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

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Brussels, 4.4.2023  
COM(2023) 180 final

**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**

## EXECUTIVE SUMMARY

*The Commission reports every three years to the European Parliament and to the Council on the functioning of the inspection arrangements for traditional own resources (TOR). This report provides details about the inspection activities carried out in 2019 – 2021.*

*Notwithstanding the unprecedented challenges Member States and the Commission faced due to the COVID-19 pandemic during this period, the Commission took remarkable actions in the field of TOR bringing additionally **EUR 2.54 billion** to the EU budget.*

*The Commission concentrated its actions against **fraudulently undervalued textiles and footwear from the People's Republic of China** imported to the United Kingdom and all the Member States. The Commission launched an infringement proceeding against the UK, in which the Court of Justice of the European Union (CJEU) eventually ruled in favour of the Commission (C-213/19). This landmark case will not only bring significant additional amounts of TOR to the EU budget, but generally provides clarity concerning the collection of TOR for the future. Furthermore, the Member States have considerably improved their control strategies in this area. To account for potential losses of TOR in this regard, by 31 December 2021, 21 Member States have made available under reservation additional amounts of **EUR 1.473 billion** ahead of the CJEU judgment.*

*In connection with the UK's withdrawal from the EU 1 January 2021, the payment of the amounts of TOR remaining due by the UK has been successfully ensured in line with the Withdrawal Agreement.*

*The Commission increased its targeted ad hoc action to protect the EU budget, for example via a desk audit on imports of **solar panels and cells** declared as originating in Malaysia and in Taiwan. By 31 December 2021, Member States made available **EUR 647 million** of additional TOR in this regard.*

*In addition, the annual planned inspection activities included the topics of the **Management of the A account and the B account, Binding tariff information, Large businesses** as well as **Anti-dumping and countervailing duties**.*

*Furthermore, due to the **COVID-19 pandemic**, several on-the-spot inspections had to be carried out remotely depending on the particular situation in the Member States. This required both the Commission and Member States to make great efforts to remain efficient and effective. To this end, the Commission adapted its overall strategy of planning and carrying out inspections, for example by introducing additional desk audits and ad hoc inspections, and more flexibly targeting the emerging trends and risks affecting TOR.*

*Finally, the report also includes other regular activities performed to protect the financial interests of the EU: the follow-up of the European Court of Auditors' preliminary findings letters, the examination of irrecoverable entitlements that have been written off by Member States, the treatment of Member States' errors, the management of the database relating to fraud and irregularities and the assistance to the candidate countries.*

## 1. INTRODUCTION

From 2019 to 2021, traditional own resources (TOR)<sup>1</sup> worth more than **EUR 60 billion** was made available (net), with a yearly average of around EUR 20 billion.

The TOR inspections are based on Council Regulation (EU, Euratom) No 608/2014 of 26 May 2014<sup>2</sup>, repealed by Council Regulation (EU, Euratom) No 2021/768 of 3 April 2021<sup>3</sup>.

The Commission reports every three years<sup>4</sup> to the European Parliament and to the Council on the functioning of the inspection arrangements for TOR.

This report describes and analyses the operation of the inspection system for TOR for the period from 2019 to 2021<sup>5</sup>. It also describes the inspections carried out by the European Commission on TOR over this period and includes other activities performed to protect the financial interests of the EU:

- on-the-spot inspections and targeted desk audits carried out by the Commission in Member States and their follow-up;
- follow-up of the European Court of Auditors' preliminary findings letters;
- examination of irrecoverable entitlements that have been written off;
- treatment of Member States' errors leading to a loss of TOR;
- management of the database relating to fraud and irregularities (OWNRES);
- assistance to the candidate countries;
- contribution to amending the Making Available Regulation<sup>6</sup>.

The activities mentioned above are ensured by a small team of 15 persons. However, on-the-spot inspections and geographical responsibility for the Member States is shared by seven lead inspectors. The team ensures that TOR are collected timely and correctly applying the legal provisions between the Member States consistently. The team also provides advice during the inspection visits and possibility at least twice per year during the Advisory Committee of Own Resources meetings to discuss any important issue.

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<sup>1</sup> Customs duties on products imported from third countries, plus sugar levies.

<sup>2</sup> Council Regulation (EU, Euratom) No 608/2014 of 26 May 2014 laying down implementing measures for the system of own resources of the European Union, OJ L 168, 7.6.2014, p. 29

<sup>3</sup> Council Regulation (EU, Euratom) 2021/768 of 30 April 2021 laying down implementing measures for the system of own resources of the European Union and repealing Regulation (EU, Euratom) No 608/2014, OJ L 165, 11.5.2021, p. 1.

<sup>4</sup> Pursuant to Article 6(3) of Council Regulation (EU, Euratom) No 608/2014, and Council Regulation (EU, Euratom) No 2021/768.

<sup>5</sup> The report focuses on the checks made by the EU institutions (the Commission and the Court of Auditors). It does not cover the checks made by the Member States, the detailed results of which are set out in the annual report drawn up under Article 325 of the Treaty on the Functioning of the European Union.

<sup>6</sup> Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (recast), OJ L 168, 7.6.2014, p. 39. This regulation is known as the 'Making Available Regulation'.

## 2. TOR INSPECTIONS' FRAMEWORK AND METHODOLOGY

### 2.1. TOR regulatory and operational framework

The collection of TOR is delegated to the Member States under EU law. They must make the customs duties autonomously collected available<sup>7</sup> to the EU budget and retain a 25% flat rate of all amounts of TOR made available to the Commission<sup>8</sup> as compensation for collection costs, independently of the costs actually incurred. The Member States are required to carry out customs checks and to report to the Commission.

Nevertheless, the Commission retains important inspection powers in this field. In this context, the on-the-spot and remote inspections are important tools to supervise the system for the collection of TOR by performing several types of checks<sup>9</sup> on Member States' regulations and documents.

The Commission is also required to respond to the observations made by the Court of Auditors in its Annual Report, special reports or preliminary findings letters, and to the observations and recommendations made by the European Parliament during the discharge procedure in respect of the implementation of the budget. The Commission ensures that the Member States apply EU rules correctly, and reports to the budgetary authority.

The Commission's inspection activities have three main objectives:

- To maintain a level playing field between Member States and economic operators, regardless of where the goods are cleared through customs in the EU to prevent distortions of competition;
- To ensure that TOR are established timely and improve the recovery of TOR. The Commission must reassure itself that the Member States comply with their responsibilities when it comes to collecting and making available TOR. The Commission inspects the actions taken by the Member States concerning the recovery of TOR including the timely notification of the customs debt and the enforcement procedures deemed necessary;
- To inform the budgetary authority and as a result to receive a positive discharge. Based on the inspection findings, the Commission assesses the effectiveness and diligence of the Member States with regard to the establishment, collection and

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<sup>7</sup> With the terms 'make available', it is meant payments made by the Member States to the EU budget.

<sup>8</sup> Over the years, this percentage has changed from 10% for amounts made available before 28 February 2001, to 25% for amounts made available between 1 March 2001 and 28 February 2014, and to 20% for amounts made available between 1 March 2014 and 28 February 2021. For amounts made available after 1 March 2021 the percentage to be applied is 25%.

<sup>9</sup> **On regulations:** checks on Member States' provisions concerning the system for collecting TOR. **On documents:** analysis of accounting statements and all kind of accounting documents and files from Member States, including Member States' reports on irrecoverable entitlements. **On-the-spot and remote inspections, desk audits:** check on the conformity with EU legislation of national systems and underlying documents from both the accounting and customs perspective. These inspections are carried out jointly with the Member States concerned.

making available of TOR, requests measures to be taken to remedy any shortcomings and ultimately can report to the budgetary authority.

Furthermore, the inspections contribute to ensuring the effective functioning of the Customs Union, the protection of the EU producers and the uniform application of EU rules to avoid loopholes where fraudsters can take advantage or circumvent the duties to be paid.

The findings of inspections provide important input for DG Budget's revenue policy as regards the regulatory framework of current and possible future own resources. These findings are also shared with other Commission services (DG Taxud and OLAF) to help them address on a policy level the shortcomings identified.

A new Own Resources Decision<sup>10</sup> and Council Regulation (EU, Euratom) 2021/768 laying down implementing measures apply from 1 January 2021. In addition, the continuous development of trade facilitation and simplifications require regular adaptation of the TOR controls carried out by the Commission and the Member States.

## **2.2. Objectives and methodology of TOR on-the-spot and remote inspections**

The main objective of the inspections on TOR is to gain assurance that the procedures in place in the Member States comply with the relevant EU legislation and that the EU's financial interests are appropriately protected wherever the goods are cleared. Each year, the inspections focus on specific customs and accounting topics. This supports the harmonisation and the enhancement of the procedures in place in the Member States to protect the financial interests of EU in a consistent manner.

The Commission on-the-spot inspections are planned as part of an annual inspection programme which is based on risk analysis and contains the topics to be inspected in one or more Member States. These inspections are carried out using standardised procedures and involve the use of tailor-made audit tools to ensure that the inspections are carried out consistently. During 2020 and 2021, several of the planned on-the-spot inspections had to be carried out remotely, due to the COVID-19 pandemic.

The inspection topics may be proposed not only internally but also by Member States or other Commission services (e.g. DG Taxud, OLAF). Further cooperation with other services continues while drafting the audit tools and through DG Taxud's active participation in the inspection visits. Furthermore, DG Taxud, OLAF and the Legal Service are also consulted and provide comments before the inspection reports are presented in the Advisory Committee on TOR. This approach ensures consistency across the Commission services and equal treatment of all Member States.

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<sup>10</sup> Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom, OJ L 424, 15.12.2020, p. 1

Since 2020, the Commission carries out additional ad hoc inspections and desk audits in a needs-oriented manner where particular risks are identified. These targeted desk audits are carried out mostly remotely (e.g. desk audit on solar panels started in 2021).

### 3. TOR INSPECTIONS CARRIED OUT BY THE COMMISSION DURING THE PERIOD 2019 – 2021

During the period 2019 – 2021, the Commission carried out **56 inspections** giving rise to 168 findings under Article 2 of Council Regulation (EU, Euratom) No 2021/768. Table 1 provides an overview of inspection activities per Member State during the reported period.

Of the 168 findings noted, at least 118 had a direct financial impact (70,2 %) and 43 a regulatory impact (25,6 %).

Accounting and customs matters are assessed during the inspections.

**Table 1. Overview of inspection activities 2019-2021**

Member State	A&B account management		Repayments and separate B account cases	Binding tariff information	Large businesses	Customs value	Solar panels	ADD/CVD
	2020	2021	2019-2021	2019	2019	2019-2021	2021	2021
AT		x	x			x	x	
BE	x		x		X	x	x	
BG	x		x			x	x	
HR		x	x			x		
CY		x	x			x		
CZ	x		x			x	x	
DK		x	x			x	x	
EE		x	x			x	x	
FI		x	x			x	x	
FR	x		x	x		x	x	x
DE	x		x	x		x	Inspection 2018	x
EL	x		x			x	x	x
HU	x		x	x		x	x	
IE		x	x			x	x	
IT	x		x	x		x	x	x
LV		x	x			x	x	
LT		x	x			x	x	
LU		x	x			x	x	

MT	x		x			x	x	
NL	x		x		x	x	Inspection 2018	x
PL	x		x			x	x	x
PT	x		x	x		x	x	
RO	x		x			x		
SK	x		x			x		
SI		x	x			x	x	
ES	x		x			x	x	x
SE	x		x			x	x	
UK	x		x	x		x	Inspection 2018	
Total	28		28	6	2	28	21	7

### 3.1. Accounting matters

During 2020 – 2021, inspections on the **reliability of the A and the B account<sup>11</sup> and related statements** were carried out in all Member States and the UK. The conclusion was that the procedures to establish these statements complied with EU legislation and ensured the protection of the EU's financial interests. The findings communicated following these inspections among others concern inconsistencies between the two accounts, late establishment and notification of the customs debts, incorrect entries to the two accounts, incorrect filling out of the statements and their annexes, and late removals from the B account.

**The management of the A account and the B account was** inspected in all Member States as a second inspection topic in addition to the main customs topic. The inspections carried out over the period 2019 - 2021 confirmed that most errors were one-off and that systematic errors were exceptional. The Member States assumed the financial consequences resulting from the findings noted.

The overall situation improved due to the consideration given by the Commission's inspections to these topics and to further improvements of electronic accounting systems in Member States that reduce the risk of errors related to manual intervention. However, Member States must further enhance their effort to ensure the diligent management of the A and B accounts and provide all the information required by law to ensure that the statements are complete, clear and transparent.

<sup>11</sup> The Member States enter TOR in one of two accounts:

- the **normal account** (A) for amounts recovered or guaranteed (these amounts are paid into the EU budget);
- the **separate account** (B) for amounts which have not been recovered or guaranteed amounts that have been contested. TOR corresponding to **irrecoverable** customs duties are to be withdrawn from the separate account after a defined period of time. Such TOR amounts must simultaneously be made available (paid) to the Commission unless they cannot be recovered for reasons of force majeure, for other reasons which cannot be attributed to the Member State or due to the deferral of the entry in the accounts or the notification of the customs debt in order not to prejudice a criminal investigation affecting the financial interests of the Union.

### 3.2. Customs matters 2019 - 2021

The customs topics with the highest risk for the financial interests of the Union are selected for the inspections.

During this three-year period the inspections focused on:

- the control strategy in the field of customs value (2019, 2020, 2021);
- the binding tariff information (2019);
- the control strategy of large businesses (2019, 2021);
- the control strategy for anti-dumping and countervailing duties (2021).

In 2019, 2020 and 2021 **the control strategy in the field of customs value** remained a significant risk for the finance of the Member States and for the EU budget, as shown by previous TOR inspections and the OLAF investigations<sup>12</sup>. It was fully assessed or followed up during 44 inspections in all Member States and the UK. Generally, the control strategies in the Member States have improved considerably: the appropriate risk profiles for customs value are set up, and in case of doubt securities are taken before the release of goods, and the controls before and after release have been strengthened. As a result, the negative impact of undervalued imports of textiles and footwear from the People's Republic of China has been significantly reduced EU wide.

This very positive trend is confirmed by an analysis of recent import data:

In March 2014, once OLAF implemented joint customs operation (JCO) *Snake* targeting imports of undervalued textiles and footwear, the volume of imports decreased in Member States, but still increased in the UK. Most of these undervalued imports concentrated in the UK until October 2017 when the UK finally started to implement the requested measures (Operation *Swift Arrow*). While afterwards the regular volume of imports remained stable, the undervalued imports virtually disappeared in the UK (Chart 1).

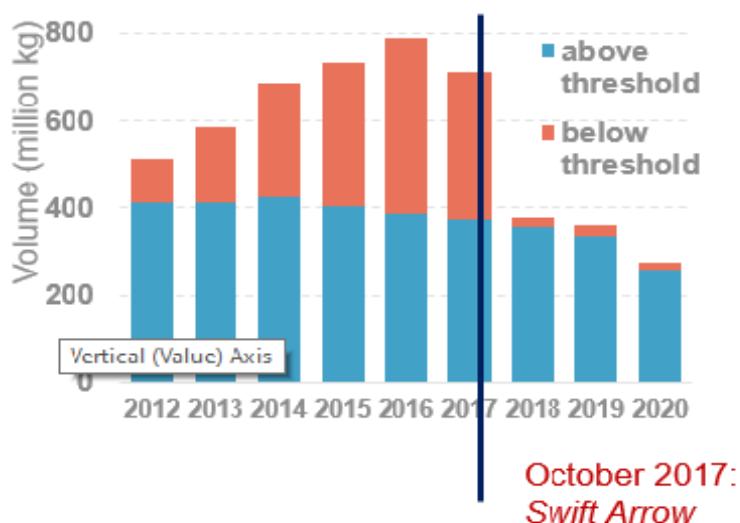
However, this resulted in spill-over effect as potentially undervalued imports moved to other Member States in 2018 (Chart 2). Therefore, the inspections carried out in 2018-2021 concentrated not only on the protection of the EU financial interest, but also reaffirmed the advice and guidance for Member States to tackle the undervaluation effectively and avoid further possible spill-overs.

As demonstrated in Chart 2, TOR inspections on undervaluation had an extremely positive impact on reducing volumes of undervalued imports across the EU and thereby effectively reducing the TOR losses incurred to the EU budget.

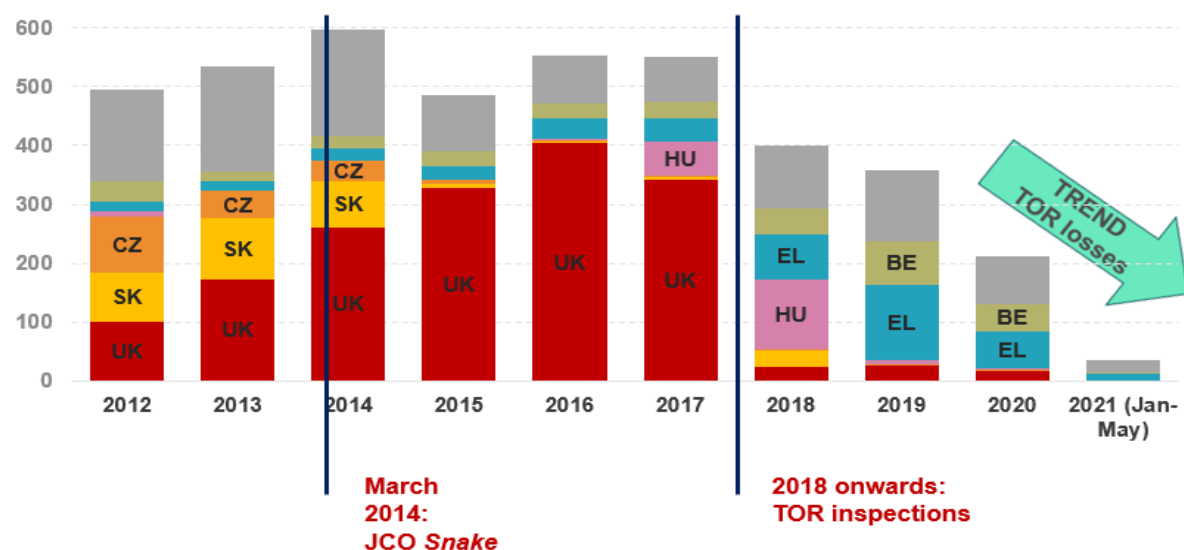
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<sup>12</sup> See the Eighteenth annual report of the European Anti-Fraud Office for 2017, and the Nineteenth annual report of the European Anti-Fraud Office for 2018.

**Chart 1: Imports of undervalued textiles and footwear concentrating in the UK**



**Chart 2. Potentially undervalued import volumes (million kg)**



In 2019, the **binding tariff information (BTI)** was inspected in six Member States. The inspections aimed at ensuring the compliance with EU rules for issuing and usage of BTI decisions. The identified shortcomings did not entail significant financial consequences for the EU budget. The shortcomings mainly related to non-compliance with prescribed time-limits, use of the incorrect status code, lack of customs controls related to invalidated BTIs, low level of controls before and after the release of the goods in relation to BTIs, insufficient communication between services, and regional differences in control quality.

In 2019 and 2021, **the control strategy for large businesses** was controlled in two Member States and the results were either partially satisfactory or not satisfactory. Although this type of businesses is important for the economies of the Member States and they are considered to be more reliable, they should also be subject to a certain level of control or monitoring by customs authorities in all Member States. The shortcomings related to the risk analysis, very low or non-existent pre-release and post-release controls and lack of internal supervision within the national customs organisation.

In 2021, **the control strategy for anti-dumping and countervailing duties (ADD/CVD)** was inspected in eight Member States. The control systems are regarded as partially or generally satisfactory. The main shortcomings related to non-implementation or late implementation of risk profiles, non-consistent controls, late establishment and making available of definitive anti-dumping duties (including provisional becoming definitive), late or non-establishment of ADD/CVD following information received from OLAF and wrong ADD/CVD rate applied. The Member States are currently implementing the improvements to their control systems requested by the inspection reports, which will contribute to further protection of the EU based businesses.

### **3.3. Enforcement strategy for undervalued imports**

By letter of 21 December 2018, the Commission had notified all Member States of its view that the amounts of customs duties established and made available to the EU budget in relation to textiles and footwear from the People's Republic of China might not have been correct due to undervaluation. Consequently, the Commission introduced a non-quantifiable reservation related to estimated TOR losses in 2018.

Following the inspections on the control strategy in the field of customs value to all Member States, the Commission sent letters, on 7 May 2021, informing each Member State of the preliminary estimates of TOR loss in this regard.

By 31 December 2021, following the Commission's information letter but ahead of the Court judgment in case C-213/19, 21 Member States have made available under reservation additional amounts of TOR totalling over **EUR 1.473 billion**.

The statistical method that the Commission wished to apply to estimate the TOR losses was dependent on the outcome of the infringement proceeding opened against the UK, which led to the judgment of 8 Mars 2022 (C-213/19, Commission vs UK). The European Court of Justice endorsed the Commission's statistical method.

The Commission has proceeded and will continue to proceed in 2022 and 2023 to estimate the TOR losses, in line with the Court's judgment in case C-213/19.

### **3.4. Solar panels**

In 2018 and 2019, the Commission services carried out TOR inspections in 10 Member States to assess their control strategy on imports of solar modules and key components

declared as originating in P.R. of China, Malaysia and Taiwan and subject to trade defence measures (anti-dumping and countervailing duties).

Due to a recurrent shortcoming identified in three of these targeted inspections and related to the misinterpretation of the term *consigned from* under Commission Implementing Regulations (EU) 2016/184 and 2016/185 of 11 February 2016<sup>13</sup>, DG Budget extended the scope of its controls to all Member States importing the same goods in the period 30 May 2015 - 3 September 2018<sup>14</sup>. To this extent, by letter of 1 June 2021, DG Budget informed 21 Member States<sup>15</sup> about the potential TOR losses resulting from the said misinterpretation for imports of solar panels and cells declared as originating in Malaysia and in Taiwan. By 31 December 2021, nine Member States made available over **EUR 647 million**.

The follow-up of this shortcoming is ongoing.

Finally, via these inspection activities, contacts with the Member States and numerous presentations, the Commission further clarified the meaning of the term *consigned from* enshrined in the relevant EU legislation, as interpreted by the Court of Justice. This contributed to a level playing field for Member States and further protection of the EU based companies from such imports.

## **4. FOLLOW-UP TO THE COMMISSION INSPECTIONS**

### **4.1. Regulatory aspects**

The Member States are requested to take measures whenever flaws or loopholes are detected in national regulations or administrative provisions during the inspections, in order to bring them into line with EU requirements and harmonise the establishment and the collection of TOR among all 27 Member States. This regulatory alignment is a major achievement of the Commission's inspections. The findings are also a key indicator for problems encountered by the Member States in applying customs and own resources regulations, and inform the Commission's continuous effort of improving the regulatory framework.

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<sup>13</sup> Commission Implementing Regulation (EU) 2016/184 of 11 February 2016 extending the definitive countervailing duty imposed by Council Implementing Regulation (EU) No 1239/2013 on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China to imports of crystalline silicon photovoltaic modules and key components (i.e. cells) consigned from Malaysia and Taiwan, whether declared as originating in Malaysia and in Taiwan or not, OJ L 37, 12.2.2016, p. 56. and Commission Implementing Regulation (EU) 2016/185 of 11 February 2016 extending the definitive anti-dumping duty imposed by Council Regulation (EU) No 1238/2013 on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China to imports of crystalline silicon photovoltaic modules and key components (i.e. cells) consigned from Malaysia and Taiwan, whether declared as originating in Malaysia and in Taiwan or not, p. 76.

<sup>14</sup> Validity of trade defence measures.

<sup>15</sup> Including seven Member States previously subject to a specific inspection. Four Member States had not reported imports of solar modules and cells during the period under scrutiny.

## 4.2. Outcome of disputes

The interpretation of legal provisions and the procedures in some Member States are not always in line with the requirements of the Commission. Where the dispute cannot be resolved, the Commission launches infringement procedures<sup>16</sup>.

During the period 2019 – 2021, 10 infringements procedures were either launched, continued or closed (see annex for the details). The most prominent of them is the case opened against the UK (C-213/19) in relation to the undervaluation of textile and footwear that resulted in an enormous loss of own resources which the UK refused to make available.

## 4.3. Financial aspects

For the period 2019 – 2021 additional entitlements totalling more than **EUR 2.54 billion**<sup>17</sup> were paid to the Commission mainly due to the enforcement strategy in relation to the undervaluation of textile and footwear, and to solar panels. They further relate to other observations made in the inspection reports, other inspection activities and as a result of the follow-up of Court of Auditors' findings and Court of Justice's decisions on TOR infringement procedures.

The interest for late payment paid by the Member States during this period totalled **EUR 137 million**.

## 5. MEASURES TO IMPROVE THE RECOVERY OF TRADITIONAL OWN RESOURCES

Apart from its on-the-spot inspections in the Member States, the Commission has several other means of monitoring the recovery of TOR.

### 5.1. Examination of irrecoverable entitlements that have been written off

Member States must take all the requisite measures to make TOR available, except where recovery proves impossible pursuant to Article 13(2) of Council Regulation (EU, Euratom) No 609/2014:

- for reasons of *force majeure*;
- for other reasons which cannot be attributed to them; or
- due to the deferral of the entry in the accounts or the notification of the customs debt in order not to prejudice a criminal investigation affecting the financial interests of the Union.

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<sup>16</sup> Article 258 of the Treaty on the Functioning of the European Union.

<sup>17</sup> This number includes the amounts indicated under points 3.3, 3.4 and 5.2 of this report.

In accordance with EU legislative provisions, Member States must report to the Commission irrecoverable amounts of TOR exceeding EUR 100,000 (write-off reports) for which they consider themselves not to be responsible. Subsequently, the Commission provides comments on each report. The purpose of the Commission's examination of the write-off reports is to assess the degree of diligence shown by the Member States in carrying out their efforts to establish and recover from the economic operators the customs duties representing TOR.

For amounts below the reporting threshold, the Commission routinely assesses samples of cases during the on-the-spot inspections since there is no separate reporting requirement.

To support the Member States in evaluating their potential financial responsibility for irrecoverable TOR amounts, the Commission issued a working document – the *Compendium* – with the criteria that have been used to assess write-off reports. The latter was communicated to all Member States for the first time in the framework of the Advisory Committee meeting on Own Resources (ACOR) of 6 December 2012. Its latest revised version of 8 March 2018 considering changes in the EU legislation and the relevant case law on TOR was communicated to all Member States in their respective official language on 1 June 2018.

For each relevant case, Member States must draft a structured report and forward it to the Commission using a multilingual database called WOMIS (Write-Off Management and Information System). WOMIS, regularly updated, allows for an efficient and secure management of the Member States' reports.

The competent Commission services (Budget, Taxud, OLAF and Legal Service) assess the report and provide comments to the Member State. These comments concern the justification the Member State can invoke for not making the TOR corresponding to the irrecoverable customs duties available to the Commission.

Over the period 2019-2021, 106 write-off reports were communicated to the Commission, involving a total amount of EUR 87.4 million. In the same period<sup>18</sup>, the Commission considered for 76 reports involving EUR 40.7 million that the loss of TOR could not be attributed to the Member States. In 181 cases - involving **EUR 101.1 million** the Commission believed that amounts proved irrecoverable for reasons at least partially attributable to the Member State concerned. In 9 cases, reporting to the Commission was incorrect or premature (EUR 1.3 million).

In order to assess whether the loss of TOR can be attributed to the Member State, a thorough analysis of the elements of the report is needed. On 15 September 2022, up to 154 write-off reports (EUR 163.7 million) relating to the years 2009 to 2021 were still under examination, partially pending additional information requested from the respective Member State.

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<sup>18</sup> The following figures also include reports finally assessed that were initially communicated prior to 2016.

## 5.2. Treatment of errors of establishment leading to a loss of traditional own resources

The Commission followed up the identified administrative errors committed by the Member States to the detriment of the EU's financial interests during the period 2019-2021 (cases found during on-the-spot and remote inspections, national repayment or remission decisions due to administrative errors, voluntary making available of payments by Member States due to administrative errors for which they assume the financial responsibility for the TOR losses, rejected written-off irrecoverable amounts below EUR 100,000 etc.). As a result, the Member States made available **EUR 423 million** over the period 2019-2021, in addition to amounts collected for enforcement strategy for undervalued imports (point 3.3) and solar panels (point 3.4).

## 5.3. OWNRES database

Pursuant to Articles 5(1) of Council Regulations (EU, Euratom) No 608/2014<sup>19</sup> and No 2021/768, Member States must send the Commission information on cases of fraud and irregularities involving entitlements of more than EUR 10.000. This information is reported via the OWNRES database, which is managed and maintained by the Commission.

OWNRES provides the Commission with information necessary to monitor recovery and prepare its on-the-spot inspections and desk audit reviews. It is also used by OLAF for various analyses and for monitoring the follow-up of its financial recommendations resulting from OLAF's investigations. The data reported is assessed in detail in the annual reports from the Commission to the European Parliament and the Council on the protection of the European Union's financial interests — Fight against fraud and in the annual Customs Union Performance report.

In 2018, the form for reporting fraud and irregularities was amended by Commission Implementing Decision (EU, Euratom) 2018/195<sup>20</sup>. The OWNRES database was upgraded to reflect those changes.

By the end of 2021, the OWNRES database contained **121,199**<sup>21</sup> cases of fraud or irregularity (either 'open' or 'closed') compared to **106,361** cases at the beginning of 2019. This is an increase of around **13.95 %** or **14,838** new cases reported in the three-year period 2019 – 2021.

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<sup>19</sup> Council Regulation (EU, Euratom) No 608/2014 was repealed by Council Regulation (EU, Euratom) 2021/768 on 31 December 2020

<sup>20</sup> Commission Implementing Decision (EU, Euratom) 2018/195 of 8 February 2018 establishing forms for reporting on fraud and irregularities affecting entitlements to traditional own resources and on inspections relating to traditional own resources pursuant to Council Regulation (EU, Euratom) No 608/2014, OJ L 36, 9.2.2018, p. 33.

<sup>21</sup> It includes cases reported by the UK. The UK withdrew from the EU on 31 January 2020 and is no longer a member of the EU. However, the UK has to report cases of fraud and irregularities as agreed in Article 136(2)(c) and (f) of the UK-EU Withdrawal Agreement. This reporting obligation lasts until 20 February 2026 as laid down in Articles 50 and 136(3)(f) of that Withdrawal Agreement.

In the framework of the biannual ACOR meetings held during the period 2019 – 2021, the Commission presented some updated reporting rules on smuggling ensuring more streamlined reporting in July 2019. In November 2020, Member States were asked to review and update cases selected in the framework of a red flag exercise (mainly non-updated or incorrect reported OWNRES cases). The outcome of the exercise was presented during the ACOR meeting held in July 2021. Furthermore, an updated version of the OWNRES user manual issued in April 2020 was presented during the meeting in June 2020.

#### **5.4. Monitoring measures for candidate countries and potential candidates**

The Commission provides technical assistance to the candidate countries and potential candidates to develop the administrative capacity and put in place the systems necessary to implement the *acquis* with respect to TOR upon accession. It also assesses the preparedness of the candidate countries and potential candidates to that effect.

In this domain, on-the-spot technical work and assistance was suspended due to the COVID-19 pandemic and the unsure outcome of the negotiations on the own resources package proposed by the Commission in May 2018, resulting in Council Decision (EU, Euratom) 2020/2053 that applied retroactively from 1 January 2021.

The Commission proposed in December 2021 a further own resources package<sup>22</sup> to establish three new own resources, which should generate revenues for the EU budget equivalent to the financing needs of the Recovery Instrument ‘NextGenerationEU’. Considering the constant evolvement of the own resources system, the Commission decided not to provide training for candidate countries on the own resources system that would be substantially changed following the adoption of that package. However, some countries benefitted from the Member States’ expertise in the field of own resources via twinning exercises or other EU funded projects supporting the establishment of the management system of EU own resources.

Concerning North Macedonia and Albania an initial [technical exchange on the relevant EU own resources acquis](#) took place in September 2019.

Bosnia and Herzegovina (BiH), candidate country since December 2022, replied to the EU acquis questionnaire. DG Budget provided its input in April 2019 to the Commission Opinion on EU membership.

#### **5.5. Amending Making Available Regulation (MAR)**

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22. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The next generation of own resources for the EU Budget COM/2021/566 final of 22 December 2021

The Council Regulation 609/2014 (Making Available Regulation – MAR) is the backbone of the own resources framework, ensuring timely payment by Member States of the amounts due to the EU budget.

To further improve this framework, the Commission proposed in 2021 a comprehensive amendment to this Regulation. This proposal addressed procedural concerns of Member States while safeguarding the protection of the financial interest of the EU and ensuring a fair and balanced revenue framework.

Following extensive exchanges with Member States, the Council Regulation 2022/615 amending the MAR came into force in March 2022.

## 6. CONCLUSION

Despite challenges related to COVID-19 pandemic, the results recorded from 2019 to 2021 show that the Commission's inspections of TOR and the systematic follow-up of the shortcomings observed continue to be indispensable and efficient means to improve recovery of TOR and provide reassurance that the financial interests of the EU are adequately protected (also confirmed by positive development with the discharge procedure as there are no new recommendations for Commission for TOR related issues).

The inspections continue to be a key tool to harmonise and enhance compliance with the EU rules. Their financial impact is significant, as illustrated by the additional net amount made available to the EU budget of **around EUR 2.54 billion during 2019-2021**. This results in significant incentives for Member States for timely and complete making available of TOR to the EU budget. On top of this, the inspections contribute to ensure the correct application of the customs and accounting rules and thus further protecting of the EU's financial interests by providing a powerful mechanism to fight and prevent damaging distortions within the single market.

Looking forward, the evolution of international trade and in particular e-commerce represent new challenges. These will require new adequate tools and an even closer collaboration between the Commission and Member States, for example to coordinate risk-based customs controls and ensure effective customs duties collection.

For that purpose, the Commission has further streamlined its actions in recent years to address more effectively the challenges ahead, and will continue to do so with a view to improving the functioning of the Customs Union.