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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	4 April 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.:	COM(2023) 180 final/ANNEX
Subject:	ANNEX to the report from the Commission to the European Parliament and the Council on the functioning of the inspection arrangements for traditional own resources (2019-2021) pursuant to Article 6(3) of Council Regulation (EU, Euratom) 2021/768 of 30 April 2021 laying down implementing measures for the system of own resources of the European Union

Delegations will find attached document COM(2023) 180 final/ANNEX.

Encl.: COM(2023) 180 final/ANNEX



Brussels, 4.4.2023
COM(2023) 180 final

ANNEX

ANNEX

to the

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

on the functioning of the inspection arrangements for traditional own resources (2019-2021) pursuant to Article 6(3) of Council Regulation (EU, Euratom) 2021/768 of 30 April 2021 laying down implementing measures for the system of own resources of the European Union

Detailed state of play of infringement cases in the field of traditional own resources.

- Case 2021/2081 concerning Romania: The Member State is deemed financially liable for the loss of traditional own resources occurred in Germany resulting from the fraudulent discharge of 126 transit procedures by Romanian customs. The Commission sent the letter of formal notice on 12/11/2021.
- Case 2020/2235 concerning Slovakia: The Member State is deemed financially liable for the loss of traditional own resources occurred in Germany resulting from the fraudulent discharge of 216 transit procedures by Slovakian customs. The Commission sent the letter of formal notice on 18/2/2021. The Member State made available under reservation the principal amount on 30/10/2017, but refuses to pay the interest requested on 22/12/2017.
- Case 2018/2351 concerning Poland: The Member State is deemed financially liable for the losses of traditional own resources occurred in Germany resulting from the fraudulent discharge of 333 transit procedures by Polish customs. The Commission sent the letter of formal notice on 14/05/2020. The Member State has made available the principal amount under reservation on 23/12/2021.
- Case No 2017/2001 concerning Belgium: The Member State refused to make available traditional own resources in cases where customs duties have been refunded or remitted for imports outside the period defined in Commission Decision REM 28/01 and/or outside the delay for repayment or remittance requests in the Community Customs Code. The Commission sent the letter of formal notice on 19/7/2018 and an additional letter of formal notice on 18/2/2021. The principal amount was paid in November 2021.
- Case No 2015/2121 concerning Belgium: The Member State refused to compensate the loss of traditional own resources resulting from its failure to recover an amount of customs duties stemming from fraudulent transit. The Commission sent the letter of formal notice on 19/7/2018 and the reasoned opinion on 25/7/2019. The principal amount was paid on 3/12/2021. Discussions are still ongoing concerning an outstanding amount of principal linked to the wrong application of the retention rate (collection costs).
- Case No 2017/2154 concerning Belgium: The Member State refused to make available traditional own resources by not recovering the difference in customs duties that were due in cases where its authorities had accepted a Binding Tariff Information for preserved garlic instead of fresh garlic, which is not in line with the Community Customs Code. The Commission sent the letter of formal notice on 9/11/2018. The principal amount was paid on 7/11/2019 as well as the interest on 30/6/21. The case was closed on 6/4/2022.

Court cases

- Case C-213/19 concerning the United Kingdom: The UK did not take appropriate measures to prevent imports of high volumes of clearly undervalued textiles and footwear from the People's Republic of China. This resulted in a dramatic loss of traditional own resources which the UK refused to make available. The Commission lodged its application to Court on 8/3/2019 and the Court delivered its judgment on 8/3/2022 in favour of the Commission. By February 2023 the UK has made all the amounts due available (EUR 1.57 billion in principal and EUR 1.4 billion in interest).
- Case C-304/18 concerning Italy: The Member State refused to compensate for the loss of own resources caused by the absence of adequate measures for recovery of an amount of customs duties established and entered in the accounts. This case is linked to the write-off case IT(07)08-917 regarding smuggling of cigarettes. The Commission lodged its application to the Court on 7/5/2018. The Court stated the infringement in its judgment of 11/7/2019. It confirmed that the customs decisions taken are immediately enforceable by the customs authorities and the lodging of an appeal does not cause the enforcement of such a decision to be suspended. Principal amount paid. The letter asking the payment of interest was sent in July 2022.
- Case C-395/17 concerning the Netherlands: The Member State refused to compensate for the loss of own resources caused by the undue issuing of EUR.1 certificates by Curacao and Aruba, territories under its sovereignty. The Commission lodged its application to the Court on 5/7/2017. The Court confirmed the liability of the Netherlands in its judgment of 31/10/2019. The principal amount was paid in 2019 and, following additional clarifications, interest in 2023.
- Case C-391/17 concerning the United Kingdom: The UK refused to compensate for the loss of own resources caused by the undue issuing of export certificates by Anguilla, territory under its sovereignty. The Commission lodged its application to the Court on 3/7/2017. The Court confirmed the liability of the United Kingdom the infringement in its judgment of 31/10/2019. The principal amount was paid on 5 May 2020 and the interest on 26 February 2021. The case was closed on 9/2/2022.