

# Procedure file

Basic information	
CNS - Consultation procedure Decision	1997/0352(CNS)  Procedure completed
System of the Communities' own resources: implementing Decision 94/728/EC, Euratom  See also Decision 94/728/EC, Euratom <a href="#">1993/1035(CNS)</a> Amended by <a href="#">2003/0131(CNS)</a> Amended by <a href="#">2008/0089(CNS)</a> Repealed by <a href="#">2011/0185(CNS)</a> Amended by <a href="#">2014/0332(NLE)</a>  Subject 8.70.01 Financing of the budget, own resources 8.70.04 Protecting financial interests of the EU against fraud	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>JURI</b> Legal Affairs, Citizens' Rights		23/09/1999
		PPE-DE <a href="#">WUERMELING Joachim</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>BUDG</b> Budgets		
	<b>CONT</b> Budgetary Control	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">General Affairs</a>	<a href="#">2264</a>	22/05/2000
European Commission	Commission DG	Commissioner	
	<a href="#">Legal Service</a>		

Key events			
04/12/1997	Legislative proposal published	COM(1997)0652	Summary
16/01/1998	Committee referral announced in Parliament		
10/01/2000	Vote in committee		Summary
18/01/2000	Decision by Parliament	<a href="#">T5-0003/2000</a>	Summary
22/05/2000	Act adopted by Council after consultation of Parliament		
22/05/2000	End of procedure in Parliament		
31/05/2000	Final act published in Official Journal		

Technical information	
Procedure reference	1997/0352(CNS)
Procedure type	CNS - Consultation procedure

Procedure subtype	Codification
Legislative instrument	Decision
	See also Decision 94/728/EC, Euratom <a href="#">1993/1035(CNS)</a> Amended by <a href="#">2003/0131(CNS)</a> Amended by <a href="#">2008/0089(CNS)</a> Repealed by <a href="#">2011/0185(CNS)</a> Amended by <a href="#">2014/0332(NLE)</a>
Legal basis	Euratom Treaty A 183; EC Treaty (after Amsterdam) EC 279; Rules of Procedure EP 52-p1
Stage reached in procedure	Procedure completed
Committee dossier	JURI/4/09677

### Documentation gateway

Legislative proposal		COM(1997)0652	05/12/1997	EC	Summary
Text adopted by Parliament, 1st reading/single reading		<a href="#">T5-0003/2000</a> <a href="#">OJ C 304 24.10.2000, p. 0020-0053</a>	18/01/2000	EP	Summary
Follow-up document		COM(2001)0032	05/02/2001	EC	Summary
Follow-up document		<a href="#">COM(2003)0345</a>	11/06/2003	EC	Summary
Follow-up document		<a href="#">COM(2004)0850</a>	07/01/2005	EC	Summary
Follow-up document		<a href="#">COM(2006)0874</a>	09/01/2007	EC	Summary
Follow-up document		<a href="#">COM(2010)0219</a>	10/05/2010	EC	Summary
Follow-up document		COM(2013)0829	27/11/2013	EC	Summary
Follow-up document		<a href="#">COM(2016)0639</a>	05/10/2016	EC	Summary

### Additional information

European Commission	<a href="#">EUR-Lex</a>
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### Final act

<a href="#">Regulation 2000/1150</a> <a href="#">OJ L 130 31.05.2000, p. 0001</a> Summary
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## System of the Communities' own resources: implementing Decision 94/728/EC, Euratom

OBJECTIVE: codification of Regulation (EEC, Euratom) No 1552/89 on the system of the Communities' own resources. SUBSTANCE: the proposal concerns the codification of Regulation (EEC, Euratom) No 1552/89, as amended on a number of occasions since its adoption. The new Directive will replace the various Regulations which it consolidates; the proposal fully preserves their content, merely bringing them together in a single text. ?

## System of the Communities' own resources: implementing Decision 94/728/EC, Euratom

In the context of the interinstitutional agreement on an accelerated working method for official codification of legislative texts, the committee decided to follow the procedure without report concerning Parliament's opinion on the proposal seeking to codify the regulation on the system of the Communities' own resources, as Parliament's Legal Service considered that the proposal constituted a codification pure and simple which did not alter the substance of the relevant acts.?

## System of the Communities' own resources: implementing Decision 94/728/EC, Euratom

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The European Parliament approves this proposal under the consultation procedure. (Procedure without report).?

## System of the Communities' own resources: implementing Decision 94/728/EC, Euratom

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The Council of Ministers adopted Regulation 1150/2000/EC/EURATOM on the codification of Regulation (EEC, EURATOM) 1552/89 on the system of the Communities' own resources.?

## System of the Communities' own resources: implementing Decision 94/728/EC, Euratom

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This report, which is sent to the budgetary authority pursuant to Article 18(5) of Regulation 1150/00/EC, gives an account of the operation of the inspection arrangements for traditional own resources over the period 1997-99. This information, which covers three years, gives an overall view of the Commission's multiannual inspections of both customs and accounting procedures and identifies the main strategies it intends to develop to improve results. This report first describes the general objectives pursued by the Commission via inspections of traditional own resources, in particular to keep a level playing field for operators in the European Union, improve recovery and inform the budgetary authority. It also presents the legal and regulatory framework surrounding the various inspection arrangements, followed by a factual description of the inspection system operating at Community level between 1997 and 1999. Over the period in question the Commission conducted 70 inspections (joint and autonomous) in all fifteen Member States. These inspections revealed 246 anomalies, 185 relating to accounting practices and 61 to do with customs. As a result of these anomalies, the Member States have so far paid a total of EUR 3 035 347 in principal amounts and EUR 6 971 898 in interest for late payment. Apart from the aspects linked to the accounts, the anomalies detected during these inspections are an essential source of information on the problems encountered by the Member States in applying customs and accounting regulations. They can reveal any incompatibility between national provisions and the spirit of Community law and highlight the possible impact in terms of own resources. Analysis of these anomalies can lead to the reform of existing provisions and improve the clarity of Community legislation. The report concludes that there is a need for inspection measures to cover the various aspects - customs-related, financial and regulatory - of how the whole system for the inspection of traditional own resources works. Finally, the report turns to the overall development of the inspection and collection system. It sets out the broad lines of the strategy which the Commission intends to develop in the medium term, firstly as regards methods and secondly as part of a renewed partnership between the Commission and the Member States. Alongside these methodological considerations, the Commission aims to make the Member States assume more responsibility. It is therefore continuing to examine the operational consequences of holding the Member States liable for some of the errors committed by their administrations. This approach forms part of the attempt to achieve a fairer distribution of the financial burden between the Member States in accordance with the principles of sound and efficient management set out in SEM 2000. However, the Commission is also considering a new approach to associated inspections based on the Joint Audit Initiative which requires a different form of cooperation between the Community authorities and the Member States and which also seeks to respond to the changes in inspection procedures that will be required with the forthcoming enlargement of the European Union.?

## System of the Communities' own resources: implementing Decision 94/728/EC, Euratom

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This document comprises of the fourth report from the Commission which describes and analyses the operation of the inspection system for traditional own resources for the period covering 2000, 2001 and 2002.

The report states that the results recorded from 2000 to 2002, and the prospects which emerge, confirm the need for the Commission's inspections of traditional own resources. This inspection activity ensures equality of treatment between the Member States as regards both application of the customs and accounting rules and protection of the European Union's financial interests; i.e. if the Member States fail to comply with these rules, they all face the same consequences. At the same time as taking the necessary measures for the further improvement of its traditional inspection visits, the Commission intends to expand its activities in the following three areas:

- Monitoring the acceding countries, so as to obtain a reasonable degree of assurance that these countries' customs and accounting systems will meet Community requirements by the time of accession;
- Internal financial liability of the Member States the principle under which the Member States must bear responsibility for their errors. The various infringement procedures brought before the Court of Justice should allow certain guidelines to be laid down;
- External financial liability suitable consideration must be given to provide the ability to remedy the negative financial effects resulting from poor management of preferential agreements.

## System of the Communities' own resources: implementing Decision 94/728/EC, Euratom

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The Commission has presented its report on the follow-up of traditional own resources in cases of fraud and irregularities. This report together with its annexes presents the state of play in the recovery process for unpaid customs duties (also known as Traditional Own Resources/TOR) in 17 cases of fraud or irregularity. All these cases have been the subject of previous Mutual assistance (MA) communications which concerned several Member States and each had a potential impact on the Community budget of over EUR 1 million.

The report outlines the conclusions from the research in a very condensed form - more detail being included in the accompanying six annexes. The report also takes stock of the usefulness and reliability of the current method and proposes an alternative strategy for keeping the Budgetary Authority informed.

Under Council Regulation 1150/2000 Member States are not only obliged to keep A- and B-accounts, but they are also required to inform the

Commission of cases of fraud or irregularity (detected or established) with a potential financial impact on the Community's Budget of over EUR 10,000. Member States transmit this information to the Commission via the OWNRES system.

The underlying information in this report has been gathered from OWNRES and reflects the situation on 31 December 2003. The debts in the chosen sample total over EUR 160 million. Of this amount almost 41% has been settled - by recovery, withdrawal or write-off - while the remaining 59% is still subject to administrative appeals or judicial procedures. On the basis of this information it can be concluded that although the outstanding amounts appear in absolute terms relatively high, that in relation to the overall amounts at stake, they are rather low. It also follows that recovery procedures are progressing. In many cases, actual recovery may be just a matter of time. Whereas the comparable reports in 1994 and 1998 showed effective recovery rates of 2% and 12% respectively, the recovery rate for the cases discussed in this report has further improved to 15%.

## System of the Communities' own resources: implementing Decision 94/728/EC, Euratom

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In accordance with Council Regulation (EC, Euratom) No 1150/2000, the Commission presents its fifth report on the operation of the inspection arrangements for traditional own resources (2003-2005). This report describes and analyses the operation of the inspection system for traditional own resources for the period covering 2003 to 2005. It describes the Commission's inspection measures over this period, assesses the measures carried out and draws conclusions. The report also outlines the financial, legal and regulatory follow-up to these inspections. Finally, this report gives an account of the outcome of other Commission measures over the period in question to improve recovery and prepare the acceding countries. The annex to this report describes the objectives of the inspections and how the inspection system operates at Community level.

During the period 2003-2005, the Commission carried out 73 inspections (as against 65 during the period 2000-2002) revealing 297 anomalies with a financial impact of ?127 million (not including interest on late payment). Of the 297 anomalies noted (as against 304 anomalies during the period 2000-2002), 130 had a financial impact (43.80% of the anomalies), 101 a regulatory impact (34%) and 66 fell into the category "other" (22.20%). The Commission has taken appropriate measures to resolve the financial consequences of the anomalies observed.

In 2003 and 2004, the Commission initiated an inspection operation on the management of "electronic customs declarations". This was conducted in all the Member States which belonged to the EU in 2003, with the exception of the Netherlands and Luxembourg. A number of anomalies were noted, but the systems installed in the Member States were on the whole satisfactory. The Commission recommended that computerisation should be extended with a view to improving the management of customs clearance and the collection of own resources.

The inspection measures concerning inward processing carried out in 2003 (NL), 2004 (FR, IE, IT, AT) and 2005 (DE, UK) revealed a number of shortcomings as regards the management of control of this customs procedure, some with financial consequences. The Member States concerned have informed the Commission that they have taken the measures necessary. In 2004 inspections of simplified procedures in Community air transit in Germany, Luxembourg and the United Kingdom revealed major shortcomings in the management and control of these procedures. The three Member States concerned have since taken strict measures to improve the situation.

Inspections were also carried out on the entry and import of fishery products into the Community and customs warehousing.

At 31 December 2005, a total of 25 cases involving 10 Member States were at various stages of the procedure (formal notice, reasoned opinion, referral). In 2005, the European Court of Justice delivered a number of important judgments following infringement procedures brought by the Commission. In 2005 three Court judgments upheld the Commission's position as regards Community transit and the financial consequences of errors by the Member States. In 2006 a judgment upheld the Commission's position concerning the time limit for entering duties in the accounts.

Over the reference period (2003-2005) additional entitlements totalling more than ?127 million (not including interest for late payment) were paid to the Commission following observations it made in reports on joint or autonomous inspections, following inspections by the Court of Auditors or following the Commission's other inspection activities. Over the period 2003-2005 interest for late payment paid by the Member States totalled more than ?77 million.

Over the period 2003-2005, the Commission was able to improve its monitoring of recovery in the Member States through the introduction of the new OWNRES data base, amendment of the rules on the writing-off of irrecoverable entitlements, the Court's case law on the financial consequences of errors by the Member States and monitoring activities geared to the acceding countries.

The results recorded from 2003 to 2005 show that the Commission's inspections of traditional own resources are necessary. This inspection activity ensures equality of treatment between the Member States as regards both application of the customs and accounting rules and protection of the European Union's financial interests.

In future, the Commission intends:

- to continue its traditional role as regards on-the-spot inspections, while improving its inspection methods (audit tools, etc.);
- to continue strengthening its monitoring of recovery measures in the Member States by introducing an IT tool allowing user-friendly treatment of cases of irrecoverable entitlements that are written off and reported to the Commission;
- to continue monitoring the acceding countries, so as to obtain a reasonable degree of assurance that these countries' systems for collecting traditional own resources meet Community requirements by the time of accession.

## System of the Communities' own resources: implementing Decision 94/728/EC, Euratom

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In accordance with Council Regulation No 1150/2000, the Commission presents its sixth report on the operation of the inspection arrangements for traditional own resources.

The report describes and analyses the operation of the inspection system for traditional own resources for the period covering 2006 to 2009 (2006 was only partly covered by the previous report adopted in 2007). It describes the Commission's inspection measures over this period, assesses the measures carried out and draws conclusions. The report also outlines the financial, legal and regulatory follow-up to these inspections.

Main results of the inspections: the Commission carried out 129 inspections under Article 18 of Regulation No 1150/2000 during the period 2006-2009. Eleven of these inspections were carried out under the Joint Audit Arrangement approach. Of the 436 anomalies noted, 224 had a financial impact (51.4%) and 110 a regulatory impact (25.2%). The Commission has taken appropriate measures to resolve the financial consequences of the anomalies observed.

Follow up to inspection measures:

Disputes: during the period 2006-2009 the Court of Justice delivered a number of important judgments following infringement procedures brought by the Commission. Where necessary, the Member States concerned had to assume the financial consequences. For some of these judgments, these financial consequences are still being evaluated or settled. The Commission gives details of the relevant judgements.

Financial aspects: over the reference period (2006-2009) additional entitlements totalling more than ?130 million were paid to the Commission following observations it made in its inspection reports, following inspections by the Court of Auditors or following the Commission's other inspection activities.

Interest for late payment was also charged for delays in making traditional own resources available. The interest for late payment paid by the Member States totalled more than ?107 million.

Commission measures to improve 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 traditional own resources. Appropriate use of these means effectively improves recovery. Examination of the waiver requests is a particularly important and evergrowing task for the Commission. With the adoption of Regulation No 2028/2004, the concept of amounts which are definitively irrecoverable has been defined along with the specific conditions for deeming amounts irrecoverable. These new conditions have allowed the Member States to "clean up" their separate accounts by withdrawing a large number of amounts that are deemed irrecoverable. A transitional period ending on 30 September 2009 was established for this purpose. The Commission was therefore confronted by a significant increase in the number of requests, in particular in 2008 and 2009, and succeeded in meeting this challenge. Over the period 2006-2009 it was sent 1 017 cases (including 589 for 2008 alone) involving a gross amount of almost ?394 million. In response to the requests examined during this period (outstanding cases and newly presented cases), the Commission granted 497 waivers involving almost ?152 million. On the other hand, it refused 168 cases involving more than ?62 million (gross), which must now be made available. The Commission had to ask the Member States for further information in almost 50% of the cases examined. At 31 December 2009, 165 requests involving around ?57 million were still being processed.

A new database called WOMIS (Write-Off Management and Information System) became operational on 1 January 2010. WOMIS is a multilingual tool designed for the transmission of waiver requests by means of a web-based communication and database software reserved for authorised Member State and Commission users. It will allow easier and more secure management of the Member States' requests and can be used to provide data and useful information on the follow-up to these requests.

The report concludes that the results recorded from 2006 to 2009 show that the Commission's inspections of traditional own resources are necessary. This was illustrated by improved compliance with Community provisions on the protection of the EU's financial interests as well as at the financial level (the net amount made available came to around ?237 million). This inspection activity ensures equality of treatment between the Member States as regards both application of the customs and accounting rules and protection of the EU's financial interests.

In future, the Commission therefore intends:

- to continue with its role as regards on-the-spot inspections, while improving its inspection methods (audit tools, etc.);
- to continue strengthening the monitoring of recovery measures in the Member States;
- to continue monitoring the acceding countries, so as to obtain a reasonable degree of assurance that these countries' systems for collecting traditional own resources meet Community requirements by the time of accession.

## System of the Communities' own resources: implementing Decision 94/728/EC, Euratom

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In accordance with Council Regulation (EC, Euratom) No 1150/2000, the Commission presented its seventh report on the operation of the inspection arrangements for traditional own resources (2010-2012).

Traditional own resources (TOR), i.e. customs and agricultural duties on products imported from third countries, plus sugar levies. Over the period 2010-2012 more than EUR 48.8 billion was made available (net).

Main results of the inspections: the Commission carried out 94 inspections during the period 2010-2012. Of the 372 findings noted, 120 had a direct financial impact (32.2%) and 125 a regulatory impact (33.6%). The Commission has taken appropriate measures to resolve the financial consequences of the findings observed.

The main findings are as follows:

- the results of the inspections performed in 2009 and 2010 showed that in general Member States had made efforts towards the development of customs control strategies to be in compliance with the requirements of the legislation and to provide protection for the EU's financial interests;
- in 2010, 2011 and 2012 inspections concerning the collection of antidumping and countervailing duties showed that in the majority of the Member States the collection of these duties and the related control strategy was compliant with EU legislation;
- in 2011 inspections on the local clearance procedure revealed major shortcomings in the management and control of this procedure;
- 2011 inspections in four Member States on binding tariff information (BTI) showed in general a high level of compliance with EU legislation. Major weaknesses were found as regards the post-clearance recovery of TOR in the case of annulment of a BTI or the absence of control strategies to verify the use of periods of grace;
- 2012 inspections in 21 Member States on EU transit were carried out. The Commission found that the situation had improved in most of the Member States. Weaknesses were noted concerning the calculation of the guarantee covering the transit movement, the content of transit declarations and the number of checks carried out on the transit movements and on authorised consignors and consignees.

As regards inspections relating to accounting matters, the Commission stated that the overall situation was improving thanks to the pressure exerted by the Commission's inspections and also to the introduction in most Member States of customs and/or accounting computer tools that enable the risk of one-off errors to be reduced. More comprehensive inspection measures were conducted in 7 Member States in order to evaluate their TOR collection systems. On the other hand, major shortcomings were identified as regards how the Member States deal with irrecoverable amounts of TOR.

Follow-up to Commission inspection measures: during the period 2010-2012 the Court of Justice delivered a number of important judgments following infringement procedures brought by the Commission. Where needed, the Member States concerned had to assume the financial consequences.

Over the reference period (2010-2012) additional entitlements totalling more than EUR 249 million were paid to the Commission following observations made in its inspection reports. Moreover, interest for late payment was also charged for delays in making TOR available. The interest for late payment paid by the Member States totalled more than EUR 484.5 million.

Future actions: the results recorded from 2010 to 2012 show that the Commission's inspections of TOR and the systematic follow-up of the shortcomings observed are necessary. This was illustrated by the improved compliance with EU provisions as well as by the financial impact (the additional net amount made available to the EU budget was around EUR 733.5 million).

This inspection activity ensures equality of treatment between the Member States as regards both application of the customs and accounting rules and protection of the EU's financial interests.

In future, the Commission therefore intends:

- to continue with its role as regards on-the-spot inspections;
- to continue strengthening the monitoring of recovery measures in the Member States;
- to continue monitoring the acceding countries;
- to reinforce the Member States' capability and willingness to perform TOR inspections themselves.

## System of the Communities' own resources: implementing Decision 94/728/EC, Euratom

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In accordance with Council Regulation (EC, Euratom) No 1150/2000, the Commission presented its eighth report from the Commission on the operation of the inspection arrangements for traditional own resources (2013/2015).

Traditional own resources (TOR): customs duties on products imported from third countries, plus sugar levies. Over the period 2013-2015 more than EUR 50 billion was made available (net).

Inspections carried out by the Commission: to supervise the system for the collection of TOR several types of checks by the Commission are possible: checks on regulations, checks on documents and on-the-spot inspections.

During the period 2013-2015 the Commission carried out 86 inspections which gave rise to 288 findings. 122 of these had a direct financial impact (42.36%) and 63 a regulatory impact (21.88%). The Commission has taken appropriate measures to ensure that Member States make available to the EU budget the amounts involved, where appropriate.

- In 2013 and 2015, the inspections focused on: (i) the entry of goods in the customs territory of the EU; (ii) the end-use customs procedure which was examined in 18 Member States; (iii) the follow-up of risk information relating to potential cases of frauds and irregularities.
- In 2015, five inspections concerning the management of tariff suspensions and quotas were carried.
- In addition, the management of preferential tariff measures was examined in four countries.

Inspections relating to accounting matters: the management of the separate account combined with the corrections of the normal account is a recurrent topic which is inspected in all Member States visited, in addition to the main customs topic.

- Comprehensive inspections were conducted in three Member States entirely on this topic. The inspections carried out over the period 2013-2015 on this topic 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. Member States must sustain their efforts to ensure the diligent management of the separate account and the corrections of the normal account.
- A series of inspections was also carried out in six Member States on the reliability of the normal and separate account statements. The procedures in place to establish these statements complied with the EU provisions and ensured the protection of the EU's financial interests.

Outcome of disputes: some points in the rules remain a source of disagreement between the Member States and the Commission, whose only option then is to start an infringement procedure. During the period 2013-2015, infringements were either launched or closed with the following countries: Portugal, the Netherlands, United Kingdom, Italy and Belgium.

Over the reference period (2013-2015) additional entitlements totalling more than EUR 124 million were paid to the Commission following observations made in the inspection reports and on the occasion of 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 totalled more than EUR 104 million.

In its judgment of 15 November 2005 Commission versus Denmark, the European Court of Justice upheld the Commission's view that the obligation of the Member State to establish the EU's entitlement to TOR (and to make them available) arises as soon as the conditions laid down in the customs regulations are met under normal circumstances.

On the basis of this case-law, the Commission followed up the administrative errors committed by the Member States to the detriment of the EU's financial interests during the period 2013-2015 (on-the-spot inspections, national repayment or remission decisions due to administrative errors, etc.). As a result of this follow-up, the Commission asked the Member States to make available EUR 32 704 818 over the period

2013-2015.

Main results: the results recorded from 2013 to 2015 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 properly safeguarded in this domain.

The Commission considered that the inspections keep on being a key tool leveraging compliance with the EU rules. Its financial impact is significant, as illustrated by the additional net amount made available to the EU budget (including payments for irrecoverable amounts for reasons attributable to the Member States and payments related to Member States' financial responsibility for errors made by the national administrations) of around EUR 348 million during 2013-2015.

On top of this, the inspections contribute to ensure equality of treatment among the Member States, as regards both the application of the customs and accounting rules and the protection of the EU's financial interests, providing a powerful mechanism to fight and prevent damaging distortions of competition.

From 1 May 2016, a [new customs legislation](#) is applicable and, after ratification by the Member States, a new own resources legislative framework for the period 2014-2020 will be retroactively applied from 1 January 2014. Both require the Commission to continue its TOR inspection activities resolutely and effectively.