvement of national parliaments was also underlined in the debate from outset. The representatives of national parliaments and European Parliament seemed willing to continue to work together and it was suggested to continue the discussion during the next parliamentary meeting. The idea of creating a working group composed of representatives of national parliaments and the European Parliament was also proposed to carry forward the work on the future of Union resources. European Parliament, the Parliamentary Meeting of 4 and 5 December 2006 on The Future of Europe: From Reflection to Action, "Information note of the European Parliament.

European tax to finance the EU budget[119].

A European Parliament resolution of 29 March 2007, adopts the report by French MP Alain Lamassoure[120] (Group of the European People's Party) defining the current financing system of the European Union: "Inadequate, non-transparent and unfair "and lays the foundation for proposing to finance the Community budget with an own tribute[121].

The resolution comes to this conclusion, starting from 1952, the year of the establishment of the European Coal and Steel Community, financed by an own tax levied on each ton of steel produced, which was to be paid directly by the coal and steel enterprises to CZECH budget. Therefore, starting from a historical-legal overview to reiterate that, in contacts with the national parliaments of the Member States, many believe that in the short run the time is not yet ripe for a new European tax; However, this does not exclude the possibility that, if Member States consider it appropriate to introduce new taxes, they could at the same time, or at a later stage, authorize the Union to benefit directly from such new taxes[122].

119 In the report the European MEP argues, among other things, that the objective of the review of the system of financing the budget, must be to reach an agreement on a new financial system, that is comprehensive, fair, generous, progressive and transparent to provide the European Union's ability to balance its aspirations with own resources rather than by contributions from the Member States, and noted the urgent need for reforms, in particular the system of own resources and the expenditure side, to avoid repeating, the painful experience of bargaining in the name of national interests in the next financial framework.

120 Report of the French MEP Alain Lamassoure (European People's Party) and adopted by the parliament on 29 March 2007. In adopting the report by Alain Lamassoure with 458 votes in favor, 17 against 61 abstentions, the European Parliament stresses that the current system , with its four different resources and its several different general or specific rebate mechanisms, such as the British rebate, "is excessively complex, lacks transparency and is completely incomprehensible to European citizens." The wide ranging review of the revenue and expenditure of the European Union, to be carried out in 2008/2009, "is therefore an opportunity to introduce a genuine and equitable system of own resources not to be missed in the spirit of the Treaties establishing the European Communities. "The French MEP Lamassoure, after traveling the length and breadth of Europe, in close contact with national parliaments, came to the conclusion that the timing of the introduction of a 'Euro-tax' is not yet ripe. According to the French MEP Gérard Onesta (Green Group / ALE), whose group would have preferred to see the Parliament report the word 'Euro-tax', believes that the final version of the text adopted by Parliament tries to please everyone and is therefore devoid of impact. Polish MEP Krzysztof Kuźmiuk (Union for Europe of the Nations), while not denying the inadequacy of the current system, warned that, the introduction of a euro-tax, would be burdened on citizens.

121 European Parliament, the Future of the EU's own resources, Brussels, Resolution of 29 March 2007.

122 Resolution adopted by the European Parliament on 29 March 2007, www.europarl.

In a second phase it will be essential to examine the creation of a new system of own resources based on a tax already levied by the Member States with a view to directly convey all or part of such tax in the EU budget as a genuine own resource , thus establishing a direct link between the Union and European taxpayers; note that this would also serve to approximate national tax laws.

The Parliament also points out that this kind of solution would only mark a return to the principle established by the Treaty of Rome, whereby European expenditure has to be financed by European own resources.

Parliament, therefore, recalls that among the taxes taken into account, in whole or in part, for this purpose during the exchanges with the national parliaments or in the Commission's reports on the reform of the system of own resources, include the following:

- VAT
- Excise duties on transport fuel and other energy taxes;
- Excise duties on tobacco and alcohol;
- Taxes on corporate profits;
- Taxes on securities transactions;
- Taxes on transport services and telecommunications;
- Income taxes;
- Withholding tax on interest;
- The eco-tax;
- Taxes on currency transactions;
- Taxes on savings;
- Taxes on financial transactions

The resolution is clearly, that the European Parliament, wants to continue the examination of these options in close cooperation with national parliaments before taking a final position. It gives high priority to the definition of a common basis for discussion with regard to the coming review of EU revenue, and intends to make every effort to come to a conclusion on the future of the Union's own resources that it can be supported by a majority of parliaments of the Member States.

In conclusion, the European Parliament, believes that the resources related to VAT and GNI, whose initial goal was to integrate the EU's own

europa.eu

resources, have gradually become the main source of financing of the EU budget and the application of exception schemes to the existing system of own resources has not done anything but make it more complex, little transparency for citizens and less equitable, thus creating a financing system that generates unacceptable disparities among Member States.

The European Parliament, is of the view that it is important to note that Europe, which widens, with financial resources appropriate and proportionate to its growing political ambitions. The financial perspective is a financial framework which aims to ensure the realization of EU priorities taking into account the budgetary discipline[123].

The resolution, therefore, drew a track on which a 'Euro-tax' is travelling with the ambition of seeing that it arrives at your destination in the med term. The Parliament, in fact, announced the intention to continue the examination of certain assumptions of taxation in close cooperation with national parliaments before taking a final position.

123 The lack of financial autonomy due to the scarcity of genuine own resources in the Community budget is considered responsible for the drawbacks of the current system. - First, the lack of financial autonomy has made the EU increasingly dependent on intergovernmental transfers; this dependency has fueled conflict and urged the United States to seek to reap the maximum benefits from the mistaken idea that a State can derive benefit from the EU budget; - Secondly, the system whereby all financing needs not covered by TOR and VAT are covered by the GNP resource proves very cost-effective, but causes changes in EU expenditure at the margin are reflected in changes in national spending. In this way the problems of EU funding are intertwined with the financial and budgetary policies of the Member States, to the detriment of the visibility of EU priorities for the citizens; - Thirdly, there is less inherent transparency in every democratic process, as it lacks a direct relationship between the citizen-taxpayers and the taxes paid to the EU budget. Commission of the European Communities, report of 07.10.1988. p. 9.

CHAPTER IV

"CONCLUSION"

A TAX TO FINANCE THE COMMUNITY BUDGET

The own resources system has undergone major transformation over the years.

From 1957 to now, the European Union still cannot give itself a system of financing its budget based primarily on a "real" own entrance. The system is, in fact, mainly focused on financial derivative.

The introduction of the fourth resource, the phasing out of traditional own resources (or for the abolition of border or for the GATT agreements of for the cumbersome and expensive collection of these revenues) and the lack of fairness of the resource derived from VAT, have made the EU budget an instrument which is barely understandable for citizens and dependent on transfers from Member States.

The "own resources" decisions of 1988 and 1994 have introduced an element of greater equity in the determination of the gross contribution of the Member States to the EU budget, which since then has been more aligned on the respective part of each country in the EU GNP. This improvement was a direct result of the growing importance of the fourth resource (GNP) in total budget contributions. The current system has the advantage of providing the necessary resources for the financing of Community expenditure.

In spite of everything, it has proven deficient in at least two aspects: first, depending largely on the transfers made by the Member States, the system does not guarantee the financial autonomy of the Union[124]; Sec-

124 The principle responds to the fiscal instruments adopted for the financing of the EU budget and are not able to guarantee sufficient autonomy of the same with respect to transfers from the upper or lower levels of the institutional architecture and are able to do so in a more visible as possible for taxpayers. A. Zatti, op. cit., p. 54.

ond, the repeated interventions to the contributory scheme, in particular the compensation mechanism for the United Kingdom, make the relationships between Member States and EU general budget less transparent.

The system of own resources, is therefore, not very transparent, with limited financial autonomy[125] and very complex.

It is these characteristics that the revenue system has taken over the years, that have led organs to seriously consider, in light of EU enlargement to other States, the start of a debate to change the funding Community budget.

As we have analyzed in the previous pages, the Community organs have concluded that the introduction of a community tax is not yet ripe.

In fact, with the Treaty of Lisbon signed on 13 December 2007 amending the Treaty on European Union and the Treaty establishing the European Community, the leaders wanted to provide the Union with the necessary tools to meet the challenges of the future and respond the expectations of the citizens.

It has in fact been established, among other things, that the Parliament and the Council decide all the expenses together, thus removing the current distinction between so-called compulsory expenditure (eg direct agricultural aid) and non-compulsory.

This innovation balances the role of the two institutions. On the revenue side, the Treaty amending Article 269 of the TEC establishing that "The Union shall provide itself with the means necessary to attain its objectives and carry through its policies', while the second paragraph in an explicit way, while maintaining the unanimous consent, gives the Council the possibility to establish new categories of own resources or abolish an existing category[126].

---

125 "The system of own resources of the Union must ensure adequate resources for the orderly development of the Union's policies, subject to the need for strict budgetary discipline. It should be equitable, transparent, cost-effective and simple. The pursuit of other aims, such as financial autonomy, should not undermine these four generally accepted objectives. The system must be based on criteria that best express the ability to pay of each Member State. Rabbit the Berlin Summit - Conclusions of the Presidency, in Bulletin of the European Union, n. 3/1999, p. 16

126 Article 269 is amended as follows: a) inserted in the first paragraph is: "The Union shall provide itself with the necessary means to attain its objectives and carry through its policies."; b) the last paragraph is replaced with the following two paragraphs: "The Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the European Parliament, shall adopt a decision laying down the provisions relating to the system of own resources . In this context it is possible to establish new categories of own resources or

From the moment that the United States adopts the Treaty, it will undoubtedly be easier to open a serious debate on whether or not to introduce a Community tax. A debate, among other things, already open not only within and among the Community and national organs[127], but also among scholars. It discusses, in fact, the possibility of introducing a tax which affects monetary speculation such as the Tobin tax[128]. Some believe that we can introduce a tax on personal income[129] and others instead, of a source of community income could be represented by the VAT revenue received by the Customs administrations of the Member States on goods from countries outside Europe[130].

But the most surprising idea and perhaps even the most original is that of French MEP Alain Lamossoure: a tax on e-mail and text messaging on mobile phones.

The introduction of these taxes would be a step to apparent economic development, as supported by Lamassoure. "In the agricultural era, we invented tax on land, and in the era of trade we invented the customs fees. Since we are now in the digital era, our system of taxation should reflect the change"[131].

There is certainly a need to create mechanisms that make use of tax-

abolish an existing category. This Decision shall enter into force only if approved by Member States in accordance with their respective constitutional requirements. "Lisbon Treaty, G.U.CE. C 306/12117 of 12.2007 90 The European Parliament of 1999 expressed itself thus: "Considering that the incidence of traditional own resources continues to lose importance and that the VAT-based own resources, as well as own resources based on GNP, have characteristics that lead them to be confused with national contributions, therefore, it becomes more and more urgent to create new own resources to ensure the financial autonomy of the Community whereas the current system of own resources is inadequate with regard to the criteria of financial autonomy, transparency, accountability and legal comprehensibility for citizens, this criteria must comply with a reform of the system of own resources. European Parliament Resolution on the need to modify and reform the system of resources of the European Union, OJ n. 175, 21/06/1999, p. 238.

127 E. Brancaccio, Brief notes on the text of the law for the establishment of a European tax on currency transactions.

128 G. Muraro, First notes on the hypothesis of a European tax on personal income.

129 C. Bornico, Study of a new source of funding under the EU budget, AUSE, 1/2006.

130 Phrases and proposals Alain Lamossoure reported by the journalist Thomas Crampton in an article published on Intenational Herald Tribune 06/02/2006 titled E-tax idea inspires opposition.

131 Speech by Romano Prodi, President of the European Commission, for a strong Europe, with a great project and the tools to make it happen, Institute of Political Studies, Paris, May 29, 2001.

ation in order to introduce a degree of harmonization in view not only of greater mobilization of labor within the twenty-seven countries, but also to prevent it from triggering a mechanism of fiscal competition among the member countries, as in the case of taxation on income and financial capital gains.

Beyond the technical aspects of the harmonization of the tax system, there is "The other key aspect of building a democracy that is to consent to the tax. Any large-scale reflection on the future of the

European Union has to set the agenda for the reform of its financing"[132]. Reform that unfortunately never happened. Although Article 269 was amended by the Lisbon Treaty on December 2007, however, it cannot be said that it has the ambition to be an innovative tool in the hands of the European Parliament, even if the latter feels stronger as it is called upon to give its opinion on any decision of the Council, which then must be ratified by the Member States.

As long as this complex and cumbersome mechanism exists in order to adopt a measure concerning entry, you will never be able to speak of full democracy.

It is necessary to move beyond the obstacle of unanimous consensus in the adoption of any act relating to entry and to introduce a qualified majority voting system or to assign the function of real European Union volitional organ to the European Parliament. The parliamentary representation of euro citizens must participate in decision making. It is crucial that euro citizens have the opportunity to express their consent directly through their MEPs.

Therefore, there is the need of the introduction of the so-called principle of legality into the Community because just as tax 'consent' (no tax-

132 It is easy to see that the "tax issue", from this point of view, has always been linked to that of democracy. This is demonstrated by the principle of no taxation without representation, in the name of which the spark of the American Revolution was lit. Subject of contention, in connection with increasingly divergent commercial interests, were the taxes that the motherland claimed to impose upon citizens of the colonies without giving them the chance to give their consent, since they do not elect their representatives in Westminster. But even the French Revolution is crossed by the issue of consent to the tax. Although the revolutionary taxation hot days of the revolutionary process had then demonstrated to be sparsely populated, its the background still preserved the idea of no taxation without representation. In Fouret-Ozuf, Critical Dictionary of the French Revolution, under the heading Set, we read that the deputy Lavie National Assembly of 1791 declared: "We made the revolution only to be the masters of tax". L. Antonini, The principle of subsidiarity tax becomes the right and duty to welfare restoring sovereignty to the citizen: harbingers of a "revolution" Modern, in time, no. 29 of 12/07/2005.

ation without representation) does, it also finds its postulates in the discipline of taxation[133].

In democratic systems, "Consent to tax is also configured as an autonomous constitutional principle, distinct from that of the financial statements, because while the latter continues to be appreciated as an immediate expression of the constitutional relationships between Parliament and Government, the requirement of consent of the Parliament the establishment of taxes is attributed to the most general principle that only the law can affect the sphere of property and individual liberty"[134].

The Commission Decision of 28.9.2011 on the proposed directive, it is noted that the issue of financial sector taxation denotes a clear intention to embark on a path leading to the introduction of a European tax (assuming the Tobin tax). The issue was also addressed in the Commission Communication on the EU Budget Review of 19 October 2010[135]: "The Commission believes that the means of financing in the following list - not exhaustive - could constitute new own resources that would gradually replace national contributions, thereby alleviating the burden even for national budgets: - European taxation of the financial sector. "

The subsequent proposal for a Council Decision on the system of own resources of the European Union of 29 June 2011[136], has identified six possible new own resources in the review of the EU budget. Each was

133 . Fedele, The reserve of law, in the Treaty of Tax Law by Amatucci A., Padua, 1994, p. 159.

134 The issue of "own resources" is an important aspect of the budget review. Beginning in the early seventies, the EU collected own resources starting from common policies, for example by applying the Common Customs Tariff duties. Over time, the autonomy of these own resources has been declining. The current system of EU financing has evolved in a fragmentary way, becoming an unclear heterogeneous mixture of contributions from national budgets, adjustments and refunds. The connection between the original own resources and common EU policies has been lost, making the system less transparent and fueling doubts about its impartiality. Now, there is the necessity for a new and fresh cut, able to realign the financing of the EU to the principles of autonomy, transparency and fairness. COM (2010) 700 final. (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0700:FIN:IT:PDF).

135 COM(2011)510def.(http://eurex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0510:FIN:IT:PDF).

136 SEC (2011) 876 final. The report states that the ITF "has a broad application field as it aims to cover all kinds of transactions in financial instruments [...]. The field therefore includes negotiable instruments on the capital market, money market instruments (with the exception of payment instruments) units or shares in collective investment schemes and derivatives. Moreover, the field of tax is not limited to transactions on organized markets, but also covers other types of transactions including those traded over the counter. "

examined in depth, particularly on the basis of the evaluation criteria set out in the budget review. Among the proposals before the Council ranks the ITF (87) as a new own resource to be introduced into the EU budget, supplemented by separate proposals in respect of own resources that illustrate the Commission's view of the possible ways of ITF use as a source of revenue for the EU budget.

The Tobin tax, according to the idea of the author, would find the right application within the EU, because if applied in a wide enough area (28 countries, but the number is growing), and also because the majority of these countries have common currency.

The financial transaction tax could be a new revenue stream, which could reduce the present contributions of the Member States, give Member States greater room for maneuver and contribute to the overall effort of fiscal consolidation. Although some form of financial transaction taxation already exists in some Member States, the analysis has also made it clear that action at EU level could be more effective and efficient than an operation conducted in an uncoordinated manner by the Member States , given the volume of cross-border activities and the high mobility of the tax bases. Moreover, this tax could help reduce the current fragmentation of the internal market[137].

137 "The tax levied at EU level would reduce the problems of "fair return" encountered with the current system. This EU initiative would be a first step towards the application of a FTT at global level. The Commission will then present a legislative proposal to the EU tax on financial transactions "(SEC (2011) 876 final).

REFERENCES

A. Amatucci, L'ordinamento giuridico della finanza pubblica, Napoli, 2004.

M. Ansaldo, Senato, bocciata la Tobin tax: a vuoto il tentativo di accordo, la maggioranza approva la sua mozione, in La Repubblica, 12 luglio 2001.

L. Antonini, Il principio di sussidiarietà fiscale trasforma il diritto-dovere al welfare ridonando sovranità al cittadino: prodromi di una «rivoluzione » moderna, in Tempi, n. 29/2005.

A. Artoni, Lezioni di scienza delle finanze, Bologna, 1999.

Barry Eichengreen, James Tobin e Charles Wyplosz, Two Cases for Sand in the Wheels of International Finance, in The Economic Journal, vol. 105, 1995, pp. 162-172.

R. Bellofiore- E. Brancaccio, Il granello di sabbia, i pro e i contro della Tobin tax, Feltrinelli, Milano, 2002.

M. Beghin, Diritto tributario: principi, istituti e strumenti per la tassazione della ricchezza, Giappichelli, Torino, 2011.

D. H. Brockway, Memorandum on Securities Transfer Tax Issue, Tax Notes, 18.5.1987.

M. Caprara, La mozione sul G8 in Senato: l'Ulivo rimane unito, sfuma l'accordo bipartisan, in Corriere della Sera, 12 luglio 2001.

G. Carchedi, Politiche Keynesiane, crisi finanziarie e guerre, Proteo, 2002, n .2.

A. Carlucci, Esenzioni ed esclusioni in materia di imposta sulle transazioni finanziarie, Cor. Trib., 15/2013.

Le transazioni finanziarie, Banche e Banchieri, 15/2013.

R. Cleroux, The party of corporate Canada, The Canadian Forum, 74/1996.

Corte cost. 22 aprile 1997, n° 111, in Giur. It., 1/1997.

D. Coppa, Gli obblighi fiscali dei terzi, Milano, 1990.

Commentario CEE, a cura di Quadri R. - Monaco R. - Trabucchi A., Milano, 1965.

Commentario CECA, a cura di Quadri R. - Monaco R. - Trabucchi A., Milano, 1970.

Curti Gialdino, Il Trattato di Maastricht sull'Unione Europea, 2 vol. Roma, 1993.-

N. D'Amato, Diritto finanziario – aspetti sistematici e interpretativi-, Bari, 2006.

M. Devereux, The Economics of tax Policy, Oxford University Press, Oxford, 1996.

A. Di Maio, Una finanza pubblica federale per l'Europa, paper, 2003.

D. Ducci-B. Olivi, L'Europa incompiuta, Padova, 1970, p. 158.

P. De Grauwe, Economia dell'Unione monetaria, Il Mulino, 2005.

P. De Grauwe, Economia Monetaria Internazionale, Il Mulino, Bologna, 1996.

E. De Mita, Principi di diritto tributario, Milano, 2011.

E. De Mita, Capacità contributiva, in Digesto, sez. comm., II, Torino, 1987.

L. Di Renzo, Politiche e Istituti della Finanza Pubblica Nazionale e Europea, Academy School, Napoli, 2007.

Ecofin Council, Conclusion of the Ecofin meeting on I December 1997 concernent taxation policy, in Official Journal of the European Communities 98/C 2/01.

Ecofin, Riunione del 18 gennaio 2005, versione provvisoria, 5283/05,

www.univ.ne.eu.int/newsroom.

G. Falsitta, Natura e funzione dell'imposta, con special riguardo al fondamento della sua "indisponibilità", in Giustizia Tributaria e Tirannia Fiscale, Milano, 2008.

A. Fantozzi, Trattato costituzionale per l'Europa. Proposte relative alla fiscalità, in Riv. di Dir. Trib., n. 7-8/2003.

A. Fantozzi, Armonizzazione fiscale tra modelli e autonomia normativa degli Stati, Relazione al Convegno, Bologna, 25 settembre 2003.

P. Filippi, L'imposta sul valore aggiunto, in Trattato di Diritto Tributario a cura di Amatucci A., Padova, 1994.

A. Fedele, La riserva di legge, in Trattato di Diritto Tributario a cura di A. Amatucci, Padova, 1994.

D. Felix, Financial Globalization versus Free Trade: The Case for the Tobin Tax, <Discussion Paper no. 108>, United Nations Conference on Trade and Development, Geneva 1996.

D. Folkerts – T. Ito Landau, International Capital Markets: Developments, Prospects, and Policy Issue, International Monetary Fund, Washington, 1995.

F. Gallo, Le ragioni del fisco, Bologna, 2011.

F. Gallo, Mercati finanziari e fiscalità, in Rass. Trib., 1/2012.

F. Gallo, Ancora in tema di uguaglianza tributaria, Riv. di Dir. Fin. e Sc. delle Fin., fasc.4, 2013.

L. Gambacorta – L. Garofalo, La Tobin tax, in Riv. Di Polit. Econ., 3/1994.

P. M. Garber – M.P. Taylor, Sand in the wheels of foreign exchange markets: a skeptical note, in The Economic Journal, vol. 105, Maggio 1995, pag. 60-67.

Garber P. M., Issues of Enforcement and Evasion in a Tax on Foreign Exchange Transactions., in The Tobin Tax: Coping with Financial Volatility, New York, London: Oxford University Press, 1996.

P. Gerelli-A. Malocchi, Unione economica e monetaria europea: politica fiscale e vincolo di bilancio, Milano, 1993.

A. D. Giannini, I concetti fondamentali del diritto tributario, Torino, 1951.

B. Eichengreen & C. Wyplosz, The Unstable Ems, in Brooking Papers on Economic ActivityI, 1993, pp. 51-145.

G. Giangrande, Tobin tax, in Fisc. Banc., 2/2013.

A. Giovannini, Imposta ordinaria sul patrimonio e imposta sulle transazioni: un appunto, in Rass. Trib., 1/2012;

Capacità contributiva e imposizione: discriminazione qualitativa e limite quantitativo, Rass. Trib., 5/2012;

La discriminazione qualitativa sulla transazione finanziaria,2/2012

A. D. Giannini, Circa la pretesa non giuridicità della norma tributaria, in Riv. It. Dir. Fin., 1/1939

S. Gozi, Il governo dell'Europa, Bologna, 2000.

J. O. Grabbe, International Financial Markets, Prentice-Hall, Englewood Cliffs, 1963

S. Guarino, L'Unione europea e la rinuncia alla sovranità, in Aa.Vv., Costruiamo insieme l'Europa, Napoli, 2000.

V. Guizzi, Manuale di diritto e politica dell'Unione Europea, Napoli, 2000.

Walter Hallstein e la crisi della «sedia vuota», (1965-66), 2002, n. 27. http://polis.unipmn.it/

M. Ingraffia, La Tobin tax che piace a undici non va processata prima di nascere, in Fisco Oggi rivista telematica, 2 maggio 2014.

International Currency Regimes, Capital. Mobility and Macroeconomic Policy, in Cowless Foundation Discussion Paper, n. 993, 1991, New Haven, Yale University.

J. Kaiding, The Financial Transaction Tax: the way forward for the European Union, in Ec Tax Review n° 1/2014.

I. Kaul- J. Langmore, Potential uses of the revenue from a Tobin Tax, in Hag – Kaul – Grunberg, 1996.

J. M. Keynes, Occupazione, interesse e moneta - Teoria generale, Torino, 1978.

P. B. Kenen, The feasibility of taxing foreign exchange Transactions, in Hag – Kaul . Grunberg, 1996.

S. La Rosa, voce "Esclusioni tributarie", in Enc. Giur. Treccani.

B. Laffan, The Finances of the European Union, McMillan, London, 1997.

S. La Rosa, Osservazioni sulle norme tributarie da inserire nel Trattato costituzionale Europeo, in Riv.. di Dir. Trib., n. 7-8/2003.

F. Lauria, L'Unione Europea, Torino, 1996.

A.E. La Scala, I principi fondamentali in materia tributaria in seno alla costituzione dell'Unione europea, Milano, 2005.

R. Lupi, Diritto tributario – Parte speciale, Milano, 2005.

G. Liccardo, Le fonti comunitarie del diritto tributario, in Aa.Vv., I settanta'anni di diritto e pratica tributaria, Padova, 2000.

J. Langmore, Restructuring economic and financial power, Futures, 1995, 27.

A. Malocchi, Un nuovo sviluppo per l'Europa. Le indicazioni del Piano Delors, Il Mulino/Europa, n. 1, giugno 1994.

M. Marè, Il sistema di finanza e la ripartizione delle competenze dell'Unione Europea, RAPPOTO Monitor, 2003.

G. Maisto, Progetto Costituzione Europea. Appunti di lavoro, in Riv. di Dir. Trib., n. 7-8/2003.

C. Malandrino, Oltre il compromesso del Lussemburgo verso l'Europa federale.

G. Marongiu, Costituzione Europea e principio di ripartizione dei tributi, in Riv. di Dir. Trib., n. 7-8/2003.

E. Mignari, L'imposta sulle transazioni finanziarie ovvero la versione italiana della Tobin tax, in Bancaria, n° 9/2013.

G. Molinaro, Attuata la disciplina dell'imposta sulle transazioni finanziarie, in Corr. Trib., 11/2013 Definiti gli obblighi di intermediari e contribuenti per la Tobin tax, in Corr. Trib., 11/2013.

G. Martini, Le risorse proprie delle Comunità europee: aspetti politico-istituzionali e finanziari, in Spesa Pubblica, n. 4, luglio-agosto 1991.

F. Mirando (a cura di), Il sistema delle risorse proprie, Quad. Fed., n. 37/2000.

R. Monaco, Cenni storici sullo sviluppo dell'integrazione economica europea, in Commentario CEE a cura di Quadri R. - Monaco R. - Trabucchi A. Milano, 1965, Vol. I.

J.P. Monnory, Il potere di imposizione fiscale previsto dall'art. 49, in Commentario CECA, a cura di Quadri R. - Monaco R. - Trabucchi A. Milano, 1970, Tomo II.

G. Muraro, Prime note sull'ipotesi di un'imposta europea sul reddito delle persone fisiche, www.decon.unipd.it

G. Muraro, L'IRPEF come strumento di finanziamento del bilancio comunitario, Ferrara, 2002.

G. Marongiu, I fondamenti costituzionali della imposizione tributaria, Bologna, 1991.

M. Matteuzzi- A. Simonazzi, Il Debito Pubblico, Bologna, Il Mulino, 1988.

A. C. Michalos, Un'imposta giusta: la Tobin Tax, Gruppo Abele, 1997.

A. C. Michalos, Un'imposta giusta, la Tobin Tax, Gruppo Abele, 1999.

V. A. Mom, Tiberio, Enciclopedia Treccani, www.treccani.it

V. Moschetti, La capacità contributiva, in Trattato di Diritto Tributario (diretto da A. Amatucci), Padova, 1994, I, 1°,

M. Nava, La finanza Europea, storia, analisi, prospettive, Roma, 2000.

W. Oates, Fiscal fedralism and european Union: somereflection, SIEP, settembre 2002.

G.P. Orsello, Ordinamento comunitario e Unione europea, Milano, 1994.

T. Padoa Schioppa, Efficiency, Stability and Equty. A Stategy for the evolution of the economic system of the European Community, Report of a Study Group Appointed the Commission of the Europea Communities, and Presided by T. Padoa Schioppa, II/49/87.

M. Panebianco, Fissazione della tariffa doganale comune, in Commentario CEE a cura di Rolando Q. - Monaco - Trabucchi A., Milano, 1965, vol. I.

L. Paolazzi, Un po' di sabbia nei mercati per scoraggiare la volatilità, Il Sole 24 Ore, 5 febbraio 1998.

F. Picchi, Il nuovo economics & business, Zanichelli, 1990.

E. Potito, Soggetto passivo d'imposta, in Enc. Del Dir., Milano, 1990

R. Prodi, Presidente, Per un'Europa forte, dotata di un grande progetto e degli strumenti per realizzarlo, Istituto di studi politici, Parigi, 29 maggio 2001.

R. Prodi, La governance europea, articolo del 25 luglio 2001, ww.europa.eu.int/commiss/commissioner.

R. Prodi, discorso da Presidente della Commissione europea, «Per un'Europa forte,dotata di, un grande progetto e degli strumenti per realizzarlo», Istituto di studi politici, Parigi, 29 maggio 2001.

M. Romoli Venturi, Unione doganale, in Commentario CEE a cura di Rolando Q. - Monaco - Trabucchi A., Milano, 1965, vol. I.

L. Rossi Serena, La dinamica interistituzionale nella definizione del bilancio comunitario, in Il Dir. Dell'UE, n. 1/06.

R. Sau, Financial and Real Investments: Some Notes on Tobin Tax., in Econ. Intern., vol. XLIX, n. 1, Febbraio 1996, pag 97-99.

D. Schefold, Modelli di federalismo e sistema finanziario Tedesco nel quadro dell'integrazione Europea, Seminario del 28 gennaio 2000, www.luis.sem.corteuropea.it.

P. Schmidhuber, Le finanze pubbliche della comunità, Bruxelles, 1989.

C. Scrivener, Una strategia per il bilancio dell'Unione nel XXI secolo, Bruxelles, 1995.

Stammati G., Disposizioni finanziarie, in Commentario CEE a cura di Quadri R. – Monaco R. – Trabucchi A. Milano, 1965, Vol. III.

D. Strasser, Le finanze dell'Europa, Bruxelles, 1979.

L.H. Summers – V.P. Summers, When financial markets work too well: a case for a Securities transaction, in Innovation and Technology in the Markets: A Reordering of the Worlds Capital Market System, a cura di D. R. Siegel, McGraw – Hill Book Co., London 1990.

F. Tesauro, Istituzioni di diritto tributario – Parte speciale, Torino, 2013.

F. Tesauro, Istituzioni di diritto tributario – parte generale, Utet, Torino, 2014.

B. E. Thompson, Merrill Lynch says Securities transaction tax would harm the economy and add to the budget deficit, 1990.

J. Tobin, Tobin tax - perché una tassa sulle transazioni finanziarie, Mimesis Eterotopie, 2012.

G. Tesauro, Commento all'art. 78 del Trattato CECA, in Commentario CECA a cura di Quadri R. - Monaco R. - Trabucchi A. Milano, 1970.

E. Tosato, Sulla natura giuridica delle leggi tributarie, in Riv. Dir. Fin. e Sc. delle Fin., 1/1939.

J. Tobin, A proposal for International monetary reform", in Eastern Economic Journal, July-October 1978, vol. 4, 1978; On the Efficiency of the Financial System», in Lloyds Bank Review, vol. 153, 1984.

G. Trupiano, Enlargement of the European Union and its Impact on EU Institution and Budget, in The European Union Review, vol. 4, n. 3, 1999.

R. Toulemon, La costruction europèenne: histoire, acquis, perspectives, Parigi, 1994, p. 25.

M. Udina, Libera circolazione delle merci, in Commentario CEE a cura di Rolando Q. - Monaco - Trabucchi A., Milano, 1965, vol. I.

E. Vanoni, Natura ed interpretazione delle leggi tributarie, Padova, 1932

A. Zatti, Il finanziamento dell'unione europea e il sistema delle risorse proprie, Verona, 2002.

COMMUNITY ACTS

Commissione delle Comunità Europee (1992a), Una relazione sul sistema delle risorse proprie, COM (92) 81 def., 10 marzo.

Commissione delle Comunità Europee (1992b), Una relazione sull'attuazione dell'accordo interistituzionale, COM (92) 82 def., 10 marzo

Commissione delle Comunità Europee (1992c), Dall'Atto Unico a dopo Maastricht: i mezzi delle nostre ambizioni, COM (92) 2000, 11 febbraio.

Commissione delle Comunità Europee (1992d), Le finanze pubbliche comunitarieda oggi al 1997, COM (92) 2001, 10 marzo.

Commissione delle Comunità Europee (1992e), Report of the Committee ofIndependent Export on Company Taxation.

Commissione delle Comunità Europee (1993a), Stable Money – Sound FinancesCommunity Public Finance in the Perspective of EMU, in European Economy, n. 5.

Commission of the European Communities – Directorate General for Economic and Financial Affaire, European Economy, n. 53, 1993: Stable Money - Sound Finances.

Commissione delle Comunità Europee (1993b), The Economy of Community Public Finance, in European Economy, Report and Studies, n. 5.

Commissione delle Comunità Europee (1994a), Crescita, competitività e occupazione. Le sfide e le vie da percorrere per entrare nel XXI secolo, in Libo Bianco, Lussemburgo.

Commissione delle Comunità Europee (1994b), Applying Market Principles to Government Borrowing; Growth and Employment, The Scope for a EuropeanInitiative, in European Economy, Reports and Studies, n. 1.

Commissione delle Comunità Europee (1995), Le Finanze Pubbliche dell'Unione europea, Ufficio delle Pubblicazioni Ufficiali del Comunità Europee, Lussemburgo.

Commissione delle Comunità Europee (1997b), Proposta di direttiva del consiglio che ristruttura il quadro comunitario per l'imposizione dei prodotti energetici, CM (97) 30 def., 12 marzo.

Commissione delle Comunità Europee (1998), Agenda 2000, Il finanziamento dell'Unione europea. Reazione della Commissione sul finanziamento del sistema delle risorse proprie, in Bollettino dell'Unione europea, supplemento 2/98.

Commissione delle Comunità Europee (1998), Direzione Generale XIX Bilanci, Prospettive di finanziamento, previsioni e garanzie del bilancio, relazione del 7/10/1988.

Commissione delle Comunità Europee (1999), Proposta di decisione del consiglio relativa al sistema delle risorse proprie dell'Unione europea, COM (99) 333 def., 8 luglio 1999.

Commissione delle Comunità Europee (2000), Vademecum di bilancio, edizione2000, SEC (2000) 1200.

Commissione delle Comunità Europee (2000), L'Europa e il suo bilancio e il suo bilancio: a che servono i vostri soldi?, Lussemburgo.

Commissione delle Comunità Europee (2002), Rafforzamento del coordinamento delle politiche di bilancio, COM (2002) 668 final.

Commissione delle Comunità Europee (2002), Le finanze pubbliche dell'Unione europea, Lussemburgo, 2002.

Commissione delle Comunità Europee (2003), Structure of the taxation system in the EU 1995-2001, COM (2003).

Commissione delle Comunità Europee (2004), Comunicazione Prospettive finanziarie 2007-2013, 14 luglio 2004, COM(2004) 487 def.

Commissione delle Comunità Europee (2004), Relazione sul finanziamento dell'Unione europea, COM (2004) 505 def.

Commissione delle Comunità Europee, COM(2006) 99 def. – 2006/0039 (CNS), Adozione della proposta di decisione del Consiglio relativa al sistema delle risorse proprie delle Comunità europee.

Commissione delle Comunità Europee, SEC (2007) 1188 def., Riformare il bilancio, cambiare l'Europa.

Consiglio Europeo, Decisione 70/243/CECA, CEE, EURATOM 21/04/1970, Relativa al sistema delle risorse proprie della Comunità.

Consiglio Europeo, Decisione 1985/257/CEE, EURATOM, Relativa al sistema delle risorse proprie della Comunità.

Consiglio Europeo, Decisione 1988/376/CEE EURATOM, Relativa al sistema delle risorse proprie della Comunità.

Consiglio Europeo, Decisione 1994/728/CEE EURATOM, Relativa al sistema delle risorse proprie della Comunità.

Consiglio Europeo, Decisione 2000/597/CE EURATOM, Relativa al sistema delle risorse proprie della Comunità.

Consiglio Europeo, Prospettive finanziarie 2007/2013, Bruxelles, Documento 15915/05.

Convenzione Europea, Relazione finale del Gruppo VI «Governance economica», CONV 357/02, 21 ottobre 2002.

Convenzione Europea, Finanze dell'Unione: progetto di articoli 38 39 e 40, COV 602/03, 12 marzo 2003.

Convenzione Europea, Circolo di Discussione sulle risorse proprie, COV 654/03, 31 marzo 2003.

Convenzione Europea, Composizione del circolo di discussione sulle risorse proprie, CONV 655/03, 11 aprile 2003.

Convenzione Europea, Relazione finale del circolo di discussione sulle risorse proprie, CONV 730/03, 8 maggio 2003.

Corte dei Conti delle Comunità europee (1997) 20eima relazione annuale e dichiarazione di affidabilità relative all'esercizio finanziario 1996, in G.U.R.I, C348, 18 novembre 1997.

Corte dei Conti delle Comunità europee (1998a) 21eima relazione annuale e dichiarazione di affidabilità relative all'esercizio finanziario 1997, in G.U.R.I, C349, 17 novembre.

Corte dei Conti delle Comunità europee (1998b) Relazione speciale 6/98 sul bilancio del sistema delle risorse basate sull'IVA e sul PNL,, in G.U.C.E, C241, 31 luglio 1998.

Corte dei Conti delle Comunità europee (1999) 22eima relazione annuale e dichiarazione di affidabilità relative all'esercizio finanziario 1998, in G.U.R.I, C349, 3 dicembre 1999.

Corte dei Conti delle Comunità europee (1999) Parere su una proposta di decisione del Consiglio relativa al sistema delle risorse proprie delle comunità europee, GUCE n. C/999.

Corte dei Conti delle Comunità europee, Parere su una proposta di decisione Finanziamento del bilancio comunitariodel Consiglio relativa al sistema delle risorse proprie delle comunità europee, Parere n. 2/2006, G.U.R.I. C 203/30, 25 agosto 2006.

Corte di Giustizia delle Comunità europee, Causa 302/88, 27 settembre 1988.

Corte di Giustizia delle Comunità europee, Causa 80/94, 14 febbraio 1995.

Sent. Corte di Giust. 30/04/ 2014, causa C-209/13

COM (2011) 510 def.

COM (2011) 594 def.

COM(2011) 510 def

COM(2011) 594 def.

COM (2010) 549 def.

COM (2010) 700 def.COM(2010) 700 def.

COM rel. del 7/10/1988.

Direttiva 2004/39/CEE

Direttiva 2004/39/CEE

Direttiva 2000/12/CEE

Direttiva 85/611/CEE

Direttiva 93/6/CEE

Direttiva 93/22/CEE

Parlamento Europeo-Consiglio e Commissione delle Comunità Europe, Accordo Interistituzionale sulla disciplina di bilancio e sul miglioramento della procedura di bilancio, in G.U.R.I., L 185, 15 luglio 1988.

Parlamento Europeo-Consiglio e Commissione delle Comunità Europe, Accordo Interistituzionale sulla disciplina di bilancio e sul miglioramento della procedura di bilancio, in G.U.R.I., C 331, 7 dicembre 1993.

Parlamento Europeo-Consiglio e Commissione delle Comunità Europe, Accordo Interistituzionale sulla disciplina di bilancio e sul miglioramento della procedura di bilancio, in G.U.R.I., C 17, 18 giugno 1999.

Parlamento Europeo Risoluzione A3-317/90 in GUCE n. C324 del 24/12/1990.

Parlamento Europeo Risoluzione A4-0105/99 in GUCE n. C175 del 21/06/1999.

Parlamento Europeo Risoluzione A3-0228/94 in GUCE n. C128 del

21/04/1994.

Parlamento Europeo Risoluzione A4-0331/97 in GUCE n. C388 del 22/12/1997.

Parlamento Europeo Risoluzione A6-0066/2007 il 29 marzo 2007.

Parlamento Europeo, Incontro Parlamentare del 4 e 5 dicembre 2006 su Il futuro dell'Europa: dalla riflessione all'azione», posizione del Parlamento Europeo.

Parlamento Europeo, Incontro Parlamentare del 4 e 5 dicembre 2006 su Il futuro dell'Europa: dalla riflessione all'azione», Nota informativa del Parlamento Europeo.

Regolamento (CE) n° 1287/2006

SEC (2013) 52 def.

SEC(2011) 876 def.

SEC(2011) 1102 def.

SEC(2011) 1103 def

SEC 2011) 1103 def.

SEC (2011) 1102 def.

SEC(2011) 876 def.

Stampato presso la Coop. Grafica ETICA
Afragola - Via De Gasperi, 138
Tel. 081 8524483 - 8524855
email eticagrafica@inwind.it