House of Commons

Treasury Committee

The UK's EU Budget Contributions

Tenth Report of Session 2014–15

Report, together with formal minutes relating to the report

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Treasury Committee

The Treasury Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of HM Treasury, HM Revenue and Customs and associated public bodies.

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Evidence relating to this report is published on the Committee's website at www.parliament.uk/treascom

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The current staff of the Committee are Chris Stanton (Clerk), Anne-Marie Griffiths (Second Clerk), Adam Wales and Gavin Thompson (Senior Economists), Hansen Lu, Gregory Stevens (on secondment from the Bank of England), Callum Saunders (on secondment from the NAO), and Laura Saks (on secondment from the FCA) (Committee Specialists), Steven Price (Senior Committee Assistant), Alithea Williams (Committee Assistant), and Sanjay Odedra (Media Officer).

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The UK's increased EU Budget contribution

1. On 17 October 2014, the European Commission informed HM Treasury that the UK would have to make an additional contribution to the EU budget of approximately €2.1 billion.[1] This additional contribution had been prompted by revisions to EU Member States' historic Gross National Income (GNI) data, dating back to 1995.[2]

2. Member States make several annual contributions to the EU budget, by far the most significant being a levy on GNI. This levy is charged as a percentage rate on Member States' annual GNI, with the rate set at a level designed to cover exactly the portion of the EU Budget which remains unfunded once the other sources of income—namely 'Traditional Own Resources' and VAT-based resources—have been taken into account.[3] The result is that an individual Member State contributes to this portion of the budget in proportion to its share of total GNI across all Member States. In 2013, GNI-based contributions amounted to 74 per cent of the EU's total budget.[4]

3. Owing to the importance of GNI in determining Member States' contributions to the EU budget, the EU statistical office (Eurostat) carries out regular audits of the methods and data used to estimate GNI.[5] EU legislation makes clear that Member States' GNI-based contributions from previous years can be changed retrospectively, if any retrospective corrections are made to the GNI data for those years as part of this process.[6] These changes to Member States' EU budget contributions are known as "adjustments".

4. There is a four-year time limit on these retrospective adjustments, but this time limit may be disapplied in the case of adjustments "notified within this time limit either by the Commission or by the Member State".[7] Any adjustments must be settled with the Commission "on the first working day of December" of the year in which the adjustments are calculated.[8]

1 Q 46; European Commission, 'Information note for Member States', 17 October 2014, page 3

2 European Commission, 'Information note for Member States', 17 October 2014, page 3

3 European Commission, 'European Union Public Finance, 4th Edition', page 241; 'Traditional own resources' consist mainly of customs duties on imports from outside the EU and sugar levies. VAT-based resources are gathered through a uniform rate of 0.3 % which is levied on the harmonised VAT base of each Member States. See http://ec.europa.eu/budget/mff/resources/index_en.cfm

4 European Commission, 'EU expenditure and revenue', accessed 18 February 2015

5 Office for National Statistics, 'Latest developments to National Accounts', 16 May 2014

6 Specifically, Article 10(7) of Council Regulation (EC, Euratom) No. 1150/2000, as amended by Council Regulation (EC, Euratom) No 105/2009, states that "Any changes to the GNI of previous financial years pursuant to Article 2(2) of Regulation (EC, Euratom) No 1287/2003 subject to Article 5 thereof, shall give rise for each Member State concerned to an adjustment to the balance established pursuant to paragraph 6 of this Article. This adjustment shall be established in the manner laid down in the first subparagraph of paragraph 5 of this Article."

7 Council Regulation (EC, Euratom) No. 1150/2000, Article 10 (7)

8 Council Regulation (EC, Euratom) No. 1150/2000, Article 10 (7)

5. In May 2014, the Office for National Statistics (ONS) announced that there would be a number of changes to previous UK GNI figures dating back to 2002. This was part of a revision exercise across Member States, designed to address various problems uncovered in a comprehensive audit by Eurostat in 2012. This audit had suggested that Member States were not calculating GNI in a consistent and comparable way.[9] These revisions dated back as far as 1995 for some Member States, but they met the conditions for an exemption from the four-year time limit since the data they revised had been automatically marked as provisional by Eurostat—which is part of the European Commission—upon initial publication. The data were only classed as final once Eurostat had inspected them and Member States had addressed the issues identified.[10]

6. Member States were asked to submit their revised GNI figures to Eurostat by 22 September 2014.[11] On the basis of these, Eurostat recalculated the GNI-based contributions of each Member State dating back to 1995. Those Member States whose GNI made up a larger proportion of total EU GNI than initially thought would be required to pay an additional amount to cover the difference; those whose GNI made up a lower proportion would receive a credit. The amended figures were presented at a meeting between Eurostat, the Directorate General for Budget, and Member States' finance ministries, on 17 October 2014.[12] The data revealed that the UK's economy had performed better than previously thought relative to other Member States since 1995. For the UK, the result was an additional contribution of €2.1 billion (£1.7 billion), to be paid by 1 December 2014.[13]

The UK Rebate

7. The call for additional contributions was met with resistance by the UK Government. The Prime Minister, who was informed of the payment demand on 23 October, spoke of "downright anger about […] the completely unjustified and sudden production of the bill", and told a press conference at the European Council meeting on 24 October that "I'm not paying that bill on 1 December, if people think I'm going to they've got another think coming."[14]

8. The Chancellor was also critical of the demand. Arriving at ECOFIN on 7 November, he said:

> The demand that Britain pays £1.7 billion on 1 December is unacceptable. I wanted that discussed at this meeting of European Finance Ministers. I

9 Office for National Statistics, 'Latest developments to National Accounts', 16 May 2014

10 Office for National Statistics (EU10002) paragraphs 32-33

11 Office for National Statistics (EU10002) Annex C paragraph 8 (ix)

12 Q 46; Office for National Statistics (EU10002) Annex C paragraph 8 (xvi)

13 European Commission, 'Information note for Member States', 17 October 2014, page 3. Note that the adjustments do not sum to zero, since, as well as reflecting GNI revisions, they reduce total GNI-based contributions by €420 million to account for an increased forecast for Traditional Own Resources.

14 Oral evidence taken before the European Scrutiny Committee on 4 November 2014, HC (2014-15) 789, Q1; http://tvnewsroom.consilium.europa.eu/event/european-council-october-2014-day-2/national-briefing-united-kingdom-part-141

> wanted it on the agenda, it is on the agenda, and I will make sure we get a better deal for Britain.[15]

9. Emerging from ECOFIN later on 7 November 2014, the Chancellor claimed to have secured major concessions on the bill:

> [W]e have worked intensively and constructively with the Vice President of the Commission, and with the other Member States, and today I can say this. Instead of footing the bill, we have halved the bill, we have delayed the bill, we will pay no interest on the bill, and if there are mistakes in the bill we will get our money back. We have also changed permanently the rules of the European Union so this never happens again. This is far beyond what anyone expected us to achieve and it's a result for Britain.[16]

Asked how he had managed to halve the bill, the Chancellor said:

> Well the bill, instead of being £1.7 billion will be around £850 million. The British rebate will apply in full, and in the year in which the payments are made. We will pay in two instalments in the second half of next year, and instead of challenging the law, we have actually changed the law, so it's a real result for Britain.[17]

Examining the Chancellor's claims at ECOFIN

10. The Chancellor's claim to have delayed the bill without the need to pay interest is borne out by the facts—on 7 November, ECOFIN invited the Commission to come forward with a regulation allowing for payments to be deferred over a reasonable time period in exceptional circumstances. In response, the Commission proposed a new regulation on 12 November, which provided for payments of an exceptional size to be delayed interest-free until 1 September in the year following the calculation of adjustments.[18]

11. By contrast, there was little evidence at the time to support the Chancellor's claim to have halved the bill, either at ECOFIN or through separate negotiations with the Commission. The claim was based on the inclusion of the 'British rebate'—also known as the 'UK rebate', the 'UK correction' or the 'UK abatement'—in the net payment figure to the EU. The rebate, which has been part of the EU financial framework since the Fontainebleau Council of 1984, provides for the UK to receive a downward adjustment to its EU budget contributions based on a range of factors, including UK and EU-wide VAT and, crucially, UK and EU-wide GNI.[19] Changes to GNI, such as those which prompted

15 http://tvnewsroom.consilium.europa.eu/event/ecofin-council-november-2014/arrival-and-doorstep-uk-osborne6

16 http://tvnewsroom.consilium.europa.eu/event/ecofin-council-november-2014/departure-and-doorstep-uk-osborne4

17 http://tvnewsroom.consilium.europa.eu/event/ecofin-council-november-2014/departure-and-doorstep-uk-osborne4

18 Proposal for a Council Regulation amending Regulation (EC, Euratom) No 1150/2000 implementing Decision 2007/436/EC, Euratom on the system of the European Communities' own resources, COM (2014) 704, page 5;Council of the European Union, 'Presidency conclusions on the budgetary issues in the current year and on the request to the Commission to submit a proposal for amendment of Regulation', 7 November 2014

19 European Commission, 'European Union Public Finance, 4th Edition', pages 242-245

the UK's increased budget contribution of €2.1 billion, may therefore imply changes to the UK rebate calculation.

12. The precise method for calculating the rebate is laid down in great detail in Council Decision 2007/436/EC, and in the supporting Council document 'Method for the calculation of the UK correction'.[20] These documents make it clear precisely how GNI figures feed into the rebate—and therefore how adjustments to GNI figures lead to adjustments to the rebate—in a quantifiable manner.[21] Furthermore, they make it clear that there is a set process for adjusting previous years' rebates when historic GNI data is revised. Specifically, the supporting Council document describes how a 'provisional' amount for the rebate is calculated in the year to which it relates, based on the data known at the time. A 'definitive' amount is then calculated four years later, on the basis of "the VAT and GNI bases and the allocated expenditure estimates relating to year t as they are known at 31 December t+3".[22]

13. This suggests that UK rebates are routinely revised in response to the GNI revisions up to four years after the year to which the rebate relates. The supporting Council document also provides for revisions to be made with less than a four-year time lag if they are likely to be particularly large.[23]

14. The framework described above does not appear to leave a great deal of room for uncertainty—it appears to suggest that rebates at least as far back as 2010 would inevitably be adjusted in response to the same GNI revisions that gave rise to the €2.1 billion additional payment, and that this should have been clear to HM Treasury as soon as the revised GNI data were known.

15. With such a detailed framework in place, it was unclear to the Committee what the Chancellor could have achieved through negotiation. Asked whether he had really halved the bill as a result of his negotiation, the Chancellor replied:

> As I said to the House of Commons, it was not clear at all that the rebate would apply to the extent that it did.[24]

Asked why there was any uncertainty that the rebate would apply, the Chancellor said "Because it was such a novel situation".[25] When the question was repeated in similar terms, the Chancellor said:

> It is not a unilateral decision of the British Treasury or the British Government to just say, "This is our rebate. We are entitled to it. Pay up".

20 Council Decision 2007/436/EC, Article 4; Council of the European Union, 9851/07 ADD 2, 23 May 2007 (referred to by the European Commission as 'Method for the calculation of the UK correction' on its 'Financing system' website, accessed 18 February 2015)

21 Council of the European Union, 9851/07 ADD 2, 23 May 2007, pages 7-11

22 Council of the European Union, 9851/07 ADD 2, 23 May 2007, page 16

23 Council of the European Union, 9851/07 ADD 2, 23 May 2007, page 16

24 Q 2

25 Q 6

> The way this works and has always worked is there is a negotiation with the European Commission.[26]

When it was put to the Chancellor that the negotiation was on the basis of an extremely detailed framework of rules, laid down by the Council, which has always applied in the past and which applied in this case, the Chancellor replied, "There was no precedent for this situation".[27]

16. Mark Bowman, Director General International and EU at HM Treasury, told the Committee:

> In terms of this additional payment, it was not clear that the rebate was going to apply. It was not mentioned in any of the Commission communications upfront. It was not clear. This was an unprecedented situation. We had never seen revisions of this scale going back so many years and there was absolutely no clarity at all that the rebate would apply.[28]

Asked why he thought that the rebate might not apply, given the detailed framework in place, Mr Bowman replied variously:

> Because this was an unprecedented situation. We had never had an adjustment on this scale going back so many years.[29]
>
> […]
>
> It was unclear at that stage that the rebate did apply. Obviously we hoped that the rebate did apply and we engaged very seriously with the Commission to establish that it did apply.[30]
>
> […]
>
> This was an unprecedented situation in terms of the scale of the adjustments and in terms of going back so many years. This is an incredibly complex part of the rebate calculation.[31]

17. The Chancellor was asked to clarify to whom it was unclear that the rebate would apply. He replied:

> [I]t was not clear to anyone because the Commission made no comment on the rebate when they first gave us the numbers. There was considerable

26 Q 8
27 Q 9
28 Q 28
29 Q 31
30 Q 34
31 Q 35

> uncertainty in Europe about that. In the House of Commons, no one other than Andrew Lansley asked a question about it […].[32]

Mr Bowman also said that the rebate was not mentioned in any of the Commission communications upfront:

> When the Commission came out with their request for the £1.7 billion payment, there was no mention from the Commission that the rebate would apply.[33]

But when asked if the Commission had said that the rebate would not apply, Mr Bowman said: "No, there was no discussion of the rebate."[34] Asked why the Commission would need to mention the rebate when it issued its request for the increased contribution, given that the rebate always applied, Mr Bowman replied:

> It was a very newsworthy event, so you would have thought the Commission would mention it if it was clear to them that it would apply at that stage.[35]

18. One area of potential uncertainty—to which neither the Chancellor nor Mr Bowman explicitly alluded—was whether rebates from years before 2010 would be adjusted. The process set out in the supporting Council document only prescribes that rebates dating back four years must be adjusted, and does not explicitly provide for revisions to earlier years. It might therefore have been unclear whether all the GNI revisions, dating back to 1995, would result in adjustments to the rebate. However, a detailed breakdown of the £850 million figure, which would explain how any such uncertainty was resolved, has not been provided by the Treasury. Responding to a request from the Committee for this information, the Chancellor said that the Commission had "not produced a breakdown showing how the total figure relates to each individual year".[36]

32 Q 3

33 Q 29

34 Q 30

35 Q 42

36 Letter from the Chancellor to the Chairman of the Treasury Committee (EU10001)

Conclusions

19. **Emerging from the ECOFIN summit of 7 November 2014, the Chancellor claimed to have "halved the bill" of £1.7 billion demanded by the EU. He later described this as the result of "hard-fought negotiation" with the Commission to ensure that the consequential change to the UK's rebate would apply.**

20. **The calculation of the rebate, and the circumstances in which it applies, are embedded in EU law. This is set out in detail in Council Decision 2007/436/EC and the supporting Council document on the UK correction. These documents establish the precise method for calculating the rebate. They also provide for past rebates to be adjusted in response to GNI data revisions, such as those which prompted the rebate's revaluation in this case. It does not appear to the Committee that these documents left a great deal of room for uncertainty.**

21. **The Chancellor and Mark Bowman, HM Treasury's Director General for International and EU, both insisted to the Committee that there was "real doubt" and "absolutely no clarity" that the rebate would apply. They claimed variously that there was uncertainty for three reasons: the revisions were of an unprecedented scale; the revisions arose from an "incredibly complex" part of the rebate calculation; and the Commission did not mention the rebate when it initially presented the £1.7 billion bill.**

22. **While the Committee recognises the achievement of extending payment terms and of the removal of interest charges, it finds each of the arguments in the paragraph above unpersuasive. There is no limit to the scale of the rebate in either the Council Decision or the supporting Council document. The complexity of the rebate calculation does not make it less certain, less clear or ambiguous. On the contrary, the complex and detailed published explanation of the method of calculation has the effect of reducing ambiguity and uncertainty. In fact, the question of whether the Commission "mentioned" the rebate when the increased bill was first presented has no bearing on whether, under EU legislation, the rebate was bound to apply or not. It is surprising that HMT officials had not realised this.**

23. **There is one source of potential doubt, to which Mr Bowman alluded. He told the Committee that the application of the rebate was uncertain because there had never been a set of revisions dating back so many years. Though neither Mr Bowman nor the Chancellor made this clear in evidence, this might have referred to the supporting Council document that appears only to require the rebate to be adjusted as far back as four years. If, however, this was a point of uncertainty, it would only apply to budget contributions prior to 2010. The rebate of later years should not have been in doubt, and so the specific claim to have halved the bill through negotiation is difficult to support. Furthermore, if this was a point of uncertainty, then the Treasury could have clarified it long before, since it knew in May 2014 that revisions to GNI data could lead to revised budget contributions dating back to 1995. It could also have secured a permanent rule change to address the uncertainty, since any ambiguity in the rebate calculation exposes the UK to significant budgetary risk. No breakdown of the £850**

million rebate adjustment has been published. It therefore remains unclear whether this point—that is, whether rebates prior to 2010 were revalued in response to the GNI revisions—was resolved in the Treasury's favour.

24. **On the basis of the evidence the Committee has seen, it should have been unambiguously clear to the Treasury, well in advance of ECOFIN on 7 November 2014, that the UK was entitled to a rebate on any additional budget contributions that could arise from the GNI revisions. Again on the basis of the evidence the Committee has seen—and setting aside any possible uncertainty about the four-year time limit for adjustments described above—the size of this rebate would have been automatically determined by the method laid out in the Council documents once the revised GNI and budget contribution figures were finalised on 17 October. If there were any uncertainty about the method for calculating the rebate set out in the Council documents, then it is unclear why the Government did not explain exactly what this uncertainty was and how it had arisen. Even if there were any uncertainty about whether the method applied in this particular case, the detailed framework to address it was available from the relevant documents. We note that the Commission did not at any stage suggest to HM Treasury that the rebate would not apply.**

25. **At the ECOFIN summit, it was agreed that, on this occasion and in future, Member States could delay the payment of particularly large bills resulting from GNI revisions and other adjustments. This delay of the UK's bill, part of a permanent change to the EU's financing rules, was a considerable achievement. By claiming a victory for having "halved the bill"—a claim not supported by the facts—the Chancellor distracted attention from that achievement. Claim and counter-claim are likely to be commonplace in the UK's debates on EU matters. The public should be put in a position to reach a view based on the facts.**

Formal Minutes

Tuesday 24 February 2015

Members present:

Mr Andrew Tyrie, in the Chair

Rushanara Ali
Steve Baker
Mark Garnier
Stewart Hosie
Mike Kane
Mr Andrew Love
John Mann
Jesse Norman
Mr David Ruffley
Alok Sharma
John Thurso

Draft Report (*The UK's EU Budget Contributions*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 25 read and agreed to.

Resolved, That the Report be the Tenth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till tomorrow at 2.00 p.m.

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the Committee's inquiry page at www.parliament.uk/treascom.

Wednesday 17 December 2014

Question number

Rt Hon George Osborne MP, Chancellor of the Exchequer, and **Mark Bowman,** Director General, International and EU, HM Treasury Q1-66

Published written evidence

The following written evidence was received and can be viewed on the Committee's inquiry web page at www.parliament.uk/treascom.

1 Letter from the Rt Hon George Osborne MP, Chancellor of the Exchequer, dated 30 January 2015, on the UK Rebate on EU Budget Surcharge

2 Office for National Statistics briefing for Treasury Select Committee on Gross National Income

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