



Explanatory Meeting on the Acquis with Albania and North Macedonia

**Tino Eggermont - European Commission,
Directorate-General for the Budget**

Disclaimer: these slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union'

2. Structure of the EU budget (revenue)

– 2.2 Traditional Own Resources (TOR)

- **Customs duties** on imports from third countries. **Sugar levies** imposed on sugar producers recently abolished and therefore no longer TOR.
- Traditional own resources ("TOR") can be described as **pure EU revenue** resulting directly from EU legislation.
- **Member States are responsible** for the collection of these duties. In other words they **collect, account for and make them available** to the Commission. They retain 20% as a compensation for the costs of collecting them.
- Why the name traditional own resources ? Initially the whole EU Budget was financed by these resources. Nowadays they cover about 14 % of the EU Budget.

Legal Framework

- Own Resources Decision
2014/335/EU – Article 8(1)
- – Implementing Provisions
 - Council Regulation
608/2014
 - Council Regulation
609/2014, amended by
Council Reg 2016/804
- Commission Implementing
Decisions 2018/194 and 195
Transmission of info to the
Commission



EU Legislation

System of Own Resources

- **Decision 2014/335** constitutes the legal basis for the EU Own Resources system. **It defines the type of own resources** that are entered in the EU **Budget**.
- **Implementing provisions:**
 - **609/2014: Establishment, accounting and Making available (Member States)**
 - **608/2014: Control of Own Resources (Member States and Commission)**
- Council Regulations 608 and 609/2014 implements the ORD:
It deals with the way TOR are made available **and** with the monitoring of TOR. **It tells the Commission and the Member States WHAT to do and HOW to do it.**

CR 609/2014: Most relevant to TOR

Article 2
Article 6
Article 10
Article 12
Article 13

- It tells **Member States** under what terms they should **make** the own resources they collect **available** to **the Commission**. Thus, Council Regulation 609/2014 deals specifically with **the direct relation between Member States and the Commission** in the field of Own Resources. The Union Customs Code deals with the relation operator/national administrations
- The content of its key provisions.

Making available Own Resources

Making available amounts of Own Resources to the Commission is in fact nothing else then **putting those amounts into an account kept by Member States in the name of the Commission.**

How do Member States make TOR available to the Commission; what procedure do they have to follow?

Three questions should subsequently be answered.

- **Establishment of Traditional Own Resources (Art. 2)**

At what moment and under what terms is the Commission actually entitled to the amount of Own Resources collected by a Member State, or, in other words, how are these amounts established?

- **Accounting (Art. 6)**

How do Member States put the Commission's entitlements in their accounts and what accounts are used?

- **Making Available (Art. 10)**

Within what delay should the actual making available, that is the booking in the appropriate account in the name of the Commission, take place?

Article 2: Establishment of TOR

The first question to be answered was:

- **At what moment and under what terms is the entitlement of the Commission to a certain amount of Own Resources actually established?**
- **Two basic requirements** have to be met:
 - i. **Booking in national customs accounts (article 104,1 Union Customs Code) or conditions to do so having been met**

Article 2 Establishment of TOR

ii. Notification to the debtor or **conditions to do so having been met**

- Communication of the debt to the debtor, once the debtor and the amount of the customs debt are known.
- The date of the establishment of an amount of Own Resources is the date of entry in the accounting ledgers provided for by **Article 105 UCC**.
- **Accounting for TOR is not identical to accounting of duties.** The Union Customs Code regulates the relationship debtor/national customs administration. Council Regulation 609/2014 the relationship MS/Commission.

Article 6 : Accounting

- **Member States have to keep accounts for established TOR (the so-called A and B accounts).**
- **"A"-Account - Every established amount. Monthly statement sent to the Commission**
- **As a general rule the Commission is entitled to all the amounts that have been established in accordance with Article 2. They are entered into the A-Account, at the latest the first working day after the 19th day of the second month following the month during which the entitlement was established. Every month, Member States have to send the Commission a statement that includes all the entries in the A-Account.**

Article 6 Accounting

- **B''-Account - Non-recovered/non-guaranteed or guaranteed but challenged amounts. Quarterly statement sent to the Commission**
- An important implication of whether an amount is put into the **A-** or into the **B-Account is the difference in timing of the making available of the amount concerned.**
- The Customs administration should have reliable accounting procedures and systems, preferably a centralised computer accounting system directly linked to the customs clearance systems for accounting for established duties, broken down by their type, in the own resources A and B accounts

Article 10: Making Available

Council Regulation 609/2014 imposes the obligation on Member States to keep an account in its **Treasury** or the body it has appointed (usually the Central bank), **free of charge**, in the name of the Commission on which own resources are credited.

So, when should TOR be put into this bank account?
Article 10 makes a distinction between amounts put in the A-, and amounts put in the B-Account.

A-Account

Crediting (-20% collection costs) to the Commission's account of TOR at the latest on the first working day following the 19th day of the second month following the month during which the entitlement was established (in casu recovered)

example: Duties established on 5 January 2019 and paid on 15 January 2019 are to be credited to the Commission account on 20 March 2019 at the latest.

Article 10 Making available

■ B-Account

Entitlements shown in the B-account (unpaid or unguaranteed or guaranteed but contested amounts) are credited to the Commission account at the latest on the first working day following the 19th day of the second month following the month **in which the entitlements were recovered.**

Article 12 Belated Interest

- Member States have to pay up in time for the TOR they have collected.
- Any delay in crediting the Commission account shall give rise to the **payment of interest** by the Member State concerned.
- Example:



Debt established in March is to be entered in the A account and credited to the Commission account on 20 May at the latest. Interest is charged for any payment later than the 1st working day after 20 May .

- Recovery of amounts of interests below EUR 500 shall be waived

Article 12 Belated Interest

- The interest rate is the rate applied by the ECB (or the Central bank for Member States not belonging to the Euro zone) to its refinancing operations, on the first day of the month in which the due date fell or zero % whichever is higher, increased **by 2,5 percentage points**. This rate shall be increased **by 0,25% for each month of delay**. The increased rate is applied to the **entire period of delay**.
- The total increase to the basis rate shall not exceed **16 percentage points**.



Article 13

Special Circumstances

Despite due diligence no recovery

Member States shall be **released from the obligation** to make available established own resources which prove irrecoverable for reasons which **cannot be attributed to them**'.

Amounts of established entitlements shall be **declared** irrecoverable by an administrative decision or **deemed** irrecoverable, at the latest, **five years after** the establishment of the amount, or, in the event of an appeal, after the final decision, or after the last partial payment not clearing the debt. Amounts declared or deemed irrecoverable shall be removed from the B account.

Member states inform Commission within 3 months

Within three months after the write-off, Member States shall inform the Commission of written-off entitlements of over €100,000. This report sent via WOMIS shall include all the facts necessary for an examination of the reasons of irrecoverability.

Commission decides within 6 months

The Commission has **six months from the receipt of the report (...)** to forward its **comments** to the Member State concerned'.



CR 608/2014: TOR Monitoring Own Resources

- Annual Reports by Member States (Article 6)
Detailed annual reports to the COM on their TOR inspections and the results of those inspections
Due date : 1 March of the year N+1 – Summary made by the COM and presented in the Advisory Committee on OWN Resources (ACOR)

CR 608/2014: TOR Monitoring Own Resources

- Inspection modalities of Member States **and** Commission (Article 2):
 1. *MS Control activities*
 2. *Associate Controls MS + COM*
 3. *Autonomous Controls by COM*



Article 13 CR 609/2014

- **Obligation MS to take all requisite measures to make available**
- '1. Member States shall take all requisite measures to ensure that the amounts of TOR established are made available to the Commission (...)'
- Exceptions (Write-off Cases)
 - i. Force majeure
 - ii. Special circumstances
 - iii criminal investigations

CR 608/2014: Article 2 Inspection Methods

X Inspections by Member States

- 1. Member States shall conduct the checks and enquiries concerning the establishment and the making available of the own resources referred to in Article 2(1)(a) and (b) of Decision 2014/335/EC.

x **Associated** inspections with the Commission

- 2. Member States shall:
 - (a) carry out **additional inspection** measures at the **Commission's request**.
 - (b) **associate the Commission**, at its request, with the **inspection measures** which they carry out.

Member States take all steps required to **facilitate these** inspection measures.

Article 18 Inspection Methods

X Autonomous inspections by the Commission on the spot

- 3. Commission may itself carry out inspection measures on the spot. The agents authorised by the Commission for such inspection measures shall have access to the supporting documents referred to in Article 3 (c) and to any other appropriate document connected with those supporting documents. The Commission shall give notice of this inspection in good time to the Member State in which the inspection measure is to take place. Agents of the Member State concerned shall participate in such inspection measures.
- **Commission reports to Budget Authority**
- 4. The Commission shall report every three years to the European Parliament and to the Council on the functioning of the inspection arrangements. Triennial report - Art. 6,3 CR 608/2014

Article 7

ACOR

- **Advisory Committee on the EU' Own Resources**
- **Representatives of Member States and Commission**
- **Chaired by the Commission**
- **two meetings a year**
- **Topics, amongst others:**
 - Reports (Annual activity reports)**
 - Inspection reports**



Thank you for your attention