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**REPLIES OF THE COMMISSION TO THE ANNUAL REPORT 2009 OF THE  
COURT OF AUDITORS**

**CHAPTER 2 "REVENUE"**

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### INTRODUCTION

#### REGULARITY OF TRANSACTIONS

2.17. These anomalies once spotted by the Commission were communicated to Member States and the Court. All Member States agreed that the necessary remedial measures be taken as part of the routine procedures for revisions and updates.

#### EFFECTIVENESS OF SYSTEMS

2.20. The Commission will request the Member States concerned to take remedial action to address the short-comings found and where necessary Traditional Own Resources underpaid will be requested as well as any late payment interest due.

2.21. The Member States concerned will be requested to justify the amounts in the accounts, to make good any short-payments of Traditional Own Resources discovered, and where late making available has occurred, late payment interest will be demanded.

2.22. The Commission's position has been based on Article 867(a) of Regulation 2454/93 implementing the Customs Code according to which goods seized and confiscated are to be considered to have been entered for the customs warehousing procedure. For goods entered under this procedure no customs debt is established and entered in the accounts. The Court of Justice judgement of 2009 did not cover the relevance of Article 867(a) as to the treatment of the customs debt for seized goods and therefore the Commission awaited the outcome of another similar case, C-230/08. The Commission is assessing the consequence of the recent judgement in this case and the follow-up to be given. In any event, when the Modernised Customs Code enters into force, for seized goods the customs debt will always be extinguished, regardless of the place where the goods are seized.

2.23. It is for the Member States to establish their Customs control systems based on appropriate methods of risk analysis. The deficiencies referred to by the Court concern three Member States. In one of these identical findings were made in the Court's audit of Simplified Procedures and the Commission is following up the action being taken. In the remaining two they relate to the absence of a random element in the declaration/trader selection system. The national authorities have taken remedial measures in one. In the other a random element was used but was not incorporated in the automated system for the selection of import declarations/traders for examination.

2.24. The Commission agrees with the Court that Customs controls could be improved and need to evolve in the light of experience and best practice.

The Commission has been taking action to assist the Member States with the evolving procedures. Detailed guidelines have been provided, as has training on how best to apply them. The results will be examined during monitoring visits to be made during 2010 and 2011. In addition throughout 2009 and 2010 the Commission has carried out specific inspections, in every Member State, of their Customs Control Strategies. On the basis of these inspections and the Court's audit observations the Commission has already requested remedial action. It will prepare, in the course of 2010, a thematic report on the Customs Control Strategy in the Member States, incorporating the Court's findings as well as those of the

Commission. This will be discussed with Member States at ACOR with the objective of seeking improvements in this field.

2.25. As the Court acknowledges the starting point for calculating the annual VAT base, on which the amount of VAT own resources contributions is in turn fixed, is the value of VAT receipts actually collected during that one year. Although a diminution in the VAT gap, could theoretically result in an increase in the VAT own resources paid, the legislator opted for a method in which any increase in VAT own resources would be neutralised, from a budgetary point of view, by a corresponding reduction in the amount raised from GNI resources.

2.26. Proactive measures to lift long-outstanding reservations continue. In 2008 the Commission categorised, on a risk basis, all long-outstanding reservations and began, with the Member States concerned, to resolve the items taking those relative priorities into account. The strategy began to bear fruit in 2009 and is continuing: a further 7 of the oldest reservations have been lifted during 2010. The Commission considers good progress has been achieved. Further management meetings are to be scheduled in 2010/11.

2.27. The Report quoted deals with deficit and debt data of general government in Greece. A thorough analysis of the potential impact of the issues which emerged from this deficit and debt verification did not reveal a significant impact on GDP/GNI levels.

Greece has started addressing the issues raised in the Commission Report of 8 January 2010, with the adoption of a new law on the Hellenic Statistical System including the creation of a new statistical authority (ELSTAT) in order to guarantee the independence and integrity of statistics.

2.28. The Commission considers that the reliability of national accounts depends primarily on the specific statistical sources and methods used and has based its approach of GNI validation on their verification and improvement. Well designed supervisory and control systems (SCS) in national statistical institutes of Member States may help identify and mitigate the risks of errors occurring. The Commission has already taken account of the remarks of the Court on SCS in the ways mentioned in its replies to paragraph 4.24 of the 2008 report. Furthermore, during the GNI verifications, the Commission collected information on Member States' practices, in particular for the purposes of the workshop it organised in December 2009. In accordance with the objectives of this workshop, the Commission will identify and develop best practices for use in the Member States, as well as assessment procedures in this domain.

2.30. The Commission is continuing its cooperation with the two countries that still have GNP reservations for the period 1995-2001 (1 for Greece, and 3 for United Kingdom) so that these reservations can be lifted.

2.31. The Commission applies direct verification as a supplement to the verification of the countries' GNI Inventories based on the GNI Inventory Assessment Questionnaire (GIAQ). The Commission considers that the number of components it had selected was sufficient for the purposes of direct verification, in accordance with the "Guidelines for direct verification" approved by the GNI Committee.

## **RELIABILITY OF COMMISSION MANAGEMENT REPRESENTATIONS**

2.32. The Commission in its inspections of Simplified Procedures and Member States' control strategy has also found weaknesses in the control procedures in Member States and will continue to follow up the Court's and its own findings. As soon as this follow-up is completed, the Commission will have a more comprehensive basis for an assessment.

## **CONCLUSIONS AND RECOMMENDATIONS**

2.35. The Commission will continue its regular examination of the B accounts to identify any weaknesses which might impact on the timely establishment and making available of Traditional Own Resources.

2.36. The Commission will follow up these weaknesses in conjunction with the findings from its own inspections.

2.37. So far a further seven of the longest-outstanding reservations have been lifted in 2010. Further management meetings are to be scheduled in 2010/11.

2.38. The Commission will complete the verification of Member States' GNI inventories and produce assessment reports at end 2010/early 2011. The Commission considers that the approach it applies (desk checks of the GNI Questionnaires, the verification of GNI Inventories using the GIAQ supplemented by a direct verification) is appropriate for a final assessment of the Member States' GNI. In this context, supervisory and control systems (SCS) are of an organisational nature and do not give specific indications on the reliability of the accounts, which depends primarily on the statistical sources and methods used, even though SCS may help mitigate risks of errors in national accounts.