COMMISSION DES COMMUNAUTÉS EUROPÉENNES

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# RAPPORT DE LA COMMISSION

## Rapport concernant le suivi des ressources propres traditionnelles en cas de fraude et d'irrégularité

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## 1. INTRODUCTION

Le présent rapport et ses annexes font le point de la situation en ce qui concerne le système de recouvrement de droits de douane non payés (connus sous l'appellation de «ressources propres traditionnelles/RPT») dans 17 *cas de fraude ou d'irrégularité*. Tous ces dossiers ont fait l'objet de communications dans le cadre de l'assistance mutuelle, qui ont concerné plusieurs États membres et chaque dossier représente un impact potentiel sur le budget de la Communauté de 1 million d'euros.

Le rapport présente les conclusions de la recherche sous une forme très condensée - on trouvera davantage de détails dans les six annexes d'accompagnement. Il fait également le point en ce qui concerne l'efficacité et la fiabilité du système actuel et propose une stratégie de remplacement afin de maintenir informée l'autorité budgétaire.

## 2. HISTORIQUE

Les États membres sont responsables du recouvrement des dettes douanières et de la mise à disposition de la Commission de ces montants. Plus de 95 % des dettes constatées (qui sont généralement le fait de la mise en libre circulation des marchandises importées) sont garantis et payés ensuite. Par conséquent, ces montants sont inscrits sur ce que l'on appelle la comptabilité A. Toutefois, le présent rapport est axé sur la gestion de dettes non recouvrées et qui, de ce fait, ne peuvent être considérées comme représentatives de *l'ensemble des activités* des États membres en matière de recouvrement. Les dettes non recouvrées sont inscrites dans ce que l'on appelle la comptabilité B.

La plupart des dettes douanières non recouvrées font suite à des contrôles douaniers effectués après la mise en libre circulation des marchandises. La majorité des irrégularités identifiées sont le résultat d'une non-conformité à la réglementation douanière sans intention de fraude. Toutefois, on découvre des cas, parfois liés à des communications AM antérieures, faisant l'objet de présomption de fraude. Lorsque les dettes douanières ont été constatées à la suite d'irrégularités, elles donnent souvent lieu à des contrôles administratifs, des appels ou procédures et restent ainsi pendantes pendant un certain temps. Lorsque fraude il y a, les dettes sont presque toujours constatées à la suite d'enquête pénale et/ou de procédures pénales et difficiles à recouvrer. Les observations et conclusions du présent rapport ne concernent que ces types de dettes et ne peuvent donc faire l'objet d'extrapolations sur l'ensemble des dettes douanières.

En vertu du règlement (CE) n° 1150/2000, les États membres sont non seulement obligés de tenir une comptabilité A et une comptabilité B, mais ils sont aussi tenus d'informer la Commission de *cas de fraude ou d'irrégularité* (identifiés ou constatés) représentant un impact financier potentiel pour le budget communautaire de plus de 10 000 euros. Les États membres font parvenir ces informations à la Commission par le biais du système OWNRES.

## 3. CONCLUSIONS

Les informations sous-tendant le présent rapport ont été obtenues de OWNRES et reflètent la situation au 31 décembre 2003. Les dettes de l'échantillonnage retenu totalisent plus de 160 millions d'euros. Près de 41 % de ce montant ont été obtenus - par recouvrement, retrait

ou mise en non-valeur - tandis que les 59 % restants font toujours l'objet d'appels administratifs ou de procédures judiciaires. Au vu de ces informations, il est permis de conclure que bien que les montants pendants paraissent relativement élevés en termes absolus, ils sont relativement faibles cependant comparativement aux montants globaux en jeu. On peut en conclure également que les procédures de recouvrement marquent des points. Dans de nombreux cas, le recouvrement proprement dit peut n'être qu'une question de temps.

Tandis que les rapports sur ce point de 1994 et 1998 accusaient des taux effectifs de recouvrement respectivement de 2 % et de 12 %, le taux de recouvrement pour les cas considérés est passé à 15 %.

## 4. SUITES

Compte tenu des raisons exposées ci-dessus, il n'est pas possible de tirer valablement des conclusions globales sur les activités de recouvrement des États membres à partir de l'examen des dossiers AM. De plus, vu que les États membres sont responsables du recouvrement, il est difficile pour la Commission d'obtenir un aperçu général du recouvrement RPT. En outre, étant donné que les États membres sont responsables des bases de données OWNRES, la Commission ne peut totalement exclure la possibilité qu'OWNRES n'ait pas été mis à jour ou qu'un cas n'ait pas été notifié. Aussi la Commission estime-t-elle utile de dégager une approche de substitution qui offrirait avantageusement une image plus complète.

Si les États membres ne sont pas en mesure de recouvrer les montants constatés pour des raisons qui ne leur sauraient être imputables, l'article 17, paragraphe 2, du règlement n° 1150/2000 prévoit des mises en non-valeur dans certaines circonstances. Si la dette est supérieure à 10 000 euros, les États membres doivent rendre compte de ces cas à la Commission et solliciter l'autorisation de la Commission en vue d'une admission en non-valeur. Si l'État membre n'est pas en mesure de démontrer que l'omission de recouvrement ne lui est pas imputable, la Commission considérera celui-ci comme étant responsable de la perte de RPT et lui demandera de réparer cette perte. Aussi, les cas de mise en non-valeur offrent-ils la possibilité d'obtenir la meilleure vue d'ensemble des activités de recouvrement des États membres.

Autrefois il n'était pas possible d'obtenir un tableau complet. Ceci était dû au fait que certains États membres ne sont pas disposés à déclarer les montants irrecouvrables «*à long terme*». Tous les États membres n'ont donc pas communiqué les cas de non-recouvrement. Ces anciennes dettes restent pendantes dans la comptabilité B.

Toutefois, à la suite d'une modification du règlement, adoptée par le Conseil le 16 novembre 2004[1], les États membres sont invités à notifier à la Commission tous les montants non recouvrés supérieurs à 50 000 euros, au plus tard cinq ans après la date à laquelle la dette (à la suite d'une évaluation, d'un réexamen ou d'un appel) a été confirmée comme étant irrévocable. Tous les États membres doivent donc rendre compte de ces cas permettant ainsi à la Commission d'obtenir un meilleur aperçu de l'ensemble des activités de recouvrement des États membres.

[1] Reg. 2028/2004, Règlement du Conseil du 16.11.04, JO L 352 du 27.11.04.

Cette nouvelle approche a l'avantage de donner une image plus transparente du système de recouvrement RPT dans les États membres. La Commission sera ainsi en mesure également de se servir du cadre du rapport triennal sur le fonctionnement des modalités d'inspection en ce qui concerne les ressources propres traditionnelles (en vertu de l'article 18, paragraphe 5, du règlement n° 1150/2000) pour intégrer les conclusions tirées du système de mise en non-valeur dans le contexte plus large des contrôles RPT. On pourra ainsi se dispenser de rapports tels que le présent rapport concernant des cas relevant de la comptabilité B. Bien sûr, l'évolution en matière de recouvrement des cas de fraude et d'irrégularité communiqués sera reprise, comme par le passé, dans le rapport annuel de l'OLAF concernant la protection des intérêts financiers de la Communauté et la lutte contre la fraude.

## 5. QUESTIONS CONNEXES

Le contrôle du suivi des recouvrements au moyen du système de mise en non-valeur n'est bien sûr pas la seule mesure mise en œuvre par la Commission dans ce domaine. La Commission applique également un programme annuel d'audit de conformité afin de s'assurer que les États membres respectent la législation communautaire en matière douanière ainsi que les obligations qui sont les leurs de recouvrer les RPT. Afin d'assurer la crédibilité du suivi de ces audits, la Commission a développé le principe de *responsabilité financière* pour certaines erreurs faites par des administrations nationales. Ce principe est soutenu par le traité et par la décision sur les ressources propres.

La responsabilité financière concerne la responsabilité des États membres à l'égard des mesures de recouvrement qu'ils adoptent. Ils sont responsables de la collecte des RPT dans les meilleures conditions possibles. En vertu de cette responsabilité financière, les États membres sont invités à couvrir les pertes de RPT résultant de leurs propres erreurs. Cette stratégie doit inciter l'État membre à faire le moins d'erreur possible en matière de recouvrement des RPT, et, bien sûr, à obtenir de meilleurs résultats en matière de recouvrement. C'est la raison pour laquelle la Commission vise à encourager une gestion convenable et efficace des ressources propres débouchant sur une répartition équitable de la charge financière entre les États membres (et les contribuables) et garantissant une application cohérente, loyale et correcte de la législation communautaire et des principes généraux.

De plus, la Commission assure le suivi du recouvrement des États membres dans certains cas spécifiques. Ce sont les cas «hors échantillon» où des principes généraux pourraient être en jeu. Des cas de cette nature peuvent être épinglés par l'inspection des États membres, la Cour des comptes européenne, l'autorité budgétaire ou, dans les cas de fraude, l'OLAF. Ces cas font alors l'objet d'un suivi par la Commission hors échantillon.

## ANNEXE 1

1. RESEARCH METHODOLOGY

Although most customs debts are paid straight away, problems can occur where customs debts arise from fraud or irregularities. Such cases can have very different triggers, perhaps tariff, value or origin questions. Therefore control mechanisms, levying and collection arrangements in these cases are necessary to safeguard the recovery of Traditional Own Resources (TOR) and to protect the financial interests of the Community.

This is why the Commission pays close attention to Member State controls and to the contents of the so called separate accounts (these accounts, kept at national level, contain unpaid customs debts which are either not guaranteed or have been contested - even though guaranteed. The Commission regularly checks these procedures and accounts during their inspections of Member States[2]. To provide further assurance that customs debts have indeed been properly managed by Member States the Commission developed an audit procedure, the results of which are separately reported.

The report on this audit procedure, known as the 'Sample B' report, consists of detailed analyses of specific cases which have been the subject of earlier Mutual assistance (MA) communications. It describes Member States' progress in recovering amounts of TOR in selected cases of fraud and irregularity. Recovery is often especially difficult in such cases. This particularly applies when the customs debts concerned have been established after post-clearance checks. An additional risk will exist where organised crime is also involved, because criminals will make every effort to hide recoverable assets from seizure and confiscation. This, of course, has a negative impact on the amount of money recovered.

In the latest report, to which this is annexed, the Commission provides an update on the state of play of recovery in the 9 cases in the last B Sample from 1998 (B1998)[3]. Furthermore, the Commission uses this opportunity to draw a picture regarding recovery in another 8 cases which were selected after the 1998 exercise.

For each of these 17 cases, the Commission has collected data from the OWNRES database, in which Member States have to report all fraud and irregularities detected with a financial impact on the Community budget of over €10,000[4]. The report contains the conclusions drawn from this research. It should be noted that all data extracted from OWNRES was entered into the database under the responsibility of the Member States.

The research process was greatly facilitated by the newly developed web-based version of the OWNRES database which enables all kind of queries to be made for research purposes. This contributed greatly to the quality of the analysis by the Commission and to the reliability of the results found. Thus it was possible to analyse around 1,000 related OWNRES entries. Although OWNRES is a 'dynamic' database, the information presented here should be considered as the state of play as at 31 December 2003.

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2 Approximately 30 inspections in EUR-25 Member States per year.

3 COM (1999) 160 of 21.04.1999.

4 Art. 6 sect. 5 Reg. 1150/2000, Council Regulation of 22.05.00, OJ L 130 of 31.05.00.

The report is presented differently from its predecessors. The report itself focuses on the general observations and remarks following the detailed analysis of these 17 cases, while the case related remarks are encapsulated in annexs.

## 2. SAMPLE B2003

### SELECTION OF THE SAMPLE

The criteria for selecting cases for inclusion in the B sample are that the MA communication should involve several Member States and that the potential impact on the Community budget of the fraud or irregularity is over €1 million. In addition, either a Commission investigation (OLAF in particular) should have taken place or the customs debts in question are likely to become time-barred in the near future. Finally, the interest shown by the Budgetary Authority and the European Court of Auditors play a role in the selection process.

These were the criteria also used to obtain the latest sample. However, the sample initially selected was subsequently changed because of the similarity of some of the cases monitored to that of Turkish Televisions, where successful recovery was precluded for several reasons, the most important of which was an active error by third country Authorities[5]. In this typical case in the origin field, the Court of First Instance gave a ruling in 2001 which not only had wide-ranging consequences for recovery in comparable cases in Member States, but also for the sample previously selected by the Commission. The Court held that a debtor should not be the victim of third country Authorities in a case where those authorities knew or should have known the non-originating nature of the goods to be exported from that third country (and to be imported in the Community). As a consequence, the sample was reviewed since the purpose of the exercise was to draw an overall picture of outstanding recovery problems in the Member States.

As a wide range of selected cases can contribute to the representativity of the sample the new cases selected involve a variety of goods, such as clothing, dairy products, cars, persulphate, shoes, silicon and shrimps from different exporting and different amounts of TOR.

The cases also cover different kinds of fraud mechanisms such as manipulated customs values (American T-shirts), tariff misdescription (dairy products and Chinese Persulphate) and false origin declarations. All the cases deal with import transactions and declarations for free circulation; only in the case of dairy products are other irregularities involved (inward processing regime[6]). As far as TOR are concerned, the cases presented in this sample are not always related only to 'traditional' customs duties: the dairy products case concerns agricultural duties and anti-dumping duties are at stake in the cases of Chinese Persulphate, Cambodian shoes and Australian silicon.

Once the cases were selected MA communications and supplementary messages were used as the primary source for analysis together with the corresponding mission and final case reports.

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5 Decision of the Court of First Instance of 10 May 2001 (Kaufring AG c.s./Commission) Joined cases T-186/97, T-187/97, T-190/97 to T-192/97, T-210/97, T-211/97, T-216/97, T-217/97, T-218/97, T-279/97, T-208/97, T-293/97 and T-147/99 (European Court reports 2001 Page II-01337) where the Tribunal of First Instance decided on the consequences for recovery in a case where Third country authorities knew or should have known the non-originating character of the goods in question.

6 Inward processing is a Customs regime under which third country goods to be processed inside the Community for later export, may be imported without paying customs duty.

Progress on recovery per MA communication was researched on the basis of relevant Member State data in the OWNRES database. Before any final conclusions were drawn the Commission checked extensively whether the available date were reliable. Where the data in a given case was unclear, the Commission either asked Member States for clarification; or liased with OLAF.

All data collected led to specific reports on the stage of recovery in each of the MA files in this sample. Although these reports are to be found in Annex 2 to this report, their contents form an integral part of the overall report.

FINDINGS FROM SAMPLE B2003

When all the cases from B2003 are considered together, the following observations can be made. Where the fraud or the irregularity resulted in customs debts, 26% of these debts have been fully recovered whereas 68% are still subject to administrative appeals and the like or to judicial procedures; the remainder concerning cases closed otherwise because of e.g. cancellation and write-off (for more details see Annexs 4, 5 and 6). The Commission notes that the amounts to be recovered can be relatively high, but that the recovery procedures are progressing. Substantial further problems are not expected in any of these cases.

The reasons for this are various. In none of these cases do obvious technical or policy hurdles exist to prevent recovery. Of course it is not possible to anticipate the outcome of the ongoing appeals and procedures, but once they are finalised with positive results the only thing remaining, apart from recovery obstacles such as the insufficiency of assets available or the debtor's bankruptcy, will be collection of the duties. If customs debts also remain unpaid, however, Member States, under the Article 17(2) procedure of Regulation 1150/2000, have to ask the Commission for approval of their write-off. Because the Commission will hold Member States financially responsible when they have not taken sufficient care for the financial interests of the Community, Member States have an incentive to perform. Awareness of the potential financial consequences of under-performance in TOR recovery encourages Member States to avoid being held liable by increasing their efforts to ensure recovery.

## 3. SAMPLE B1998

UPDATE OF SAMPLE RESULTS

After analysis of B1998, the Commission published a report on the progress of recovery of TOR in those cases of fraud and irregularities[7] in 1999. That report described 9 cases, also concerning various goods from various countries. These cases ranged from Spanish sugar, Swiss cheese, Italian bananas, Hilton beef and Costa Rican tuna to Indonesian car radios, Vietnamese bicycles and Laotian and Cambodian textiles. The cases were previously selected on the basis of similar criteria to those used in the B2003 exercise.

All cases in this sample related to goods entering into free circulation. Therefore import duties were to be paid despite attempts having been made to evade these duties by origin fraud. In fact the cases of tuna, textiles, car radios and bicycles all represent recovery problems where origin preferences were claimed for non-originating goods. In some cases, in addition to the

[7] COM (1999) 160 of 21.04.1999.

more usual import duties, anti-dumping duties had also to be paid (car radios and bicycles). Agricultural duties were due where bananas were fraudulently put on the Italian home market.

The fraud mechanisms vary from origin fraud to the evasion of minimum prices for imports (Swiss cheese) and manipulating agricultural quotas in order to create an entitlement for duty-free imports (Hilton beef).

The Spanish sugar case provides a good example of how the Commission can hold Member States financially responsible where they have not taken sufficient care to protect the financial interests of the Community. Taking into account the moment when the amount of TOR originally should have been paid to the Commission, the Commission not only asked for the amount of principal but also requested the Member State to pay belated interest.

In the B1998 report, the descriptions of the recovery stage of each of these files were provisional because no final results were available at that time. Moreover, that report drew a distinction between proven cases and those where frauds or irregularities were only suspected. Once again, progress in recovering TOR in those cases is described here and 'more' final conclusions are provided.

Like the specific reports on the stage of recovery of the B2003 Sample, the reports related to the B1998 Sample are also to be found in an annex to this report. Annex 3 contains these specific reports which are also to be considered as an integral part of the report.

FINDINGS FROM SAMPLE B1998

When all B1998 cases are reviewed together, some observations similar to those made for the B2003 sample can be made by the Commission. Where the fraud or the irregularity gave rise to customs debts, 56% of these debts are still subject to administrative appeals, reviews or procedures or even to judicial procedures in the Member States. Clearly these can take years; especially when fiscal, civil and penal procedures are being used in the same case; and when legal decisions in a first instance can be overruled by final decisions in a second or even third instance. In some legal systems one procedure is interrupted (in general, the civil recovery procedure) until the other (usually, the criminal procedure) has been completed. This can lead to further delays in recovery. Furthermore it is possible that a particular debtor not only contests a given customs debt before a national judge, but he can also challenge it in front of the Community courts.

Although the total amount still to be recovered by the national administrations in Sample B1998 cases is over €66 million and reflects 56% of those debts, recovery procedures nevertheless remain in progress (for more details see Annexs 4, 5 and 6). Once these procedures have come to an end debtors must of course pay in all cases where the initial debt is confirmed. According to the Member States' information no substantial problems have been met as far as progress in recovery for these cases is concerned.

Apart from that, following the Commission's analysis of these old cases the (absence of) some expected OWNRES communications gave the Commission reason to believe that some files might be under-represented in the OWNRES database. It is possible that where the B1998 sample concerns relatively old MA communications, cases were already closed – or simply were not communicated – before the new OWNRES application was fully implemented. Today, however, Member States are obliged to register in OWNRES any old cases still outstanding when relevant changes occur (e.g. in the stage of recovery). For some

files the Commission therefore asked Member States to check the actual stage reached in the recovery process. This was done particularly where cases had been entered to OWNRES a long time ago, but had not been updated since. In ongoing cases the Member States concerned check their OWNRES entries and correct them if necessary. Of course the Commission checks the follow-up given by the Member States to these update requests.

## 4. OVERALL FINDINGS

### MEMBER STATES' EFFORTS TO IMPROVE RECOVERY TO BE CONTINUED

It is important to bear in mind the context within which the Commission monitors Member State recovery. Member States are competent for TOR recovery procedures on the national level. Thus they are responsible for making customs checks, and levying and collecting the resulting debts. Under the Community customs code[8], the Commission has only indirect influence on national recovery processes. Member States decide on what to check, and when and how to recover. Therefore, to a large extent, the recovery of TOR in cases of fraud and irregularities is outside direct Commission control.

Despite Member States being responsible for managing their recovery procedures the Commission needs to ensure that all Member States meet common standards when recovering TOR. To do otherwise would permit a non-performing Member State to transfer its liability for making 'losses' of TOR available to the Commission to other Member States who would have to pay via their GNP contributions. The Commission therefore uses the tools available to it, such as Regulation 1150/2000, to monitor performance and ensure that all Member States shoulder the same burden in recovering TOR. Comparable performance between Member States in recovering TOR also contributes to maintaining the same market conditions for commercial transactions across internal borders. Operators should observe that different Member States treat equal cases equally.

Regulation 1150/2000 governs the relationship between the Community and the Member States regarding the collection and recovery of TOR. It covers Member States' obligations for accounting for TOR and it provides the framework for dealing with TOR write-off requests from Member States.

Where the Commission is evaluating whether or not to approve a request for write-off it focuses on the timeliness and completeness of the action taken. Should the national authorities not have demonstrated due diligence (the burden of proof lays with the Member State) the Commission withholds approval: as a consequence the Member State is obliged to transfer the corresponding amount to the Community budget.

Member States are required to apply to the Commission for approval of write-off where recovery possibilities have been exhausted but judging when this point has been reached is, under the present wording of Regulation 1150/2000, a matter for the Member State. Member States can choose when to apply to the Commission for write-off (or even whether to apply!). To encourage Member States to use the write-off procedure more consistently, the Commission has therefore adopted a proposal for amending Regulation 1150/2000, which has been agreed formally by the Council on 16 November 2004[9]. Member States then have a maximum period of five years from the end of any appeal procedure opened in which to deem

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[8] Art. 232 of the Community Customs Code, Council Regulation of 12.10.92, OJ L 302 of 19.10.92.

[9] Reg. 2028/2004, Council Regulation of 16.11.04, OJ L 352 of 27.11.04.

a customs debt irrecoverable and where an amount over €50,000 remains outstanding to report it to the Commission.

This amendment will also benefit Member States. More candour regarding the likelihood of recovering TOR debts will mean that their national accounts will also give a clearer image of what is still to be recovered and what is payable to the Community.

Whether or not there is any relation with the proposed modification, the Commission can already note that whereas in the past only a limited number of Member States reported irrecoverable cases under the Article 17(2) procedure, today *all (*EU 15) Member States but one seem to apply this procedure in designated cases. The only one exception is Luxemburg, which has recovered all customs debts, and as a consequence has had no write-off cases to communicate to the Commission.

THE RELIABILITY OF OWNRES DATA NEEDS FURTHER IMPROVEMENT

Of course the reliability of any conclusions reached on the adequacy of the recovery actions taken by the Member States is directly related to the quality of the data in the OWNRES database. Since the Commission introduced a new web-based OWNRES application in 2003, Member States have full responsibility for the actual contents of the database. In addition Regulation 1150/2000 requires Member States to communicate all cases of fraud and irregularities exceeding €10,000 to the Commission. However, notwithstanding the overall obligation for the Member States of good cooperation with the Commission flowing from Article 10 of the Treaty, it must always be acknowledged that Member States may not have communicated all cases, or may not have properly updated cases previously communicated to the Commission. So any conclusions drawn on the existence of frauds and irregularities may be questionable as far as numbers, amounts of money and the stage of recovery are concerned. Clearly, however, not only the Commission but indeed also the Discharge Authority is entitled to reliable and up-to-date information regarding frauds and irregularities.

Therefore outside the B Sample the Commission is at present checking the overall reliability of OWNRES by comparing data from the separate or B-account (the account containing unpaid customs debts which have not been guaranteed or are guaranteed but have been contested)[10] as per 31 December 2003 with that from OWNRES. All unpaid debts over €10,000 related to frauds and irregularities should not only to be entered in the B-account, but also in the OWNRES database. Therefore any item in the B-account might be expected to have a matching OWNRES case. However, this only applies while comparing the B-account with OWNRES. When comparing the OWNRES database with the B-account this might not be true. There are circumstances where a detected fraud might not results in a customs debt. In a case of tobacco smuggling for example, where the goods (without having entered the market) have been seized in advance of confiscation or destruction afterwards, the customs debt will be extinguished[11]. Such smuggling cases must be entered in the OWNRES database, whereas they might not appear in the B-account. Another example would be an irregularity which after detection results in the establishment of a customs debt, which is paid immediately. Again, the irregularity must be recorded in OWNRES, although the paid debt will not appear in the B-account.

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[10] Art. 6 sect. 3 sub b Reg. 1150/2000, Council Regulation of 22.05.00, OJ L 130 of 31.05.00.

[11] Art. 233 sub d of the Community Customs Code, Council Regulation of 12.10.92, OJ L 302 of 19.10.92.

The Commission previously made such a comparison during 2003 using data as at 31 December 2001. The results from that exercise were not encouraging, hence the decision to redo the comparison in 2004. Preliminary results obtained by the Commission suggest that the overall reliability of OWNRES improved substantially last year. Not only did the Commission find many more matches between B-account entries and OWNRES cases than before; the Commission was also now able to compare the actual recovery stage of customs debts from the B-account with the related information in the corresponding OWNRES communications. As explained before, this enabled the Commission to take action against those Member States that had entered incorrect information or had not promptly updated initial OWNRES communications.

Although Member States still need to improve aspects of their overall OWNRES performance dramatically, generally speaking the higher the recoverable amount in a suspected fraud or irregularity, the more reliable the OWNRES entries appear to be. Apart from the legal obligation to communicate substantial frauds and irregularities to the Commission, the financial and policy aspects of a big case may be encouraging Member States to show that they manage the recovery process properly and that recovery is proceeding. This also seems to apply when customs debts are related to previous MA communications.

Taking preliminary results from the latest comparison between the B-account and OWNRES, together with the experience obtained in the framework of the write-off procedure, the Commission considers the OWNRES data related to the MA communications mentioned in the present report a sufficiently reliable basis to be used for the observations and conclusions made.

THE COMMISSION CONTINUES TO FOCUS ON WRITE-OFF PROCEDURE

Under a modification to Regulation 1150/2000 agreed by the Council on 16 November 2004 all Member States have to request Commission approval for write-off by a fixed time (no later than five years after the conclusion of any appeal proceedings) for all customs debts where amounts over €50,000 remain outstanding[12]. This means that the Commission will have the opportunity of reviewing Member States' write-off cases either when submitted for approval or during the annual scrutiny of Member State records of their own write-offs of amounts below the threshold. Because almost all substantial cases of fraud and irregularities result in appeals during which the customs debt remains unpaid, and because these debts are not easily recovered, almost all debts resulting from cases of fraud or irregularity have to be entered in the separate account. This regulatory change therefore also makes it likely that the Commission will be able to check Member States' follow-up of *all* large entries in the separate account within a fixed period.

Thus the Commission will be able to better monitor the follow-up of cases of fraud and irregularities; not only through the separate account but also by evaluating Member States' requests for approval of write-off and their performance in making write-offs themselves. Together with the improved query capabilities of the web-based OWNRES and the improved OWNRES input in terms of quality, the Article 17(2) procedure will provide the Commission with an accurate, complete and up-to-date view on progress in recovering customs debts arising from cases of fraud and irregularity. In addition, this new approach will enable Member States to show their commitment to recovering TOR. Furthermore the new approach

[12] Reg. 2028/2004, Council Regulation of 16.11.04, OJ L 352 of 27.11.04.

is appropriate because of the relatively small percentage of customs debts like these (which normally are accounted for in the separate account) when compared to all those customs debts recovered in the Community without any problem at all[13]. In these circumstances the current sample approach need not be maintained.

For this new strategy to succeed fully it will be necessary for Member States to discharge their responsibilities properly and to ensure that the OWNRES database is complete, accurate and updated in a timely fashion. To encourage the improvement required the Commission is monitoring the state of OWNRES and although the overall performance may not be fully reliable at present, the Commission will continue to audit OWNRES and develop initiatives to improve Member State contributions.

The Commission's change of methodology in not producing further Sample reports does not mean that Parliament will no longer be informed about this aspect of TOR. On the contrary, the Commission will continue to report periodically trends or developments in the recovery of TOR in cases of fraud and irregularities to OLAF. As at present OLAF will continue to integrate this information in its annual Report, based on Article 280 of the Treaty, on the protection of the financial interests of the Community and the fight against fraud. In accordance with the Regulation, the Commission could also incorporate this information in its triennial report to the European Parliament and to the Council on the functioning of the inspection arrangements[14].

Focussing on the write-off procedure will not be the only means used by the Commission to check Member States' recovery performance. Other more general concepts and methodologies developed for the purpose of monitoring recovery progress will also be used in cases of fraud and irregularities. As mentioned before, the Commission, under the write-off procedure will hold Member States financially liable when they have shown a lack of diligence in recovering customs debts. The Commission, however, also holds Member States financially responsible in case of other errors made or damage done during the recovery of customs debts. In recent years the Commission has developed this approach in different categories of cases, one of which is the failure to enter duties. It is possible that a Member States may fail to enter duties because the debt concerned has become time-barred as a result of the customs authorities' failure to act. This is an error if these authorities were in possession of all the details needed to enter the duties and communicate them to the debtor. Especially in cases of suspected fraud and comparable irregularities it is possible that Member States do not establish a customs debt in time, although they are able to do so. This applies particularly where MA messages have been sent which contain all the necessary elements for the Member State to start recovery action, even when a reasonable time to act is taken into account, but they do not.

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[13] E.g. the relation between the payments for customs debts from the separate account and all payments received by the Commission in 2003 for the Community as a whole will be between 1-2 %.

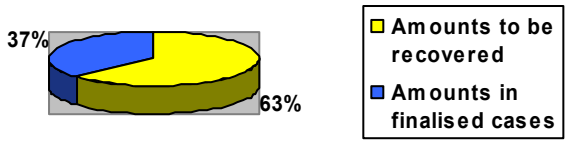
[14] Art. 18 sect. 5 Reg. 1150/2000, Council Regulation of 22.05.00, OJ L 130 of 31.05.00.

## ANNEXE 2

***Sample B 2003 – 0verview of selected cases***

*2.1 JEANS AND T-SHIRTS FROM USA*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€4 706 192* |
| *AMOUNTS TO BE RECOVERED* | *€2 970 373* |




In 1994 Member States were asked by MA message (MA 96/94) to identify parallel imports of branded goods (especially Levi jeans from the USA) and to examine the customs values declared. A criminal investigation in Denmark had led to the discovery of a valuation fraud. Large quantities of branded textiles had been imported and the customs values declared were far below the real value. This permitted parallel importers to compete unfairly with authorised importers of the branded textiles. The fraud mechanism consisted of either the presentation of false invoices produced by the USA exporters or the importers in the Member States, or by declaring the goods to be 'seconds'. Several similar investigations were made in the Netherlands, France, Italy and Germany. OLAF passed the Italian, Dutch and French findings on to all Member States in 1995. All the investigations appear to have led to recovery activity. According to OWNRES the Member States concerned are: Belgium, Denmark, Finland, France, Germany, Italy, the Netherlands, Spain and Sweden.

*Actual situation*

OWNRES data provided by Member States currently shows 52 cases referring to incorrect customs values for textiles (denim trousers, other trousers, T-shirts) of US origin. 21 of these cases are closed as all the amounts were recovered (except for one case cancelled). 31 cases (around 60%) still remain open and the total amount of duties still to be recovered is around €3 million. In all the open cases the recovery procedure is progressing but administrative appeals or reviews, or judicial procedures are not yet finished.

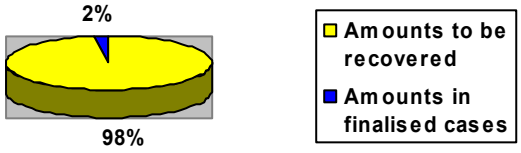
| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| Italy | €51 144 | €26 553 | €24 591 |
| Spain | €832 792 | - | €832 792 |
| The Netherlands | €132 280 | €100 744 | €31 536 |
| Germany | €1 461 169 | €193 903 | €1 267 266 |
| France | €749 290 | €36 394 | €712 896 |
| Sweden | €11 526 | €11 526 | - |
| Denmark | €164 518 | €164 518 | - |
| Finland | €101 292 | - | €101 292 |
| Belgium | €1 202 181 | €1 202 181 | - |
| *total:* | *€4 706 192* | *€1 735 819* | *€2 970 373* |

*Conclusion*

Although more than half the cases remain open and the amount of duties to be recovered is relatively large, the Commission does not anticipate that Member States will meet any substantial problems in pursuing the remaining recovery action. Any cases where amounts are not fully recovered will need to be sent to the Commission, at the appropriate time, with a request to approve write-off.

*2.2 MILK POWDER AND BUTTER FROM THIRD COUNTRIES*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€15 986 377* |
| *AMOUNTS TO BE RECOVERED* | *€15 616 882* |




As a result of investigations carried out by the Italian and German authorities, and following a Community mission to Austria in 1994, it was established that large quantities of dairy products (milk powder and butter) of third country origin were coming into the Community via Austria. These goods were wrongly declared as cultures (for the development) of micro-organisms for which agricultural duties were not due. In fact, however, the goods were dairy products (milk powder and butter) and should have been declared under tariff codes liable to agricultural duties. Furthermore the fraud mechanism consisted of using the inward processing procedure to minimally transform the goods hiding their real nature and origin. This led to the non-payment of the agricultural duties due. In addition the importers obtained Binding Tariff Information from various customs authorities which were used to declare the goods. These findings were all provided to Member States by MA communications (MA 64/95).

*Actual situation*

There are very many cases in OWNRES arising from the import of dairy products and several MA communications referring to these commodities too. The frequency of fraud or irregularity in this type of product coupled with the multiplicity of MA messages highlighted the importance of Member States supplying the information necessary to enable the Commission to establish clearly the link between an OWNRES case and any underlying MA message. It seemed that there was a risk that the OWNRES output in this field might not be fully representative. Therefore those cases involving the same tariff codes as MA 64/95 were examined closely. This examination excluded 214 of the items, leaving 11 cases in OWNRES which appear to be related to this MA message.

For these 11 items the state of play regarding recovery is as follows. 4 cases have been closed because the amounts have been fully recovered. 1 further case was closed after an administrative appeal or review, which resulted in cancellation of the debt. OWNRES data communicated by Member States shows that 6 cases still remain open with judicial procedures underway. The amount to be recovered is relatively large - more than €15.5

million - and in only one of these ongoing cases has there been a partial recovery (almost €100,000).

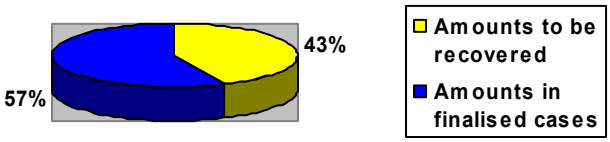
| *MEMBER STATE* | *AMOUNTS INVOLVED* | *AMOUNTS IN FINALISED CASES* | *AMOUNTS TO BE RECOVERED* |
|---|---|---|---|
| Austria | €127 917 | €127 917 | - |
| Italy | €15 745 712 | €128 830 | €15 616 882 |
| the Netherlands | €112 748 | €112 748 | - |
| *total:* | *€15 986 377* | *€369 495* | *€15 616 882* |

*Conclusion*

When these judicial procedures have been finalised, recovery for this relatively large amount will go ahead.

*2.3 CARS FROM HUNGARY*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€14 729 764* |
| *AMOUNTS TO BE RECOVERED* | *€6 357 159* |




Following an MA communication in 1996 (MA 57/96), Member States sent certificates for subsequent verification to Hungary to check the origin declared for imported Suzuki cars. However, not all Member States included the certificates for all imports in their requests to the Hungarian authorities for post-clearance checks. On the basis of the information in the MA message Member States could reach to the conclusion that they had no reasonable doubt enough to send all certificates to Hungary. This was partly due to the great number of subsequent Supplements which followed OLAF's initial MA message over the course of some years which could confuse Member States; partly this was caused by the body of information itself which was distributed to the Member States and which had to be interpreted by them.

In 1998, following a control mission, OLAF sent a mission report to Member States. It included details of all the certificates thought to have been issued for non-originating cars. The Community's conclusions were initially shared by the Hungarian authorities, who withdrew more than half of the certificates issued. Of course, Member States were not in a position to establish or enter customs debts in the accounts for those certificates for which they had not requested verification. As a result any such debts became time-barred. 14 Member States were involved to a greater or lesser degree. However, in 1999, the Hungarian Courts re-established Hungarian origin for almost half of the certificates previously withdrawn. The other invalid certificates remained withdrawn and therefore customs debts arising from imports accompanied by these certificates fell to be recovered. Where these amounts were time-barred then the question of Member States' liability to pay these amounts themselves arose.

Following a debate on the merits of the Hungarian Court decision the Commission initiated a discussion whether any reaction from the Community towards the Hungarian authorities was appropriate. Although this discussion took quite a lot of time the Commission in the end did

nothing and decided to accept the Court decision as it was. For the Member States the overall situation and especially the question which customs debts had to be recovered on the basis of which certificates remained unclear until the Commission would have taken a clear-cut position on this issue.

Only recently, the Commission has concluded that although Member States remain liable in principle for time-barred debts that they should not be held responsible for those customs duties which became time-barred before the date of receipt of the Community's mission report in 1998. The Commission communicated this position to the Member States in the appropriate committee forums. In 2003, the Commission therefore asked Member States to inform it of those amounts which became time-barred after 1998. The Commission is currently examining the Member States' responses to see whether Member States must be held financially responsible for this lack of diligence.

*Actual situation*

40 possibly related cases reported by the Member States to OWNRES can be found in the database of which 17 cases are directly linked to this MA message. Out of these 40 cases, 16 are closed with most of the amounts due recovered. OWNRES currently shows 24 open cases in various Member States with a total recoverable amount exceeding €6.3 million.

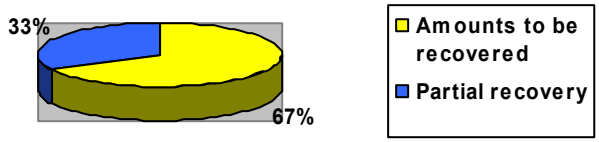
| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| Austria | €2 588 230 | €767 077 | €1 821 153 |
| Belgium | €711 463 | €684 393 | €27 070 |
| Denmark | €1 187 174 | €1 187 174 | - |
| Finland | €83 865 | €83 865 | - |
| France | €1 775 825 | - | €1 775 825 |
| Germany | €3 122 429 | €1 906 362 | €1 216 067 |
| Ireland | €462 685 | €229 349 | €233 336 |
| Italy | €2 383 973 | €2 291 141 | €92 832 |
| the Netherlands | €999 124 | - | €999 124 |
| the United Kingdom | €1 414 996 | €1 223 244 | €191 752 |
| *total:* | *€14 729 764* | *€8 372 605* | *€6 357 159* |

*Conclusion*

According to OWNRES all the open cases are either under administrative review or in Court for appeals. It may be that the recent steps undertaken by the Commission have not yet led to new administrative or legal decisions or that OWNRES has not yet been updated. It is anticipated that these cases will now be rapidly finalised.

*2.4 SHRIMPS FROM HONDURAS*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€1 416 821* |
| *AMOUNTS TO BE RECOVERED* | *€951 102* |




In 1997 the Commission received information indicating that Honduran companies had supplied frozen processed shrimps obtained from non-originating raw materials, to the Community under cover of Honduran certificates of origin. Preferential treatment can only be granted for frozen processed shrimps where the raw materials have been wholly obtained in the beneficiary country, in its territorial waters or caught by its vessels outside those waters. Preliminary research by the Commission and the Member States concerned, principally Spain and the United Kingdom, indicated that significant quantities of fully-formed small live shrimps (post-larvae) had been imported into Honduras from Panama, Ecuador and the United States of America. Such shrimps would not be entitled to preferential treatment if imported to the EU. OLAF informed Member States of the results of these enquiries by MA communication (MA 27/97). In 1999 a joint mission between a Community delegation and the local authorities verified the origin of raw materials used. It was concluded that large quantities of non-originating raw materials had been imported by several companies in order to maximize the export of processed shrimps to the EU on preferential terms.

*Actual situation*

Currently OWNRES shows 5 'open' cases notified by the Member States to the database. The amount of duties still to be recovered is almost €1 million. According to OWNRES, recovery is in progress; with 1 case under administrative appeal.

| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| the United Kingdom | €966 792 | €465 719 | €501 073 |
| Spain | €450 029 | - | €450 029 |
| *total:* | *€1 416 821* | *€465 719* | *€951 102* |

*Conclusion*

Apart from 1 case with a possible time-barred customs debt, no further problems are to be expected.

*2.5 SHRIMPS FROM ICELAND*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€324 951* |
| *AMOUNTS TO BE RECOVERED* | --- |

In 1996 the Commission received information alleging that Icelandic companies were exporting frozen processed shrimps to the Community under cover of Icelandic certificates of origin or invoice declarations although using raw materials from Canada, Ukraine, Latvia, Russia and Lithuania. According to the rules of origin operating for the European Economic Area (EEA) only raw materials wholly obtained in the EEA can be used for finished products which are entitled to preferential treatment. Based on this information from the Commission, the Icelandic customs authorities carried out preliminary enquiries. OLAF communicated the results to the Member States by MA message in 1997 (MA 2/97). It seemed that Denmark, France, Germany, Sweden and the UK were involved. A joint mission including the Commission, the Icelandic authorities and the UK (as the importing Member State most concerned) visited 10 Icelandic shrimp processing companies in 1997. These companies had imported significant quantities of third-country raw materials (post-larvae) and were either direct exporters of finished products or were linked to large Icelandic exporting companies. The Mission report was sent to Member States at the end of 1997 without however, details of individual certificates. In 1998 a second mission was made and a Supplementary Report provided to Member States. Nevertheless, Member States did not receive all the supporting documents until April 1998. Because of this, by the time Member States were able to start recovery, some consignments imported to the UK and possibly some to other countries were already time-barred.

*Actual situation*

According to information from OWNRES 9 cases entered to the database by the Member States and arising from imports to the United Kingdom, Denmark and Sweden are closed because all duties have been recovered. OWNRES does not show any open cases.

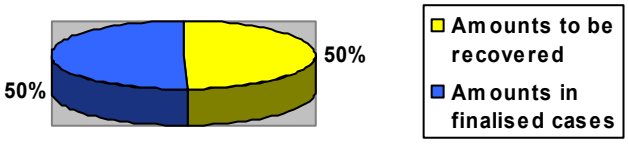
| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| Denmark | €90 596 | €90 596 | - |
| Sweden | €23 200 | €23 200 | - |
| the United Kingdom | €211 155 | €211 155 | - |
| *total:* | *€324 951* | *€324 951* | - |

*Conclusion*

This file may be considered closed.

*2.6 PERSULPHATE FROM CHINA*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€4 091 532* |
| *AMOUNTS TO BE RECOVERED* | *€2 026 171* |




An anti-dumping duty was imposed on imports of persulphates of Chinese origin in 1995. In 1999 Spanish Customs informed OLAF of their suspicions that importations of persulphates

apparently from Malaysia and Taiwan had actually originated in China. European persulphate producers, represented by the European Chemical Industry Council, also informed OLAF of their suspicions concerning the supply to the Community market of Chinese persulphates by Thailand, Indonesia and Vietnam. Member States were informed of these suspicions and the findings from preliminary enquiries carried out in Spain by MA message (MA 11/2000). In the course of subsequent investigations further findings were communicated to the Member States by supplementary MA messages. The fraud mechanism consisted of the false declaration of origin to avoid paying the anti-dumping duty due on imports of Chinese persulphates. Additionally some goods were misdeclared under another tariff code (goods under this code were not subject to anti-dumping duty, even if they were of Chinese origin). A Community mission in association with the authorities from Taiwan and Hong Kong was carried out in June 2001. The information then obtained confirmed that large quantities of Chinese persulphates had been imported to the Community but declared as originating in Taiwan. Member States therefore had to recover the anti-dumping duty evaded.

*Actual situation*

At present OWNRES records based on Member State notifications show 49 cases. 19 of them are closed, in 13 the amounts have been fully recovered and in the remaining 6 the debts have been cancelled as a result of an administrative appeal or legal procedure. 30 cases (or more than 60% of the total) remain open with a total amount to be recovered of more than €2 million. Recovery is in progress. In 5 cases administrative appeals or reviews have been launched.

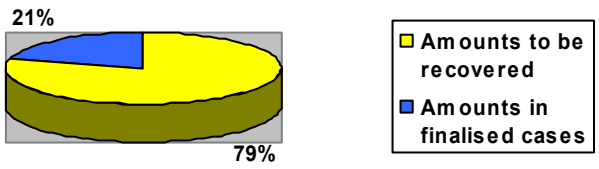
| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| Belgium | €1 121 911 | €578 345 | €543 566 |
| Germany | €340 245 | €20 245 | €320 000 |
| Italy | €469 532 | €208 934 | €260 598 |
| the Netherlands | €862 322 | €392 101 | €470 221 |
| Portugal | €14 678 | €14 678 | - |
| Spain | €335 899 | €199 172 | €136 727 |
| the United Kingdom | €946 945 | €651 886 | €295 059 |
| *total:* | *€4 091 532* | *€2 065 361* | *€2 026 171* |

*Conclusion*

Based on the information currently available in OWNRES finalising recovery of the remaining debts should present no particular problems.

*2.7 SHOES FROM CAMBODIA*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€1 436 277* |
| *AMOUNTS TO BE RECOVERED* | *€1 137 260* |



From 1997 OLAF conducted a number of investigations on irregular imports of footwear suspected to be of Chinese origin but which at import were declared as being of Cambodian or other preferential origin. An MA message was sent to the Member States in 1999 (MA 56/99). It pointed out that many of the same economic operators (sellers, account offices, carriers, shipping companies) had been involved in previous investigations of similar irregularities with imports of shoes with declared preferential origins of Vietnam or Myanmar (MA 37/97). In 2002 the Commission conducted a mission in Cambodia with cooperation from the local authorities. The evidence collected during this mission showed that significant quantities of shoes imported to the Community were not of preferential Cambodian origin. False declarations of the origin of these shoes allowed the admission for free circulation of products which, if correctly declared as being of Chinese origin, would be subject to either quantitative restrictions or anti-dumping duties. This evidence enabled Member States to start recovering customs duties.

*Actual situation*

OWNRES data provided by the Member States shows 23 cases related to this file concerning Belgium, Denmark, France, Germany, Italy, the Netherlands and the UK. 10 of these cases remain open with a total amount of duties to be recovered of more than €1.1 million but no difficulties are expected. 13 cases (more than half of) are closed with the amounts fully recovered, except for 2 cases closed where debts were cancelled because the declared origin of the shoes was confirmed to be correct.

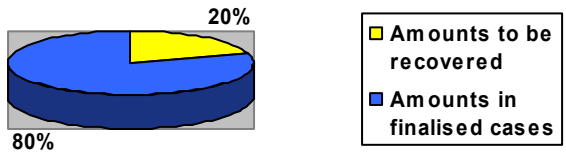
| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| Belgium | €125 915 | - | €125 915 |
| Denmark | €12 126 | €12 126 | - |
| France | €832 280 | €178 129 | €654 151 |
| Germany | €331 778 | - | €331 778 |
| Italy | €28 318 | €28 318 | - |
| the Netherlands | €84 730 | €59 314 | €25 416 |
| the United Kingdom | €21 130 | €21 130 | - |
| *total:* | *€1 436 277* | *€299 017* | *€1 137 260* |

*Conclusion*

Recovery is proceeding.

*2.8 SILICON FROM AUSTRALIA*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€452 163* |
| *AMOUNTS TO BE RECOVERED* | *€91 099* |




As a result of post-importation controls carried out in Italy it was established that during 1996 cargos of silicon declared as being from Australia had in fact originated in China. This was

reported to OLAF and subsequently communicated to the Member States by MA message (MA 42/98). The silicon declared as of Australian origin had been brought to the Community via Hong Kong. During the course of the investigation The State Chamber of Commerce in Sydney confirmed that the certificates of origin presented were false, therefore the anti-dumping duty due had been evaded.

*Actual situation*

Currently OWNRES data notified by Italy shows 21 cases related to this MA message. 15 cases are already closed because the amounts due were recovered. In the 6 remaining cases, debts have been established and recovery is in progress. The total recoverable amount is relatively small, around €91,000.

| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| Italy | €452 163 | €361 064 | €91 099 |

*Conclusion*

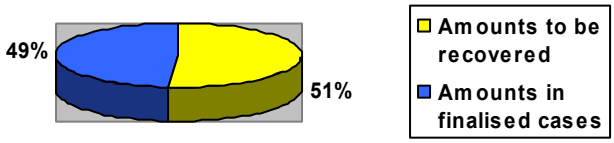
No further problems are expected in progressing recovery.

## ANNEXE 3

***Sample B 1998 – Overview of selected cases***

*3.1 SPANISH SUGAR*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€4 771 567* |
| *AMOUNTS TO BE RECOVERED* | *€2 450 060* |




A front organisation of fraudulent companies based in tax havens shipped several consignments of sugar declared for export from Antwerp but diverted the goods to Spain. This organisation claimed and received export refunds although it did not pay customs duties in Spain (MA 53/93). The transports were covered by falsified documents and were unloaded fraudulently. The final consignment was seized and sold. Export refunds had to be repaid and customs duties paid.

Spain twice requested approval for write-off but this was not granted as the Commission considered that Spain had not been sufficiently diligent in protecting the financial interests of the Community.

Following the B1998 Report the Commission requested Spain to establish the duties and levies due on the proceeds from the sale of the seized ship cargo and to transfer these resources to the Commission. Spain transferred the amounts in 1999 and paid belated interest. Furthermore in 1997 the Commission requested the Spanish authorities to transfer an amount of almost €2.5 million in compensation for the own resources not collected because of their negligence. After a reminder Spain paid that amount plus interest on the delay in 1998.

At this moment a total of three related write-off requests from Spain have been refused by the Commission, after which Spain paid the amounts to the Commission for which they were financially held responsible. Today the Commission has to decide on a fourth write-off request from Spain in the same file. Like before, the Commission will refuse the approval because Spain had not been diligently in protecting the financial interests of the Community. After payment of the amounts concerned by Spain, as far as the Commission is concerned, the file can be closed.

Spain, however, communicated a Spanish Court decision to the Commission which is used by Spain to frame a subsequent reimbursement request to the Commission. This Court decision apparently rules that whenever unjustified paid export refunds have been repaid, the exported goods concerned can be considered as Community goods again. As a result of this, no customs duties for any following imports need then to be recovered. On the basis of this Court ruling Spain informed the Commission that it will therefore ask to be reimbursed for amounts previously paid to the Commission in the same file. The Commission, however, is of the opinion that Spain forgets the ruling of the European Court of Justice in the so called Dutch butter case. In a comparable case of unjustified paid export refunds and subsequent

introduction of the exported goods into the Community, the Court ruled that the Community legislation on imports and exports each operates on its own and independently from each other. As a consequence not only unjustified paid export refunds have to be repaid to the Community but also customs debts on subsequent imports have to be recovered.

*Actual situation*

OWNRES shows 3 cases reported by Spain which can be considered as related to this particular fraud. 1 case is closed with the due amount recovered and 2 cases are open with a recoverable amount of almost €2.5 million. Again, it has to be noted that in this case the open amount is not to be paid by regular customs debtors, but by Spain.

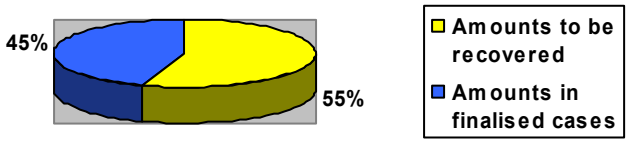
| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| Spain | €4 771 567 | €2 321 507 | €2 450 060 |
| *total:* | *€4 771 567* | *€2 321 507* | *€2 450 060* |

*Conclusion*

When the procedure concerned will have been finalised in favour of the Commission, Spain will have to pay the open amount to the Commission.

*3.2 CHEESE FROM SWITZERLAND*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€86 672 935* |
| *AMOUNTS TO BE RECOVERED* | *€47 901 113* |




When Emmental, Gruyere and Sbrinz cheeses were imported to the Community from Switzerland a low tariff was payable only where a minimum import price was exceeded. To benefit from the preferential tariff, the producers of these Swiss cheeses were obliged to obtain a document from the USF-Union Suisse du commerce de fromage confirming the price payable exceeded the minimum import price. It was established that substantial consignments of Emmental cheese had been imported to Germany, France and Italy, to be used for the production of melting cheese. These did not meet the minimum import price requirement in the period 1992-1995, because part of the transaction price was repaid to the importers in the Community (MA 3/95).

The B1998 Report showed that Germany, France and Italy had recovered €52.5 million; that Germany and France had transferred the recovered amounts to the Commission; and that Italy had sent demands for payment to the debtors to prevent the debts becoming time-barred and had informed its judicial authorities. The amount payable would depend upon the decisions in the Italian prosecution. The report did not specify any particular follow-up action to be taken by the Commission.

*Actual situation*

Member States have communicated 24 cases to OWNRES which appear related to this irregularity because of the CN code, the origin of goods and the Member States involved. 3 of these cases have now been closed. OWNRES shows only 1 closed case for France and no cases for Germany. This circumstance may be explained by the age of the MA communication involved. The 21 open cases were all notified by Italy. The amount still to be recovered is almost €48 million.

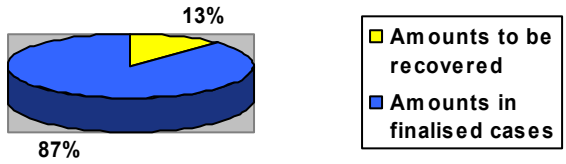
| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| France | €20 967 | €20 967 | - |
| Italy | €86 651 968 | €38 750 855 | €47 901 113 |
| *total:* | *€86 672 935* | *€38 771 822* | *€47 901 113* |

*Conclusion*

According to OWNRES the debts have been established, but administrative appeals are still underway (which in Italy can be a matter of lengthy time-consuming procedures). Only 3 of these cases have been entered in the B account. This probably indicates that OWNRES has not been fully updated. The Commission has asked Italy to update these records as soon as possible.

*3.3 ITALIAN BANANAS*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€5 289 594* |
| *AMOUNTS TO BE RECOVERED* | *€664 248* |




A substantial trade in bananas imported to Italy evading import duties and agricultural levies was discovered. In 1993 bananas from Middle and South America were unloaded in several harbours in Belgium, Germany and the Netherlands. The bananas were then transported to Italy under cover of Transit documents, from where they were to be transported to third countries. The bananas however, were fraudulently put on the Italian market and the T1 documents not discharged (MA 72/94). The debtors were identified and suspects were arrested.

The B1998 Report noted that 90% of the duties evaded had been entered to the separate account (because of the ongoing administrative appeals), whereas 10% had been recovered. At the time the Commission asked Italy to report the progress of the judicial procedures, because recovery was at that time suspended. Italy started enforced recovery procedures in the meantime. Taking into account the complicated character of the procedures concerned no decisions or important results were expected in the short term. The report did not specify any particular action points requiring Commission follow-up.

*Actual situation*

OWNRES records from the Member States currently show 262 cases of frauds or irregularities involving bananas throughout the Community. A large number relate to cases in Belgium, Germany, the Netherlands and Italy involving bananas from Colombia, Costa Rica, Ecuador, Honduras and Panama. 151 of these cases were reported by Italy. 145 of these cases seem more likely to be related to other MA communications (MAs 36/2000 and 82/2003. 10 cases are possibly related to the fraud described in this MA message (of which only 2 cases are directly linked to the MA). Among these 10 cases, 7 are closed and 3 are open with an amount to be recovered of approximately €700,000.

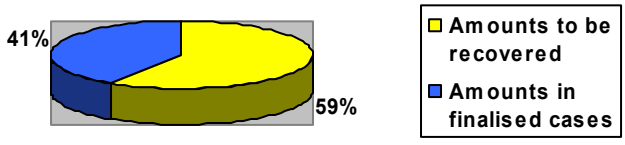
| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| Austria | €16 029 | €16 029 | - |
| Belgium | €30 980 | €30 980 | - |
| Germany | €37 125 | €37 125 | - |
| Italy | €5 177 274 | €4 527 690 | €649 584 |
| the Netherlands | €13 522 | €13 522 | - |
| Spain | €14 664 | - | €14 664 |
| *total:* | *€5 289 594* | *€4 625 346* | *€664 248* |

*Conclusion*

Ten cases are still subject to administrative and judicial procedures while an amount of more than €4.5 million has now been recovered.

*3.4 HILTON BEEF*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€144 465* |
| *AMOUNTS TO BE RECOVERED* | *€85 691* |




Since 1980 under the GATT Treaty (General Agreement on Tariffs and Trade) the Community has opened an annual tariff quota for high quality beef (known as Hilton Beef) from (in particular) Argentina. This quota created an entitlement for duty-free imports. To get total relief from import duties a certificate of authenticity issued by the competent authorities in the exporting country had to be presented in the Community. Following investigation a substantial fraud involving certificates for imports of both fresh and frozen beef was discovered because the certificates presented in the Community did not tally with those issued in Argentina. In the meantime meat had been imported to Germany, France, Italy, the Netherlands, Spain and the United Kingdom (MA 52/93).

The amount of unpaid duties was more than €26 million. Many debtors contested the duties demanded from them with national authorities. Some debtors also applied to the Community for remissions or repayments on the grounds of special circumstances. These were refused. Appeals were lodged against the refusals. The Court of First Instance gave two decisions in

1998 holding that some irregularities at a community level had occurred with checks on the application of the quota in 1991 and 1992[15]. These judgments led to the cancellation and withdrawal of the Commission decisions refusing remission or repayment and all the debtors involved were granted remissions or repayments as appropriate. A further such application was made to the Commission resulting in a favourable decision which also authorised Member States to make similar decisions themselves for cases comparable in fact and law. This should have resulted in all open cases being finalised by the grant of the requested repayment or remission.

*Actual situation*

No substantial problems remain for the Commission or for Member States. No further requests have been made to the Commission. 25 reports referring to beef of Argentine origin have been found in the OWNRES database but only 2 cases seem to be related to this particular fraud. 1 case is directly linked to this MA message; this case is closed with the amount due recovered. 1 open case reports partial recovery and has an amount to be recovered of almost €90,000.

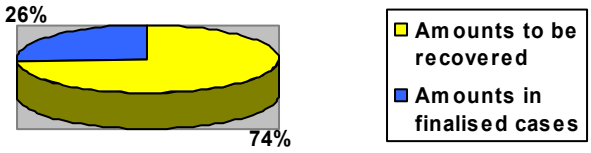
| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| Italy | €39 047 | €39 047 | - |
| Spain | €105 418 | €19 727 | €85 691 |
| *total:* | *€144 465* | *€58 774* | *€85 691* |

*Conclusion*

Apart from the recovery, it is expected that this file will be closed without any further problem. Taking into account that the B1998 report did not include any specific action points for the Commission, this file can be archived.

### *3.5 TUNA FROM COSTA RICA*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€2 161 667* |
| *AMOUNTS TO BE RECOVERED* | *€ 1 594 005* |




Analysis of the activities of the tuna industry in Middle America showed that there was a great contrast between the limited capabilities of local fishing fleets and the amounts of Costa Rican tuna imported to the Community. Serious doubts existed about the nationality of the ships which supplied the tuna to the processing industry. Research in 1996 confirmed that the processed tuna was not eligible to benefit from preferential treatment. Numerous certificates issued by the Costa Rican authorities, had however been used to import this product free of

[15] Decision of the Court of First Instance of 19 February 1998 (Eyckeler & Malt/Commission) T 42/96 (European Court reports 1998 Page II-00401) and Decision of the Court of First Instance of 17 September 1998 (Primex Produkte Import-Export GmbH & Co, KG, Gebr. Kruse GmbH, Interporc Im- und Export GmbH/Commission) T 50/96 (European Court reports 1998 Page II-03773).

duty to France, Italy, Portugal, Spain and the UK. The amount at stake was estimated at €6 million (MA 17/95).

Because of administrative appeals all these amounts were entered to the separate accounts and the Member States concerned were following-up the debts. The B1998 Report noted that substantial amounts had become time-barred; in particular in Portugal which should have taken action to protect the financial interests of the Community by preventing the debts becoming time-barred. The Commission therefore asked Portugal to make available the amount of own resources lost as a result. Portugal did not pay defending its position that it did not get sufficient information from the Commission to start up recovery; moreover Portugal pointed out that the economic operator on the one hand acted in good faith whereas the Costa Rican authorities had misinterpreted applicable legislation. Although, firstly, the Commission had considered taking infringement procedures it therefore finally considered this was not appropriate.

*Actual situation*

At present OWNRES data provided by the Member States shows 14 cases, of which 5 are closed. In the 9 cases remaining open the amount to be recovered is more than €1.5 million. Administrative appeals, reviews and procedures are still ongoing in all these cases.

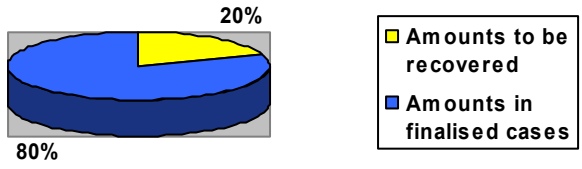
| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| France | €173 233 | €124 203 | €49 030 |
| Italy | €1 677 347 | €438 327 | €1 239 020 |
| Spain | €311 087 | €5 132 | €305 955 |
| *total:* | *€2 161 667* | *€567 662* | *€1 594 005* |

*Conclusion*

When these appeals, reviews and procedures have been finalised, recovery will go ahead.

*3.6 TEXTILES FROM LAOS*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€3 561 498* |
| *AMOUNTS TO BE RECOVERED* | *€695 097* |




Investigation in 1995 revealed that large numbers of certificates of origin issued by the Laotian authorities relating to consignments of textiles were either falsified or had been issued improperly. The consignments had been imported to Austria, Belgium, Denmark, Finland, France, Germany, Italy, the Netherlands and the UK. The amounts at stake were estimated at €6.3 million (MA 58/92).

A large proportion of the resulting customs debts were entered into the separate account because of appeals made by the debtors. The Commission investigated whether non-recovery was caused by lack of initiative on the part of any Member State. Therefore following the

B1998 Report the Commission asked Germany whether an amount of €187,250 had been entered in the accounts. In addition, the Commission asked Belgium whether the debts which had become time-barred did so before or after Belgium received the results of the investigation. Shortly after that report had been published Germany confirmed that the queried amount had indeed been accounted for and that the amounts recovered had been transferred to the Commission. As far as Belgium was concerned, it turned out that the debts in question had became time-barred before the Belgian administration was notified of the results of the Commission's mission to Laos. These responses removed the possibility of financial responsibility on the part of Member States.

*Actual situation*

Investigation of Member State information in OWNRES shows altogether 46 cases that may be considered related to this particular fraud. 34 cases can be directly linked to this MA communication. Among these 46 cases, 37 are already closed with most of the amounts due recovered. 9 cases are still open; the amount recoverable is almost €700,000. Administrative procedures, appeals and reviews launched earlier prevent payment.

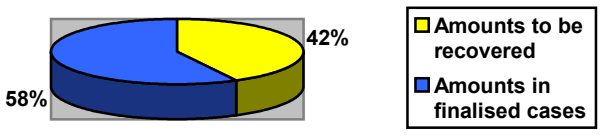
| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| Austria | €23 631 | €23 631 | - |
| Belgium | €36 793 | €12 828 | €23 965 |
| Denmark | €92 477 | €92 477 | - |
| France | €2 531 489 | €2 150 554 | €380 935 |
| Italy | €323 208 | €292 114 | €31 094 |
| the United Kingdom | €553 900 | €294 797 | €259 103 |
| *total:* | *€3 561 498* | *€2 866 401* | *€695 097* |

*Conclusion*

Having finalised these procedures, appeals and reviews, recovery will proceed.

*3.7 TEXTILES FROM CAMBODIA*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€3 080 105* |
| *AMOUNTS TO BE RECOVERED* | *€1 300 536* |




Investigations in several Member States revealed indications of abuse of certificates of origin issued for certain textile products by Cambodia during the period 1992-1996. Further investigations in 1996 revealed many false certificates of preferential origin. Many textiles which had in fact been loaded in Chinese and Vietnamese harbours were imported to the Community free of duty. Moreover it was established that many other certificates had been issued improperly because the garments plus the fabrics used in their production were not of Cambodian origin. The false certificates and those improperly issued related to imports to

Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, the Netherlands, Portugal, Spain and the UK. The amounts at stake were estimated at €10 million (MA 82/94).

Half the resulting customs debts were entered in the separate accounts because of appeals made by the debtors. The B1998 Report did not specify any particular follow-up action to be taken by the Commission.

*Actual situation*

Currently OWNRES records reported by the Member States show 58 reports of cases considered to be related to this particular fraud of which 14 are directly linked to this MA message. Among these 58 cases, 40 are already closed with due amounts recovered. 18 cases remain still open with an amount to be recovered of around €1.3 million. The prospect of recovery is dependent on final decisions to be taken in the administrative and judicial procedures as well as on administrative investigations still ongoing.

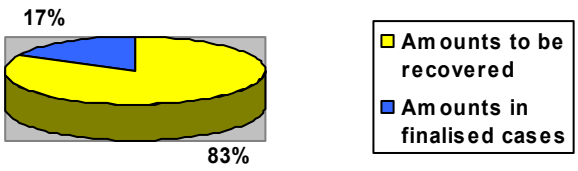
| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| Austria | €224 806 | €224 806 | - |
| Belgium | €316 219 | €78 950 | €237 269 |
| Denmark | €10 033 | €10 033 | - |
| Finland | €13 547 | €13 547 | - |
| France | €611 179 | €611 179 | - |
| Germany | €40 979 | €40 979 | - |
| Italy | €572 892 | €157 276 | €415 616 |
| the Netherlands | €95 394 | €26 866 | €68 528 |
| Portugal | €12 495 | €12 495 | - |
| Spain | €129 316 | €73 253 | €56 063 |
| the United Kingdom | €1 053 245 | €530 185 | €523 060 |
| *total:* | *€3 080 105* | *€1 779 569* | *€1 300 536* |

*Conclusion*

Where administrative and judicial procedures have been finalised recovery will go ahead.

### *3.8 CAR RADIOS FROM INDONESIA*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€3 671 299* |
| *AMOUNTS TO BE RECOVERED* | *€3 037 635* |




From 1991 onwards several Member States had requested Indonesia to make a posteriori checks of certificates of origin related to car radios. It had been established on the basis of samples that some particular devices did not originate from there. The radios were imported to Belgium, Denmark, France, Germany, Italy, the Netherlands, Spain and the UK.

Investigations showed that the car radios could not benefit from preferential tariff treatment. Taking into account the origin and the value of the biggest component parts used, some of the car radios appeared to be of South Korean origin and therefore were subject to anti-dumping duties. The total amount of traditional own resources due was €6.4 million in import duties and €8 million anti-dumping duties (MA 16/92). A considerable proportion of the customs debts were entered into the separate accounts because of appeals made by the debtors. In addition the Commission had decided that Spain had not taken timely measures to prevent prescription.

The B1998 Report notes that the Commission requested Spain to make the amount time-barred available. Spain paid this amount plus interest in 2001.

*Actual situation*

OWNRES data from the Member States shows 24 cases which may be related to this irregularity of which 16 are directly related to the MA message. Among these 24 cases, 9 are closed with most of the amounts recovered. 15 cases remain open. Administrative and judicial procedures are ongoing and the recoverable amount is around €3 million. Most of the cases are reported by Italy. The reason why other Member States appear under-represented in OWNRES may be that this concerns an old MA communication (1992), and that any resulting cases were already closed before the OWNRES application became fully operational. Member States are however obliged to register in OWNRES any old cases when relevant changes occur (e.g. in the stage of recovery reached).

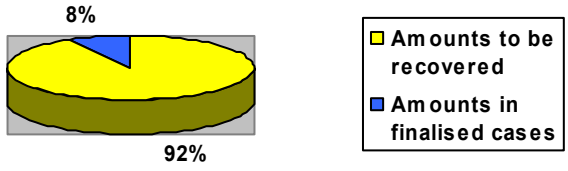
| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| Italy | €3 483 353 | €445 718 | €3 037 635 |
| the United Kingdom | €187 946 | €187 946 | - |
| *total:* | *€3 671 299* | *€633 664* | *€3 037 635* |

*Conclusion*

Recovery will go on when the administrative and judicial procedures will be finalised.

*3.9 BICYCLES FROM VIETNAM*

| | |
|---|---|
| *AMOUNTS INVOLVED* | *€9 201 141* |
| *AMOUNTS TO BE RECOVERED* | *€8 462 743* |




Investigations in 1995 revealed that large consignments of bicycles, imported from Vietnam under cover of certificates of preferential origin, did not qualify for this treatment as all the components were imported from China and Hong Kong. These bicycles were imported to Belgium, France, Germany, Ireland and the UK (MA 78/94).

During the investigation the customs duties evaded were estimated as €6.8 million. Furthermore because of the way the final assembly was carried out anti-dumping duties of

€9.7 million were also due. Almost all the debts were entered to the separate account because of appeals made by the debtors. Because most of the bicycles were imported to France, recovery of almost the total amount is dependent on decisions to be taken by the French CCED (Commission de conciliation et d'expertise). Smaller amounts have been recovered in Belgium, Germany and Ireland.

The B1998 Report did not include any specific action points for the Commission.

*Actual situation*

OWNRES records based on Member State communications currently show 10 cases concerning irregular bicycle imports from Vietnam. 9 of these cases can be linked directly to this MA communication (the other case is already closed because recovery was fully completed). 8 of these cases are French, which fits in with expectations from the outset. 5 cases remain open while 4 cases have been closed in the meantime. The amount still to be recovered is almost €8.5 million. Recovery is suspended until administrative reviews/procedures have been finalised.

| ***MEMBER STATE*** | ***AMOUNTS INVOLVED*** | ***AMOUNTS IN FINALISED CASES*** | ***AMOUNTS TO BE RECOVERED*** |
|---|---|---|---|
| Belgium | €31 538 | €31 538 | - |
| France | €9 169 603 | €706 860 | €8 462 743 |
| *total:* | *€9 201 141* | *€738 398* | *€8 462 743* |

*Conclusion*

After finalising the administrative reviews and procedures, recovery will proceed.

## ANNEXE 4

***Table on follow-up of recovery in 17 files of fraud or irregularity (in Euros)***

| ***CASES OF FRAUD OR IRREGULARITY*** | ***AMOUNTS IN OPEN CASES TO BE RECOVERED*** ***€*** | ***AMOUNTS IN FINALISED CASES RECOVERED, CANCELLED, WRITTEN-OFF*** ***€*** |
|---|---|---|
| Jeans and T-shirts from USA (MA 96/94) | 2 970 373 | 1 735 819 |
| Milk powder and butter from third countries (MA 64/95) | 15 616 882 | 369 495 |
| Cars from Hungary (MA 57/96) | 6 357 159 | 8 372 605 |
| Shrimps from Honduras (MA 27/97) | 951 102 | 465 719 |
| Shrimps from Iceland (MA 2/97) | 0 | 324 951 |
| Persulphate from China (MA 11/2000) | 2 026 171 | 2 065 361 |
| Shoes from Cambodia (MA 56/99) | 1 137 260 | 299 017 |
| Silicon from Australia (MA 42/98) | 91 099 | 361 064 |
| Spanish sugar (MA 53/93) | 2 450 060 | 2 321 507 |
| Cheese from Switzerland (MA 3/95) | 47 901 113 | 38 771 822 |
| Italian bananas (MA 72/94) | 664 248 | 4 625 346 |
| Hilton beef (MA 52/93) | 85 691 | 58 774 |
| Tuna from Costa Rica (MA 17/95) | 1 594 005 | 567 662 |
| Textiles from Laos (MA 58/92) | 695 097 | 2 866 401 |
| Textiles from Cambodia (MA 82/94) | 1 300 536 | 1 779 569 |
| Car radios from Indonesia (MA 16/92) | 3 037 635 | 633 664 |
| Bicycles from Vietnam (MA78/94) | 8 462 743 | 738 398 |
| ***TOTAL = €161 698 348*** | ***95 341 174*** | ***66 357 174*** |

## ANNEXE 5

***Table on follow-up of recovery in 17 files of fraud or irregularity (in percentages)***

| ***CASES OF FRAUD OR IRREGULARITY*** | ***AMOUNTS IN OPEN CASES TO BE RECOVERED*** % | ***AMOUNTS IN FINALISED CASES RECOVERED, CANCELLED, WRITTEN-OFF*** % |
|---|---|---|
| Jeans and T-shirts from USA (MA 96/94) | 63 | 37 |
| Milk powder and butter from third countries (MA 64/95) | 98 | 2 |
| Cars from Hungary (MA 57/96) | 43 | 57 |
| Shrimps from Honduras (MA 27/97) | 67 | 33 |
| Shrimps from Iceland (MA 2/97) | 0 | 100 |
| Persulphate from China (MA 11/2000) | 50 | 50 |
| Shoes from Cambodia (MA 56/99) | 79 | 21 |
| Silicon from Australia (MA 42/98) | 20 | 80 |
| Spanish sugar (MA 53/93) | 51 | 49 |
| Cheese from Switzerland (MA 3/95) | 55 | 45 |
| Italian bananas (MA 72/94) | 13 | 87 |
| Hilton beef (MA 52/93) | 59 | 41 |
| Tuna from Costa Rica (MA 17/95) | 74 | 26 |
| Textiles from Laos (MA 58/92) | 20 | 80 |
| Textiles from Cambodia (MA 82/94) | 42 | 58 |
| Car radios from Indonesia (MA 16/92) | 83 | 17 |
| Bicycles from Vietnam (MA 78/94) | 92 | 8 |
| ***ALL CASES*** | ***59*** | ***41*** |

## ANNEXE 6

***Table of effectively recovered amounts in closed cases***

| ***AMOUNTS IN FINALISED CASES OF FRAUD OR IRREGULARITY*** | ***AMOUNTS RECOVERED €*** | ***AMOUNTS NOT RECOVERED CANCELLED, CORRECTED, ANNULLED, WRITTEN-OF €*** |
|---|---|---|
| Jeans and T-shirts from USA (MA 96/94) | 1 709 266 | 26 553 |
| Milk powder and butter from third countries (MA 64/95) | 350 432 | 19 063 |
| Cars from Hungary (MA 57/96) | 6 337 681 | 2 034 924 |
| Shrimps from Honduras (MA 27/97) | 465 719 | 0 |
| Shrimps from Iceland (MA 2/97) | 324 951 | 0 |
| Persulphate from China (MA 11/2000) | 1 443 575 | 621 786 |
| Shoes from Cambodia (MA 56/99) | 270 699 | 28 318 |
| Silicon from Australia (MA 42/98) | 361 064 | 0 |
| Spanish sugar (MA 53/93) | 2 321 507 | 0 |
| Cheese from Switzerland (MA 3/95) | 179 701 | 38 592 121 |
| Italian bananas (MA 72/94) | 4 562 947 | 62 399 |
| Hilton beef (MA 52/93) | 58 774 | 0 |
| Tuna from Costa Rica (MA 17/95) | 24 623 | 543 039 |
| Textiles from Laos (MA 58/92) | 2 708 960 | 157 441 |
| Textiles from Cambodia (MA 82/94) | 1 779 569 | 0 |
| Car radios from Indonesia (MA 16/92) | 270 799 | 362 865 |
| Bicycles from Vietnam (MA 78/94) | 738 398 | 0 |
| ***TOTAL = €66 357 174*** | ***23 908 665*** | ***42 448 509*** |